

HB 7023

2013

1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; transferring, redesignating, and
4 amending s. 525.09(1), F.S.; transferring collection
5 of a motor fuel inspection fee from the Department of
6 Agriculture and Consumer Services to the Department of
7 Revenue; amending s. 493.6101, F.S.; revising the
8 definition of the term "repossession"; amending s.
9 493.6113, F.S.; revising firearms recertification
10 training requirements for specified licenses of the
11 private security, private investigative, and
12 repossession industries; amending s. 493.6116, F.S.;
13 deleting a provision prohibiting specified licensees
14 from sponsoring certain interns; requiring interns to
15 perform regulated duties within the state; amending s.
16 493.6118, F.S.; providing additional grounds for
17 disciplinary action against firearm licensees;
18 amending s. 493.6120, F.S.; providing criminal
19 penalties for a person who knowingly obtains a
20 fraudulent document declaring a licensure applicant to
21 have completed specified training; amending s.
22 496.405, F.S.; revising procedures and requirements
23 with respect to the submission and processing of
24 registration statements and renewal statements by
25 charitable organizations and sponsors; amending s.
26 496.406, F.S.; exempting specified organizations and
27 sponsors from filing a registration statement;
28 requiring exempt organizations and sponsors to file

29 | specified documents; providing for applicability;
30 | amending s. 496.407, F.S.; revising financial
31 | reporting requirements; amending s. 496.409, F.S.;
32 | revising registration procedures and requirements for
33 | professional fundraising consultants; amending s.
34 | 496.410, F.S.; revising registration procedures and
35 | requirements for professional solicitors; amending s.
36 | 496.411, F.S.; revising the information required to be
37 | displayed on specified solicitation materials;
38 | amending s. 496.415, F.S.; revising a provision
39 | prohibiting specified persons from submitting false,
40 | misleading, or inaccurate information related to a
41 | solicitation or a charitable or sponsor sales
42 | promotion; amending s. 496.419, F.S.; revising the
43 | responsibility of the Department of Agriculture and
44 | Consumer Services to report specified criminal
45 | violations; authorizing the department to issue a
46 | cease and desist order for specified violations;
47 | amending s. 501.016, F.S.; revising the amount of a
48 | surety bond, letter of credit, or guaranty agreement
49 | furnished to the department by a health studio;
50 | amending s. 501.059, F.S.; prohibiting a telephone
51 | solicitor from calling certain consumers; amending s.
52 | 501.603, F.S.; conforming a cross-reference; revising
53 | definitions; amending s. 501.604, F.S.; revising
54 | exemptions from specified provisions of the Florida
55 | Telemarketing Act; amending s. 501.607, F.S.; revising
56 | salesperson application requirements; amending s.

HB 7023

2013

57 | 501.608, F.S.; requiring commercial telephone sellers
58 | seeking an affidavit of exemption to provide the
59 | department with certain information at the
60 | department's request; requiring licensees and exempt
61 | persons to display certain documentation; authorizing
62 | the department to issue a cease and desist order and
63 | to order a salesperson to leave an office if the
64 | salesperson is unable to properly display or produce a
65 | license or a receipt of filing of an affidavit of
66 | exemption; amending s. 501.611, F.S.; providing that a
67 | surety bond filed with the department by a commercial
68 | telephone seller remains in force for a specified
69 | period; amending s. 501.615, F.S.; revising the
70 | contract requirements and restrictions on telephonic
71 | sales by commercial telephone sellers; amending s.
72 | 501.617, F.S.; authorizing an enforcing authority to
73 | conduct regulatory inspections; amending s. 507.03,
74 | F.S.; requiring moving brokers to provide certain
75 | information at the request of the department; amending
76 | s. 507.04, F.S.; deleting the requirement for a moving
77 | broker to maintain certain liability coverage;
78 | amending s. 507.07, F.S.; prohibiting movers and
79 | moving brokers from entering into certain service
80 | contracts with certain unregistered persons; amending
81 | s. 525.01, F.S.; revising the definition of the term
82 | "alternative fuel"; repealing s. 525.09(2)-(4), F.S.,
83 | relating to the payment and applicability of an
84 | inspection fee for testing and analyzing petroleum

85 | fuels; amending s. 525.10, F.S.; deleting a provision
86 | requiring certain moneys to be paid into the State
87 | Treasury before being deposited into a specified trust
88 | fund; amending s. 527.01, F.S.; defining the term
89 | "license year" applicable to certain liquefied
90 | petroleum gas licenses; amending s. 527.0201, F.S.;
91 | revising examination requirements for applicants
92 | seeking certain licenses; revising continuing
93 | education requirements for specified qualifiers;
94 | amending s. 527.03, F.S.; revising the requirements
95 | and procedure for renewal of liquefied petroleum gas
96 | licenses; amending s. 531.415, F.S.; revising a
97 | provision exempting certain petroleum equipment from
98 | specified fees; amending s. 531.61, F.S.; revising a
99 | provision exempting certain devices from permitting
100 | requirements; creating s. 531.67, F.S., and repealing
101 | s. 40, ch. 2009-66, Laws of Florida, relating to
102 | permits for weights and measures instruments or
103 | devices, to provide for codification in the Florida
104 | Statutes of the expiration of specified provisions and
105 | extending the expiration date; amending s. 539.001,
106 | F.S.; revising fingerprinting requirements for a
107 | pawnbroker license application; amending s. 559.802,
108 | F.S.; requiring a specified notice to be filed on a
109 | form adopted by the department; amending s. 559.803,
110 | F.S.; revising the requirements of the mandatory
111 | written disclosure statement provided to purchasers of
112 | business opportunities; repealing s. 559.805, F.S.,

HB 7023

2013

113 relating to mandatory filings and disclosure of
114 advertisement identification numbers by sellers of
115 business opportunities; amending s. 559.807, F.S.;
116 deleting a provision providing for the use of certain
117 securities requirements relating to selling business
118 opportunities; amending s. 559.813, F.S.; deleting a
119 provision authorizing the department to impose
120 specified penalties for certain violations relating to
121 selling business opportunities; deleting a provision
122 authorizing the department to adopt rules; deleting a
123 provision naming the department as an enforcing
124 authority; amending s. 559.815, F.S.; conforming
125 provisions to changes made by the act; amending s.
126 559.9221, F.S.; revising the membership of the Motor
127 Vehicle Repair Advisory Council; amending s. 616.242,
128 F.S.; revising amusement ride insurance coverage
129 requirements; amending s. 721.20, F.S.; requiring
130 specified persons who sell timeshare plans to be
131 licensed as commercial telephone sellers or
132 salespersons under ch. 501, F.S.; providing an
133 effective date.

134

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

136

137 Section 1. Subsection (1) of section 525.09, Florida
138 Statutes, is transferred, redesignated as paragraph (h) of
139 subsection (1) of section 206.41, Florida Statutes, and amended
140 to read:

HB 7023

2013

141 206.41 State taxes imposed on motor fuel.-

142 (1) The following taxes are imposed on motor fuel under
143 the circumstances described in subsection (6):

144 (h) ~~(1)~~ An additional 0.125 cents per net gallon is levied
145 on all motor fuel for sale or use in this state for the purpose
146 of defraying the expenses incident to inspecting, testing, and
147 analyzing motor fuel ~~petroleum fuels in this state, there shall~~
148 ~~be paid to the department a charge of one-eighth cent per gallon~~
149 ~~on all gasoline, kerosene (except when used as aviation turbine~~
150 ~~fuel), and #1 fuel oil for sale or use in this state. All moneys~~
151 collected pursuant to this paragraph shall be deposited into the
152 State Treasury. Such moneys shall be distributed monthly into
153 the General Inspection Trust Fund. This inspection fee shall be
154 ~~imposed in the same manner as the motor fuel tax pursuant to s.~~
155 ~~206.41. Payment shall be made on or before the 25th day of each~~
156 ~~month.~~

157 Section 2. Subsection (22) of section 493.6101, Florida
158 Statutes, is amended to read:

159 493.6101 Definitions.-

160 (22) "Repossession" means the recovery of a motor vehicle
161 as defined under s. 320.01(1), a mobile home as defined in s.
162 320.01(2), a motorboat as defined under s. 327.02, an aircraft
163 as defined in s. 330.27(1), a personal watercraft as defined in
164 s. 327.02, an all-terrain vehicle as defined in s. 316.2074,
165 farm equipment as defined under s. 686.402, or industrial
166 equipment, by an individual who is authorized by the legal
167 owner, lienholder, or lessor to recover, or to collect money
168 payment in lieu of recovery of, that which has been sold or

HB 7023

2013

169 leased under a security agreement that contains a repossession
170 clause. As used in this subsection, the term "industrial
171 equipment" includes, but is not limited to, tractors, road
172 rollers, cranes, forklifts, backhoes, and bulldozers. The term
173 "industrial equipment" also includes other vehicles that are
174 propelled by power other than muscular power and that are used
175 in the manufacture of goods or used in the provision of
176 services. A repossession is complete when a licensed recovery
177 agent is in control, custody, and possession of such repossessed
178 property. Property that is being repossessed shall be considered
179 to be in the control, custody, and possession of a recovery
180 agent if the property being repossessed is secured in
181 preparation for transport from the site of the recovery by means
182 of being attached to or placed on the towing or other transport
183 vehicle or if the property being repossessed is being operated
184 or about to be operated by an employee of the recovery agency.

185 Section 3. Paragraph (b) of subsection (3) of section
186 493.6113, Florida Statutes, is amended to read:

187 493.6113 Renewal application for licensure.—

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

192 (b) Each Class "G" licensee shall additionally submit
193 proof that he or she has received during each year of the
194 license period a minimum of 4 hours of firearms recertification
195 training taught by a Class "K" licensee and has complied with
196 such other health and training requirements which the department

197 | shall ~~may~~ adopt by rule. Proof of completion of firearms
 198 | recertification training shall be submitted to the department
 199 | upon completion of the training. If documentation of completion
 200 | of the required training is not submitted by the end of the
 201 | first year of the 2-year term of the license, the individual's
 202 | license shall be automatically suspended until proof of the
 203 | required training is submitted to the department. If
 204 | documentation of completion of the required training is not
 205 | submitted by the end of the second year of the 2-year term of
 206 | the license, the license shall not be renewed unless ~~If proof of~~
 207 | ~~a minimum of 4 hours of annual firearms recertification training~~
 208 | ~~cannot be provided,~~ the renewal applicant completes ~~shall~~
 209 | ~~complete~~ the minimum number of hours of range and classroom
 210 | training required at the time of initial licensure. The
 211 | department may waive the ~~foregoing~~ firearms training requirement
 212 | if:

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

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

224 | 3. The applicant submits a valid firearm certificate among

225 those specified in s. 493.6105(6) (a) and provides proof of
 226 having completed requalification training during the previous 2
 227 years of the licensure period.

228 Section 4. Subsection (3) of section 493.6116, Florida
 229 Statutes, is amended to read:

230 493.6116 Sponsorship of interns.—

231 (3) Internship is intended to serve as a learning process.
 232 Sponsors shall assume a training status by providing direction
 233 and control of interns. Sponsors ~~shall only sponsor interns~~
 234 ~~whose place of business is within a 50-mile distance of the~~
 235 ~~sponsor's place of business and~~ shall not allow interns to
 236 operate independently of such direction and control, or require
 237 interns to perform activities that ~~which~~ do not enhance the
 238 intern's qualification for licensure. Interns must perform
 239 regulated duties within the boundaries of this state during the
 240 period of internship.

241 Section 5. Paragraphs (u) and (v) of subsection (1) of
 242 section 493.6118, Florida Statutes, are redesignated as
 243 paragraphs (w) and (x), respectively, and new paragraphs (u) and
 244 (v) are added to that subsection to read:

245 493.6118 Grounds for disciplinary action.—

246 (1) The following constitute grounds for which
 247 disciplinary action specified in subsection (2) may be taken by
 248 the department against any licensee, agency, or applicant
 249 regulated by this chapter, or any unlicensed person engaged in
 250 activities regulated under this chapter.

251 (u) For a Class "G" licensee, failing to timely complete
 252 recertification training as required in s. 493.6113(3) (b).

253 (v) For a Class "K" licensee, failing to maintain active
 254 certification specified under s. 493.6105(6).

255 Section 6. Subsection (1) of section 493.6120, Florida
 256 Statutes, is amended, and subsection (5) is added to that
 257 section, to read:

258 493.6120 Violations; penalty.—

259 (1) Any person who violates any provision of this chapter
 260 except subsection (5) and s. 493.6405 commits a misdemeanor of
 261 the first degree, punishable as provided in s. 775.082 or s.
 262 775.083.

263 (5) A person may not knowingly possess, issue, cause to be
 264 issued, sell, submit, or offer a fraudulent training
 265 certificate, proficiency form, or other official document that
 266 declares an applicant to have successfully completed any course
 267 of training required for licensure under this chapter when that
 268 person either knew or reasonably should have known that the
 269 certificate, form, or document was fraudulent. A person who
 270 violates this subsection commits a felony of the third degree,
 271 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

272 Section 7. Paragraph (b) of subsection (1) and subsections
 273 (2) and (7) of section 496.405, Florida Statutes, are amended to
 274 read:

275 496.405 Registration statements by charitable
 276 organizations and sponsors.—

277 (1)

278 (b) Any changes in the information submitted on the
 279 initial registration statement or the last renewal statement
 280 must be updated annually on a renewal statement provided by the

281 department on or before the date that marks one year after the
 282 date the department approved the initial registration statement
 283 as provided in this section. The department shall annually
 284 provide a renewal statement to each registrant by mail or by
 285 electronic mail at least 30 ~~60~~ days before the renewal date.

286 (2) The initial registration statement must be submitted
 287 on a form prescribed by the department, signed ~~under oath~~ by an
 288 authorized official ~~the treasurer or chief fiscal officer~~ of the
 289 charitable organization or sponsor who shall certify that the
 290 registration statement is true and correct, and include the
 291 following information or material:

292 (a) A copy of the financial report or Internal Revenue
 293 Service Form 990 and all attached schedules ~~Schedule A~~ or
 294 Internal Revenue Service Form 990-EZ and Schedule O required
 295 under s. 496.407 for the immediately preceding fiscal year. A
 296 newly organized charitable organization or sponsor with no
 297 financial history must file a budget for the current fiscal
 298 year.

299 (b) The name of the charitable organization or sponsor,
 300 the purpose for which it is organized, the name under which it
 301 intends to solicit contributions, and the purpose or purposes
 302 for which the contributions to be solicited will be used.

303 (c) The name of the individuals or officers who are in
 304 charge of any solicitation activities.

305 (d) A statement of whether:

306 1. The charitable organization or sponsor is authorized by
 307 any other state to solicit contributions;

308 2. The charitable organization or sponsor or any of its

HB 7023

2013

309 officers, directors, trustees, or principal salaried executive
310 personnel have been enjoined in any jurisdiction from soliciting
311 contributions or have been found to have engaged in unlawful
312 practices in the solicitation of contributions or administration
313 of charitable assets;

314 3. The charitable organization or sponsor has had its
315 registration or authority denied, suspended, or revoked by any
316 governmental agency, together with the reasons for such denial,
317 suspension, or revocation; and

318 4. The charitable organization or sponsor has voluntarily
319 entered into an assurance of voluntary compliance in any
320 jurisdiction or agreement similar to that set forth in s.
321 496.420, together with a copy of that agreement.

322 5. The charitable organization or sponsor or any of its
323 officers, directors, trustees, or employees, regardless of
324 adjudication, has been convicted of, or found guilty of, or pled
325 guilty or nolo contendere to, or has been incarcerated within
326 the last 10 years as a result of having previously been
327 convicted of, or found guilty of, or pled guilty or nolo
328 contendere to, any felony ~~or any crime involving fraud, theft,~~
329 ~~larceny, embezzlement, fraudulent conversion, misappropriation~~
330 ~~of property, or any crime arising from the conduct of a~~
331 ~~solicitation for a charitable organization or sponsor~~ within the
332 last 10 years and, if so, the name of such person, the nature of
333 the offense, the date of the offense, the court having
334 jurisdiction in the case, the date of conviction or other
335 disposition, and the disposition of the offense.

336 6. The charitable organization or sponsor or any of its

HB 7023

2013

337 officers, directors, trustees, or employees, regardless of
338 adjudication, has been convicted of, or found guilty of, or pled
339 guilty or nolo contendere to, or has been incarcerated within
340 the last 10 years as a result of having previously been
341 convicted of, or found guilty of, or pled guilty or nolo
342 contendere to, any crime involving fraud, theft, larceny,
343 embezzlement, fraudulent conversion, misappropriation of
344 property, or any crime enumerated in this chapter or resulting
345 from acts committed while involved in the solicitation of
346 contributions within the last 10 years and, if so, the name of
347 such person, the nature of the offense, the date of the offense,
348 the court having jurisdiction in the case, the date of
349 conviction or other disposition, and the disposition of the
350 offense.

351 ~~7.6.~~ The charitable organization or sponsor or any of its
352 officers, directors, trustees, or employees has been enjoined
353 from violating any law relating to a charitable solicitation,
354 and, if so, the name of such person, the date of the injunction,
355 and the court issuing the injunction.

356 (e) The names, street addresses, and telephone numbers of
357 any professional solicitor, professional fundraising consultant,
358 and commercial co-venturer who is acting or has agreed to act on
359 behalf of the charitable organization or sponsor, together with
360 a statement setting forth the specific terms of the arrangements
361 for salaries, bonuses, commissions, expenses, or other
362 remunerations to be paid the fundraising consultant and
363 professional solicitor.

364 (f) With initial registration only, a statement showing

365 when and where the organization was established and the tax-
366 exempt status of the organization together with a copy of any
367 federal tax exemption determination letter. If the charitable
368 organization or sponsor has not received a federal tax exemption
369 determination letter at the time of initial registration, a copy
370 of such determination must be filed with the department within
371 30 days after receipt of the determination by the charitable
372 organization or sponsor. If the organization is subsequently
373 notified by the Internal Revenue Service of any challenge to its
374 continued entitlement to federal tax exemption, the charitable
375 organization or sponsor shall notify the department of this fact
376 within 30 days after receipt.

377 (g) The following information must be filed with the
378 initial registration statement and must be updated when any
379 change occurs in the information that was previously filed with
380 the initial registration statement:

381 1. The principal street address and telephone number of
382 the organization and the street address and telephone numbers of
383 any offices in this state or, if the charitable organization or
384 sponsor does not maintain an office in this state, the name,
385 street address, and telephone number of the person that has
386 custody of its financial records. The parent organization that
387 files a consolidated registration statement on behalf of its
388 chapters, branches, or affiliates must additionally provide the
389 street addresses and telephone numbers of all such locations in
390 this state.

391 2. The names and street addresses of the officers,
392 directors, trustees, and the principal salaried executive

HB 7023

2013

393 personnel.

394 3. The date when the charitable organization's or
395 sponsor's fiscal year ends.

396 4. A list or description of the major program activities.

397 5. The names, street addresses, and telephone numbers of
398 the individuals or officers who have final responsibility for
399 the custody of the contributions and who will be responsible for
400 the final distribution of the contributions.

401 (7) The department must examine each initial registration
402 statement or annual renewal statement and the supporting
403 documents filed by a charitable organization or sponsor and
404 shall determine whether the registration requirements are
405 satisfied. Within 15 ~~10~~ working days after its receipt of a
406 statement, the department must examine the statement, notify the
407 applicant of any apparent errors or omissions, and request any
408 additional information the department is allowed by law to
409 require. Failure to correct an error or omission or to supply
410 additional information is not grounds for denial of the initial
411 registration or annual renewal statement unless the department
412 has notified the applicant within the 15-working-day ~~10-working-~~
413 ~~day~~ period. The department must approve or deny each statement,
414 or must notify the applicant that the activity for which she or
415 he seeks registration is exempt from the registration
416 requirement, within 15 ~~10~~ working days after receipt of the
417 initial registration or annual renewal statement or the
418 requested additional information or correction of errors or
419 omissions. Any statement that is not approved or denied within
420 15 ~~10~~ working days after receipt of the requested additional

HB 7023

2013

421 information or correction of errors or omissions is approved.
422 Within 7 working days after receipt of a notification that the
423 registration requirements are not satisfied, the charitable
424 organization or sponsor may request a hearing. The hearing must
425 be held within 7 working days after receipt of the request, and
426 any recommended order, if one is issued, must be rendered within
427 3 working days of the hearing. The final order must then be
428 issued within 2 working days after the recommended order. If a
429 recommended order is not issued, the final order must be issued
430 within 5 working days after the hearing. The proceedings must be
431 conducted in accordance with chapter 120, except that the time
432 limits and provisions set forth in this subsection prevail to
433 the extent of any conflict.

434 Section 8. Section 496.406, Florida Statutes, is amended
435 to read:

436 496.406 Exemption from registration.—

437 (1) The following charitable organizations and sponsors
438 are exempt from the requirements of s. 496.405:

439 (a)~~(1)~~ A person who is soliciting for a named individual,
440 provided that all the contributions collected without any
441 deductions whatsoever are turned over to the beneficiary for her
442 or his use and provided that the person has complied with the
443 requirements of s. 496.413.

444 (b)~~(2)~~ A charitable organization or sponsor that ~~which~~
445 limits solicitation of contributions to the membership of the
446 charitable organization or sponsor. For the purposes of this
447 paragraph, the term "membership" does not include those persons
448 who are granted a membership upon making a contribution as a

449 result of a solicitation.

450 ~~(c)(3)~~ Any division, department, post, or chapter of a
451 veterans' service organization granted a federal charter under
452 Title 36, United States Code.

453 (d) A charitable organization or sponsor that has less
454 than \$25,000 in total revenue during a fiscal year if the
455 fundraising activities of such organization or sponsor are
456 carried on by volunteers, members, or officers who are not
457 compensated and no part of the assets or income of such
458 organization or sponsor inures to the benefit of or is paid to
459 any officer or member of such organization or sponsor or to any
460 professional fundraising consultant, professional solicitor, or
461 commercial co-venturer. If a charitable organization or sponsor
462 that has less than \$25,000 in total revenue during a fiscal year
463 actually acquires total revenue equal to or in excess of
464 \$25,000, the charitable organization or sponsor must register
465 with the department as required by s. 496.405 within 30 days
466 after the date the revenue reaches \$25,000.

467 (2) Before soliciting contributions, a charitable
468 organization or sponsor claiming to be exempt from the
469 registration requirements of s. 496.405 under paragraph (1)(d)
470 must submit annually to the department, on forms prescribed by
471 the department:

472 (a) The name, address, and telephone number of the
473 charitable organization or sponsor, the name under which it
474 intends to solicit contributions, the purpose for which it is
475 organized, and the purpose or purposes for which the
476 contributions to be solicited will be used.

HB 7023

2013

477 (b) The tax exempt status of the organization.

478 (c) The date on which the organization's fiscal year ends.

479 (d) The names, street addresses, and telephone numbers of
480 the individuals or officers who have final responsibility for
481 the custody of the contributions and who will be responsible for
482 the final distribution of the contributions.

483 (e) A financial statement of support, revenue, and
484 expenses and a statement of functional expenses that must
485 include, but not be limited to, expenses in the following
486 categories: program, management and general, and fundraising.
487 In lieu of the financial statement, a charitable organization or
488 sponsor may submit a copy of its Internal Revenue Service Form
489 990 and all attached schedules or Internal Revenue Service Form
490 990-EZ and Schedule O.

491 (3) A charitable organization or sponsor claiming to be
492 exempt from the registration requirements of this chapter shall
493 submit any information that the department may request to
494 substantiate an exemption under this section. A charitable
495 organization or sponsor that fails to submit information
496 satisfactory to the department is not exempt from the
497 requirements of this chapter. In any proceeding, the burden of
498 proving an exemption is upon the charitable organization or
499 sponsor claiming it.

500 (4) Exemption from the registration requirements of s.
501 496.405 does not limit the applicability of other provisions of
502 this section to a charitable organization or sponsor.

503 Section 9. Subsection (2) of section 496.407, Florida
504 Statutes, is amended to read:

505 496.407 Financial report.—

506 (2) In lieu of the financial report described in
 507 subsection (1), a charitable organization or sponsor may submit
 508 a copy of its Internal Revenue Service Form 990 and all attached
 509 schedules ~~Schedule A~~ filed for the preceding fiscal year, or a
 510 copy of its Internal Revenue Service Form 990-EZ and Schedule O
 511 filed for the preceding fiscal year.

512 Section 10. Subsections (2), (3), and (6) of section
 513 496.409, Florida Statutes, are amended to read:

514 496.409 Registration and duties of professional
 515 fundraising consultant.—

516 (2) Applications for registration or renewal of
 517 registration must be submitted on a form prescribed by the
 518 department, signed by an authorized official of the professional
 519 fundraising consultant who shall certify that the report is true
 520 and correct ~~under oath~~, and must include the following
 521 information:

522 (a) The street address and telephone number of the
 523 principal place of business of the applicant and any Florida
 524 street addresses if the principal place of business is located
 525 outside this state.

526 (b) The form of the applicant's business.

527 (c) The names and residence addresses of all principals of
 528 the applicant, including all officers, directors, and owners.

529 (d) Whether any of the owners, directors, officers, or
 530 employees of the applicant are related as parent, child, spouse,
 531 or sibling to any other directors, officers, owners, or
 532 employees of the applicant; to any officer, director, trustee,

HB 7023

2013

533 or employee of any charitable organization or sponsor under
534 contract to the applicant; or to any supplier or vendor
535 providing goods or services to any charitable organization or
536 sponsor under contract to the applicant.

537 (e) Whether the applicant or any of its officers,
538 directors, trustees, or employees have, within the last 10
539 years, regardless of adjudication, been convicted, or found
540 guilty of, or pled guilty or nolo contendere to, or have been
541 incarcerated within the last 10 years as a result of having
542 previously been convicted of, or found guilty of, or pled guilty
543 or nolo contendere to, any felony and, if so, the name of such
544 person, the nature of the offense, the date of the offense, the
545 court having jurisdiction in the case, the date of conviction or
546 other disposition, and the disposition of the offense.

547 (f) Whether the applicant or any of its officers,
548 directors, trustees, or employees have, regardless of
549 adjudication, been convicted of, or found guilty of, or pled
550 guilty or nolo contendere to, or have been incarcerated within
551 the last 10 years as a result of having previously been
552 convicted of, or found guilty of, or pled guilty or nolo
553 contendere to, a crime within the last 10 years involving fraud,
554 theft, larceny, embezzlement, fraudulent conversion, or
555 misappropriation of property, or any crime arising from the
556 conduct of a solicitation for a charitable organization or
557 sponsor and, if so, the name of such person, the nature of the
558 offense, the date of the offense, the court having jurisdiction
559 in the case, the date of conviction or other disposition, and
560 the disposition of the offense.

HB 7023

2013

561 (g) Whether the applicant or any of its officers,
562 directors, trustees, or employees have been enjoined from
563 violating any law relating to a charitable solicitation and, if
564 so, the name of such person, the date of the injunction, and the
565 court issuing the injunction.

566 (3) The application for registration must be accompanied
567 by a fee of \$300. A professional fundraising consultant which is
568 a partnership or corporation may register for and pay a single
569 fee on behalf of all of its partners, members, officers,
570 directors, agents, and employees. In that case, the names and
571 street addresses of all the officers, employees, and agents of
572 the fundraising consultant and all other persons with whom the
573 fundraising consultant has contracted to work under its
574 direction must be listed in the application. Each registration
575 is valid for 1 year ~~or a part of 1 year and expires on March 31~~
576 ~~of each year~~. The registration may be renewed ~~on or before March~~
577 ~~31 of each year~~ for additional 1-year periods upon application
578 to the department and payment of the registration fee.

579 (6) The department shall examine each registration
580 statement and supporting documents filed by a professional
581 fundraising consultant and determine whether the registration
582 requirements are satisfied. If the department determines that
583 the registration requirements are not satisfied, the department
584 must notify the professional fundraising consultant within 15 ~~10~~
585 working days after its receipt of the registration statement;
586 otherwise the registration statement is approved. Within 7
587 working days after receipt of a notification that the
588 registration requirements are not satisfied, the applicant may

HB 7023

2013

589 request a hearing. The hearing must be held within 7 working
590 days after receipt of the request, and any recommended order, if
591 one is issued, must be rendered within 3 working days after the
592 hearing. The final order must then be issued within 2 working
593 days after the recommended order. If there is no recommended
594 order, the final order must be issued within 5 working days
595 after the hearing. The proceedings must be conducted in
596 accordance with chapter 120, except that the time limits and
597 provisions set forth in this subsection prevail to the extent of
598 any conflict.

599 Section 11. Subsections (2), (3), (5), and (8) of section
600 496.410, Florida Statutes, are amended to read:

601 496.410 Registration and duties of professional
602 solicitors.—

603 (2) Applications for registration or renewal of
604 registration must be submitted on a form prescribed by rule of
605 the department, signed by an authorized official of the
606 professional solicitor who shall certify that the report is true
607 and correct ~~under oath~~, and must include the following
608 information:

609 (a) The street address and telephone number of the
610 principal place of business of the applicant and any Florida
611 street addresses if the principal place of business is located
612 outside this state.

613 (b) The form of the applicant's business.

614 (c) The place and date when the applicant, if other than
615 an individual, was legally established.

616 (d) The names and residence addresses of all principals of

617 the applicant, including all officers, directors, and owners.

618 (e) A statement as to whether any of the owners,
619 directors, officers, or employees of the applicant are related
620 as parent, spouse, child, or sibling to any other directors,
621 officers, owners, or employees of the applicant; to any officer,
622 director, trustee, or employee of any charitable organization or
623 sponsor under contract to the applicant; or to any supplier or
624 vendor providing goods or services to any charitable
625 organization or sponsor under contract to the applicant.

626 (f) A statement as to whether the applicant or any of its
627 directors, officers, trustees, persons with a controlling
628 interest in the applicant, or employees or agents involved in
629 solicitation have, within the last 10 years, regardless of
630 adjudication, been convicted of, or found guilty of, or pled
631 guilty or nolo contendere to, or have been incarcerated within
632 the last 10 years as a result of having previously been
633 convicted of, or found guilty of, or pled guilty or nolo
634 contendere to, any felony and, if so, the name of such person,
635 the nature of the offense, the date of the offense, the court
636 having jurisdiction in the case, the date of conviction or other
637 disposition, and the disposition of the offense.

638 (g) A statement as to whether the applicant or any of its
639 directors, officers, trustees, persons with a controlling
640 interest in the applicant, or employees or agents involved in
641 solicitation have, regardless of adjudication, been convicted
642 of, or found guilty of, or pled guilty or nolo contendere to, or
643 have been incarcerated within the last 10 years as a result of
644 having previously been convicted of, or found guilty of, or pled

HB 7023

2013

645 guilty or nolo contendere to, a crime within the last 10 years
646 involving fraud, theft, larceny, embezzlement, fraudulent
647 conversion, or misappropriation of property, or any crime
648 arising from the conduct of a solicitation for a charitable
649 organization or sponsor and, if so, the name of such person, the
650 nature of the offense, the date of the offense, the court having
651 jurisdiction in the case, the date of conviction or other
652 disposition, and the disposition of the offense.

653 (h) A statement as to whether the applicant or any of its
654 directors, officers, trustees, persons with a controlling
655 interest in the applicant, or employees or agents involved in
656 solicitation have been enjoined from violating any law relating
657 to a charitable solicitation and, if so, the name of such
658 person, the date of the injunction, and the court issuing the
659 injunction.

660 (i) The names of all persons in charge of any solicitation
661 activity.

662 (3) The application for registration must be accompanied
663 by a fee of \$300. A professional solicitor that is a partnership
664 or corporation may register for and pay a single fee on behalf
665 of all of its partners, members, officers, directors, agents,
666 and employees. In that case, the names and street addresses of
667 all the officers, employees, and agents of the professional
668 solicitor and all other persons with whom the professional
669 solicitor has contracted to work under its direction, including
670 solicitors, must be listed in the application or furnished to
671 the department within 5 days after the date of employment or
672 contractual arrangement. Each registration is valid for 1 year

HB 7023

2013

673 | ~~er a part of 1 year and expires on March 31 of each year.~~ The
674 | registration may be renewed ~~on or before March 31 of each year~~
675 | for an additional 1-year period upon application to the
676 | department and payment of the registration fee.

677 | (5) The department must examine each registration
678 | statement and supporting documents filed by a professional
679 | solicitor. If the department determines that the registration
680 | requirements are not satisfied, the department must notify the
681 | professional solicitor within 15 ~~10~~ working days after its
682 | receipt of the registration statement; otherwise the
683 | registration statement is approved. Within 7 working days after
684 | receipt of a notification that the registration requirements are
685 | not satisfied, the applicant may request a hearing. The hearing
686 | must be held within 7 working days after receipt of the request,
687 | and any recommended order, if one is issued, must be rendered
688 | within 3 working days after the hearing. The final order must
689 | then be issued within 2 working days after the recommended
690 | order. If there is no recommended order, the final order must be
691 | issued within 5 working days after the hearing. The proceedings
692 | must be conducted in accordance with chapter 120, except that
693 | the time limits and provisions set forth in this subsection
694 | prevail to the extent of any conflict.

695 | (8) Within 45 ~~90~~ days after a solicitation campaign has
696 | been completed and within 45 days after ~~on~~ the anniversary of
697 | the commencement of a solicitation campaign lasting more than 1
698 | year, the professional solicitor must provide to the charitable
699 | organization or sponsor and file with the department a financial
700 | report of the campaign, including the gross revenue received and

HB 7023

2013

701 an itemization of all expenses incurred. The report must be
702 completed on a form prescribed by the department and signed by
703 an authorized official of the professional solicitor who shall
704 certify ~~under oath~~ that the report is true and correct.

705 Section 12. Subsection (6) of section 496.411, Florida
706 Statutes, is amended to read:

707 496.411 Disclosure requirements and duties of charitable
708 organizations and sponsors.—

709 (6) Each charitable organization or sponsor that is
710 required to register under s. 496.405 shall conspicuously
711 display the organization's or sponsor's registration number
712 issued by the department under this chapter following
713 ~~information~~ on every printed solicitation, written confirmation,
714 receipt, or reminder of a contribution:

715 ~~(a) The organization's or sponsor's registration number~~
716 ~~issued by the department under this chapter.~~

717 ~~(b) The percentage, if any, of each contribution that is~~
718 ~~retained by any professional solicitor that has contracted with~~
719 ~~the organization or sponsor.~~

720 ~~(c) The percentage of each contribution that is received~~
721 ~~by the organization or sponsor.~~

722

723 If the solicitation consists of more than a single item, the
724 statement shall be displayed prominently in the solicitation
725 materials.

726 Section 13. Subsection (2) of section 496.415, Florida
727 Statutes, is amended to read:

728 496.415 Prohibited acts.—It is unlawful for any person in

HB 7023

2013

729 connection with the planning, conduct, or execution of any
730 solicitation or charitable or sponsor sales promotion to:

731 (2) Knowingly submit ~~file~~ false, ~~or~~ misleading, or
732 inaccurate information in a any document that is required to be
733 filed with the department, provided to the public, or offered in
734 response to a any request or investigation by the department,
735 the Department of Legal Affairs, or the state attorney.

736 Section 14. Subsection (8) of section 496.419, Florida
737 Statutes, is amended, and subsection (10) is added to that
738 section, to read:

739 496.419 Powers of the department.—

740 (8) The department shall report any substantiated criminal
741 violation of ss. 496.401-496.424 or s. 496.426 to the proper
742 prosecuting authority for prompt prosecution.

743 (10) A finding of a violation of s. 496.415(3), (5), (6),
744 (10), (12), (13), or (14) constitutes an immediate threat to the
745 public health, safety, and welfare and is sufficient grounds for
746 the department to issue an immediate order to cease and desist
747 all solicitation activities. The order shall act as an immediate
748 final order under s. 120.569(2)(n) and shall remain in effect
749 until the violation has been remedied pursuant to this chapter.

750 Section 15. Subsections (1), (2), and (4) of section
751 501.016, Florida Statutes, are amended to read:

752 501.016 Health studios; security requirements.—Each health
753 studio that sells contracts for health studio services shall
754 meet the following requirements:

755 (1) Each health studio shall maintain for each separate
756 business location a bond issued by a surety company admitted to

757 do business in this state. The principal sum of the bond shall
 758 be \$25,000 ~~\$50,000~~, and the bond, when required, shall be
 759 obtained before a business tax receipt may be issued under
 760 chapter 205. Upon issuance of a business tax receipt, the
 761 licensing authority shall immediately notify the department of
 762 such issuance in a manner established by the department by rule.
 763 The bond shall be in favor of the state for the benefit of any
 764 person injured as a result of a violation of ss. 501.012-
 765 501.019. The aggregate liability of the surety to all persons
 766 for all breaches of the conditions of the bonds provided herein
 767 shall in no event exceed the amount of the bond. The original
 768 surety bond required by this section shall be filed with the
 769 department.

770 (2) In lieu of maintaining the bond required in subsection
 771 (1), the health studio may furnish to the department:

772 (a) An irrevocable letter of credit from any foreign or
 773 domestic bank in the amount of \$25,000 ~~\$50,000~~; or

774 (b) A guaranty agreement that ~~which~~ is secured by a
 775 certificate of deposit in the amount of \$25,000 ~~\$50,000~~.

776
 777 The original letter of credit or certificate of deposit
 778 submitted in lieu of the bond shall be filed with the
 779 department. The department shall decide whether the security
 780 furnished in lieu of bond by the health studio is in compliance
 781 with the requirements of this section.

782 (4) If the health studio furnishes the department with
 783 evidence satisfactory to the department that the aggregate
 784 dollar amount of all current outstanding contracts of the health

785 studio is less than \$5,000, the department may, at its
 786 discretion, reduce the principal amount of the surety bond or
 787 other sufficient financial responsibility required in
 788 subsections (1) and (2) to a sum of not less than \$10,000.
 789 However, at any time the aggregate dollar amount of such
 790 contracts exceeds \$5,000, the health studio shall so notify the
 791 department and shall thereupon provide the bond or other
 792 documentation as required in subsections (1) and (2). Health
 793 studios whose bonds have been reduced must provide the
 794 department with an annually updated list of members. Failure to
 795 file an annual report will result in the department raising the
 796 security requirement to \$25,000 ~~\$50,000~~.

797 Section 16. Subsections (5) through (10) of section
 798 501.059, Florida Statutes, are renumbered as subsections (6)
 799 through (11), respectively, and a new subsection (5) is added to
 800 that section to read:

801 501.059 Telephone solicitation.—

802 (5) A telephone solicitor may not initiate an outbound
 803 telephone call to a consumer who has previously communicated to
 804 the telephone solicitor that he or she does not wish to receive
 805 an outbound telephone call:

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

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

810 Section 17. Subsections (1) and (2) of section 501.603,
 811 Florida Statutes, are amended to read:

812 501.603 Definitions.—As used in this part, unless the

813 context otherwise requires, the term:

814 (1) "Commercial telephone solicitation" means:

815 (a) An unsolicited telephone call to a person initiated by
 816 a commercial telephone seller or salesperson, or an automated
 817 dialing machine used in accordance with the provisions of s.
 818 501.059(8) ~~501.059(7)~~ for the purpose of inducing the person to
 819 purchase or invest in consumer goods or services;

820 (b) Other communication with a person where:

- 821 1. A gift, award, or prize is offered; or
- 822 2. A telephone call response is invited; and
- 823 3. The salesperson intends to complete a sale or enter
 824 into an agreement to purchase or invest in consumer goods or
 825 services during the course of the telephone call; or

826 (c) Other communication with a person which represents a
 827 price, quality, or availability of consumer goods or services
 828 and which invites a response by telephone or which is followed
 829 by a call to the person by a salesperson.

830
 831 For purposes of this section, "other communication" means a
 832 written or oral notification or advertisement transmitted
 833 through any means. Also, for purposes of this section, "invites
 834 a response by telephone" does not mean the mere listing or
 835 including of a telephone number in a notification or
 836 advertisement.

837 (2) "Commercial telephone seller" means a ~~any~~ person who
 838 engages in commercial telephone solicitation on his or her own
 839 behalf or through salespersons, except that a commercial
 840 telephone seller does not include a person or entity operating

HB 7023

2013

841 under a valid affidavit of exemption filed with the department
842 according to s. 501.608(1)(b) or ~~any of the persons or entities~~
843 exempted from this part by s. 501.604. A commercial telephone
844 seller does not include a salesperson as defined in subsection
845 (10). A commercial telephone seller includes, but is not limited
846 to, owners, operators, officers, directors, partners, or other
847 individuals engaged in the management activities of a business
848 entity pursuant to this part.

849 Section 18. Subsections (4), (7), (10), (14), and (24) of
850 section 501.604, Florida Statutes, are amended to read:

851 501.604 Exemptions.—The provisions of this part, except
852 ss. 501.608 and 501.616(6) and (7), do not apply to:

853 (4) A ~~Any~~ licensed securities, commodities, or investment
854 broker, dealer, or investment adviser, when soliciting within
855 the scope of his or her license, or a ~~any~~ licensed associated
856 person of a securities, commodities, or investment broker,
857 dealer, or investment adviser, when soliciting within the scope
858 of his or her license. As used in this section, "licensed
859 securities, commodities, or investment broker, dealer, or
860 investment adviser" means a person subject to license or
861 registration as such by the Securities and Exchange Commission,
862 by the Financial Industry Regulatory Authority ~~National~~
863 ~~Association of Securities Dealers~~ or other self-regulatory
864 organization as defined by the Securities Exchange Act of 1934,
865 15 U.S.C. s. 781, or by an official or agency of this state or
866 of any state of the United States. As used in this section,
867 "licensed associated person of a securities, commodities, or
868 investment broker, dealer, or investment adviser" means an ~~any~~

869 associated person registered or licensed by the Financial
 870 Industry Regulatory Authority ~~National Association of Securities~~
 871 ~~Dealers~~ or other self-regulatory organization as defined by the
 872 Securities Exchange Act of 1934, 15 U.S.C. s. 781, or by an
 873 official or agency of this state or of any state of the United
 874 States.

875 (7) A ~~Any~~ supervised financial institution or parent,
 876 subsidiary, or affiliate thereof operating within the scope of
 877 supervised activity. As used in this section, "supervised
 878 financial institution" means a ~~any~~ commercial bank, trust
 879 company, savings and loan association, mutual savings bank,
 880 credit union, industrial loan company, consumer finance lender,
 881 commercial finance lender, or insurer, provided that the
 882 institution is subject to supervision by an official or agency
 883 of this state, of any state, or of the United States. For the
 884 purposes of this exemption, "affiliate" means a person who
 885 directly, or indirectly through one or more intermediaries,
 886 controls or is controlled by, or is under common control with, a
 887 supervised financial institution.

888 (10) A business-to-business sale where:

889 (a) The commercial telephone seller has been lawfully
 890 operating continuously for at least 3 years under the same
 891 business name and has at least 50 percent of its dollar volume
 892 consisting of repeat sales to existing businesses;

893 (b) The purchaser business intends to resell or offer for
 894 purposes of advertisement or as a promotional item the property
 895 or goods purchased; or

896 (c) The purchaser business intends to use the property or

HB 7023

2013

897 goods purchased in a recycling, reuse, remanufacturing, or
898 manufacturing process.

899 (14) A telephone company subject to ~~the provisions of~~
900 chapter 364, or affiliate thereof or its agents, or a
901 telecommunications business that ~~which~~ is regulated by the
902 Florida Public Service Commission, or a Federal Communications
903 Commission licensed cellular telephone company or other bona
904 fide radio telecommunication services provider. For the purposes
905 of this exemption, "affiliate" means a person who directly, or
906 indirectly through one or more intermediaries, controls or is
907 controlled by, or is under common control with, a telephone
908 company subject to ~~the provisions of~~ chapter 364.

909 (24) Any person who ~~which~~ has been lawfully providing
910 telemarketing sales services continuously for at least 5 years
911 under the same ownership and control and who ~~which~~ derives 75
912 percent of its gross telemarketing sales revenues from contracts
913 with persons exempted in this section.

914 Section 19. Subsection (1) of section 501.607, Florida
915 Statutes, is amended to read:

916 501.607 Licensure of salespersons.—

917 (1) An applicant for a license as a salesperson must
918 submit to the department, in such form as it prescribes, a
919 written application for a license. The application must set
920 forth the following information:

921 (a) The true name, date of birth, driver license number or
922 other valid form of identification, and home address of the
923 applicant.

924 ~~(b) Each business or occupation engaged in by the~~

HB 7023

2013

925 ~~applicant during the 3 years immediately preceding the date of~~
926 ~~the application, and the location thereof.~~

927 (b)~~(e)~~ The previous experience of the applicant as a
928 commercial telephone seller or salesperson.

929 (c)~~(d)~~ Whether the applicant, regardless of adjudication,
930 has previously been arrested for, convicted or found guilty of,
931 has entered a plea of guilty or a plea of nolo contendere to, or
932 is under indictment or information for, a felony and, if so, the
933 nature of the felony.

934 (d)~~(e)~~ Whether the applicant, regardless of adjudication,
935 has previously been convicted or found guilty of, has entered a
936 plea of guilty or a plea of nolo contendere to, or is under
937 indictment or information for, racketeering or any offense
938 involving fraud, theft, embezzlement, fraudulent conversion, or
939 misappropriation of property.

940 (e)~~(f)~~ Whether there has ever been a judicial or
941 administrative finding that the applicant has previously been
942 convicted of acting as a salesperson without a license, or
943 whether such a license has previously been refused, revoked, or
944 suspended in any jurisdiction.

945 (f)~~(g)~~ Whether the applicant has worked for, or been
946 affiliated with, a company that is involved in pending
947 litigation or has had entered against it an injunction, a
948 temporary restraining order, or a final judgment or order,
949 including a stipulated judgment or order, an assurance of
950 voluntary compliance, or any similar document, in any civil or
951 administrative action involving racketeering, fraud, theft,
952 embezzlement, fraudulent conversion, or misappropriation of

953 | property or the use of any untrue, deceptive, or misleading
 954 | representation or the use of any unfair, unlawful, or deceptive
 955 | trade practice.

956 | (g) ~~(h)~~ Whether the applicant is involved in pending
 957 | litigation or has had entered against her or him an injunction,
 958 | a temporary restraining order, or a final judgment or order,
 959 | including a stipulated judgment or order, an assurance of
 960 | voluntary compliance, or any similar document, in any civil or
 961 | administrative action involving racketeering, fraud, theft,
 962 | embezzlement, fraudulent conversion, or misappropriation of
 963 | property or the use of any untrue, deceptive, or misleading
 964 | representation or the use of any unfair, unlawful, or deceptive
 965 | trade practice.

966 | Section 20. Paragraph (b) of subsection (1) and
 967 | subsections (2) and (3) of section 501.608, Florida Statutes,
 968 | are amended to read:

969 | 501.608 License or affidavit of exemption; occupational
 970 | license.—

971 | (1)

972 | (b) Any commercial telephone seller claiming to be exempt
 973 | from the act under s. 501.604(2), (3), (5), (6), (9), (10),
 974 | (11), (12), (17), (21), (22), (24), or (26) must file with the
 975 | department a notarized affidavit of exemption. The affidavit of
 976 | exemption must be on forms prescribed by the department and must
 977 | require the name of the commercial telephone seller, the name of
 978 | the business, and the business address. At the request of the
 979 | department, the commercial telephone seller shall provide sales
 980 | scripts, contracts, and other documentation as needed to verify

981 the validity of the exemption before the affidavit of exemption
 982 is accepted for filing. A ~~Any~~ commercial telephone seller
 983 maintaining more than one business may file a single notarized
 984 affidavit of exemption that clearly indicates the location of
 985 each place of business. If a change of ownership occurs, the
 986 commercial telephone seller must notify the department.

987 (2) Each licensee or person operating under a valid and
 988 properly filed ~~claiming an~~ exemption shall prominently display
 989 his or her license or a copy of his or her affidavit of
 990 exemption at each location where he or she does business and.
 991 ~~Each licensee or person claiming an exemption~~ shall make the
 992 license or the receipt of filing ~~copy~~ of the affidavit of
 993 exemption available for inspection by any governmental agency
 994 upon request.

995 (3) Failure to obtain or display a license or a receipt of
 996 filing of an ~~copy of the~~ affidavit of exemption is sufficient
 997 grounds for the department to issue an immediate cease and
 998 desist order, which shall act as an immediate final order under
 999 s. 120.569(2)(n). The order shall ~~may~~ remain in effect until the
 1000 commercial telephone seller or a person claiming to be exempt
 1001 shows the authorities that he or she is properly licensed or
 1002 exempt. The department may order the business to cease
 1003 operations and shall order the phones to be shut off. Failure of
 1004 a salesperson to display a license or a receipt of filing of an
 1005 affidavit of exemption may result in the salesperson being
 1006 summarily ordered by the department to leave the office until he
 1007 or she can produce a license or a receipt of filing of an
 1008 affidavit of exemption for the department.

HB 7023

2013

1009 Section 21. Subsection (3) of section 501.611, Florida
 1010 Statutes, is amended to read:

1011 501.611 Security.—

1012 (3) The bond shall be posted with the department and shall
 1013 remain in force throughout the period of licensure with the
 1014 department.

1015 Section 22. Subsection (12) of section 501.615, Florida
 1016 Statutes, is amended to read:

1017 501.615 Written contract; cancellation; refund.—

1018 (12) Exempt from the requirements of subsections (1)-(5)
 1019 is any sale in which the consumer is given a right to a full
 1020 refund for the return of undamaged and unused goods or a
 1021 cancellation of services notice is given to the seller, within 7
 1022 days after receipt of the goods or services by the consumer, and
 1023 the seller shall process the refund within 30 days after receipt
 1024 of the returned merchandise by the consumer. A commercial
 1025 telephone seller or salesperson engaged in activity regulated by
 1026 chapter 721 must comply with s. 721.205.

1027 Section 23. Subsection (1) of section 501.617, Florida
 1028 Statutes, is amended to read:

1029 501.617 Investigative powers of enforcing authority.—

1030 (1) If, by her or his own inquiries or as a result of
 1031 complaints, the enforcing authority has reason to believe that a
 1032 person has engaged in, or is engaging in, an act or practice
 1033 that violates ~~the provisions of~~ this part, she or he may
 1034 administer oaths and affirmations, subpoena witnesses or matter,
 1035 conduct regulatory inspections, and collect evidence. Within 10
 1036 days after the service of a subpoena or at any time before the

HB 7023

2013

1037 return date specified therein, whichever is longer, the party
 1038 served may file in the circuit court in the county in which she
 1039 or he resides or in which she or he transacts business and serve
 1040 upon the enforcing authority a petition for an order modifying
 1041 or setting aside the subpoena. The petitioner may raise any
 1042 objection or privilege that ~~which~~ would be available under this
 1043 part or upon service of such subpoena in a civil action. The
 1044 subpoena shall inform the party served of her or his rights
 1045 under this subsection.

1046 Section 24. Subsection (9) of section 507.03, Florida
 1047 Statutes, is amended, and subsection (10) is added to that
 1048 section, to read:

1049 507.03 Registration.—

1050 (9) Each mover ~~and moving broker~~ shall provide evidence of
 1051 the current and valid insurance or alternative coverages
 1052 required under s. 507.04.

1053 (10) At the request of the department, each moving broker
 1054 shall provide a complete list of the movers that the moving
 1055 broker has contracted or is affiliated with, advertises on
 1056 behalf of, arranges moves for, or refers shippers to, including
 1057 each mover's complete name, address, telephone number, and e-
 1058 mail address and the name of each mover's owner or other
 1059 principal.

1060 Section 25. Paragraph (b) of subsection (1) of section
 1061 507.04, Florida Statutes, is amended to read:

1062 507.04 Required insurance coverages; liability
 1063 limitations; valuation coverage.—

1064 (1) LIABILITY INSURANCE.—

HB 7023

2013

1065 (b) A mover that operates two or fewer vehicles, in lieu
 1066 of maintaining the liability insurance coverage required under
 1067 paragraph (a), ~~may, and each moving broker must,~~ maintain one of
 1068 the following alternative coverages:

1069 1. A performance bond in the amount of \$25,000, for which
 1070 the surety of the bond must be a surety company authorized to
 1071 conduct business in this state; or

1072 2. A certificate of deposit in a Florida banking
 1073 institution in the amount of \$25,000.

1074
 1075 The original bond or certificate of deposit must be filed with
 1076 the department and must designate the department as the sole
 1077 beneficiary. The department must use the bond or certificate of
 1078 deposit exclusively for the payment of claims to consumers who
 1079 are injured by the fraud, misrepresentation, breach of contract,
 1080 misfeasance, malfeasance, or financial failure of the mover ~~or~~
 1081 ~~moving broker~~ or by a violation of this chapter by the mover ~~or~~
 1082 ~~broker~~. Liability for these injuries may be determined in an
 1083 administrative proceeding of the department or through a civil
 1084 action in a court of competent jurisdiction. However, claims
 1085 against the bond or certificate of deposit must only be paid, in
 1086 amounts not to exceed the determined liability for these
 1087 injuries, by order of the department in an administrative
 1088 proceeding. The bond or certificate of deposit is subject to
 1089 successive claims, but the aggregate amount of these claims may
 1090 not exceed the amount of the bond or certificate of deposit.

1091 Section 26. Section 507.07, Florida Statutes, is amended
 1092 to read:

1093 | 507.07 Violations.—It is a violation of this chapter ~~to~~:

1094 | (1) To conduct business as a mover or moving broker, or

1095 | advertise to engage in the business of moving or offering to

1096 | move, without being registered with the department.

1097 | (2) To knowingly make any false statement, representation,

1098 | or certification in any application, document, or record

1099 | required to be submitted or retained under this chapter.

1100 | (3) To misrepresent or deceptively represent:

1101 | (a) The contract for services, bill of lading, or

1102 | inventory of household goods for the move estimated.

1103 | (b) The timeframe or schedule for delivery or storage of

1104 | household goods estimated.

1105 | (c) The price, size, nature, extent, qualities, or

1106 | characteristics of accessorial or moving services offered.

1107 | (d) The nature or extent of other goods, services, or

1108 | amenities offered.

1109 | (e) A shipper's rights, privileges, or benefits.

1110 | (4) To fail to honor and comply with all provisions of the

1111 | contract for services or bill of lading regarding the

1112 | purchaser's rights, benefits, and privileges thereunder.

1113 | (5) To withhold delivery of household goods or in any way

1114 | hold goods in storage against the expressed wishes of the

1115 | shipper if payment has been made as delineated in the estimate

1116 | or contract for services.

1117 | (6) (a) To include in any contract any provision purporting

1118 | to waive or limit any right or benefit provided to shippers

1119 | under this chapter.

1120 | (b) To seek or solicit a waiver or acceptance of

HB 7023

2013

1121 limitation from a shipper concerning rights or benefits provided
1122 under this chapter.

1123 (c) To use a local mailing address, registration facility,
1124 drop box, or answering service in the promotion, advertising,
1125 solicitation, or sale of contracts, unless the mover's, and, if
1126 applicable, the moving broker's, fixed business address is
1127 clearly disclosed during any telephone solicitation and is
1128 prominently and conspicuously disclosed on all solicitation
1129 materials and on the contract.

1130 (d) To commit any other act of fraud, misrepresentation,
1131 or failure to disclose a material fact.

1132 (e) To refuse or fail, or for any of the mover's or
1133 broker's principal officers to refuse or fail, after notice, to
1134 produce any document or record or disclose any information
1135 required to be produced or disclosed.

1136 (f) To knowingly make a false statement in response to any
1137 request or investigation by the department, the Department of
1138 Legal Affairs, or the state attorney.

1139 (7) For a moving broker to enter into a contract or
1140 agreement for moving, loading, shipping, transporting, or
1141 unloading services with a mover who is not registered with the
1142 department pursuant to this chapter.

1143 (8) For a mover to enter into a contract or agreement for
1144 moving, loading, shipping, transporting, or unloading services
1145 with a moving broker who is not registered with the department
1146 pursuant to this chapter.

1147 Section 27. Paragraph (c) of subsection (1) of section
1148 525.01, Florida Statutes, is amended to read:

1149 525.01 Gasoline and oil to be inspected.-
 1150 (1) For the purpose of this chapter:
 1151 (c) "Alternative fuel" means:
 1152 1. Methanol, denatured ethanol, or other alcohols;
 1153 2. Mixtures of gasoline or other fuels with methanol,
 1154 denatured ethanol, or other alcohols containing 85 percent or
 1155 more by volume of methanol, denatured ethanol, or other alcohols
 1156 with gasoline or other fuels, or such other percentage, but not
 1157 less than 70 percent, as determined by the department by rule,
 1158 to provide for requirements relating to cold start, safety, or
 1159 vehicle functions;
 1160 3. Hydrogen;
 1161 4. Coal-derived liquid fuels; and
 1162 5. Fuels, other than alcohol, derived from biological
 1163 materials.

1164 Section 28. Subsections (2), (3), and (4) of section
 1165 525.09, Florida Statutes, are repealed.

1166 Section 29. Section 525.10, Florida Statutes, is amended
 1167 to read:

1168 525.10 ~~Moneys to be paid into State Treasury;~~ Payment of
 1169 expenses. ~~All moneys payable under this chapter shall be payable~~
 1170 ~~to the department and shall be paid by it into the State~~
 1171 ~~Treasury monthly to be deposited into the General Inspection~~
 1172 ~~Trust Fund.~~ All expenses incurred in the enforcement of this
 1173 chapter and other inspection laws of this state for which fees
 1174 are collected, including acquiring equipment and other property,
 1175 shall be paid from the General Inspection Trust Fund. No money
 1176 shall be paid to any inspector or employee created under this

HB 7023

2013

1177 chapter except from the funds collected from the administration
1178 of this chapter.

1179 Section 30. Subsection (20) is added to section 527.01,
1180 Florida Statutes, to read:

1181 527.01 Definitions.—As used in this chapter:

1182 (20) "License year" means the period from September 1
1183 through the following August 31, or April 1 through the
1184 following March 31, depending upon the type of license.

1185 Section 31. Subsections (1) and (3) and paragraphs (a) and
1186 (c) of subsection (5) of section 527.0201, Florida Statutes, are
1187 amended to read:

1188 527.0201 Qualifiers; master qualifiers; examinations.—

1189 (1) In addition to the requirements of s. 527.02, any
1190 person applying for a license to engage in the activities of a
1191 pipeline system operator, category I liquefied petroleum gas
1192 dealer, category II liquefied petroleum gas dispenser, category
1193 IV liquefied petroleum gas dispenser and recreational vehicle
1194 servicer, category V liquefied petroleum gases dealer for
1195 industrial uses only, LP gas installer, specialty installer,
1196 requalifier ~~requalification~~ of cylinders, or fabricator,
1197 repairer, and tester of vehicles and cargo tanks must prove
1198 competency by passing a written examination administered by the
1199 department or its agent with a grade of 75 percent or above in
1200 each area tested. Each applicant for examination shall submit a
1201 \$20 nonrefundable fee. The department shall by rule specify the
1202 general areas of competency to be covered by each examination
1203 and the relative weight to be assigned in grading each area
1204 tested.

1205 (3) Qualifier cards issued to category I liquefied
 1206 petroleum gas dealers and liquefied petroleum gas installers
 1207 shall expire 3 years after the date of issuance. All category I
 1208 liquefied petroleum gas dealer qualifiers and liquefied
 1209 petroleum gas installer qualifiers holding a valid qualifier
 1210 card upon the effective date of this act shall retain their
 1211 qualifier status until July 1, 2003, and may sit for the master
 1212 qualifier examination at any time during that time period. All
 1213 such category I liquefied petroleum gas dealer qualifiers and
 1214 liquefied petroleum gas installer qualifiers may renew their
 1215 qualification on or before July 1, 2003, upon application to the
 1216 department, payment of a \$20 renewal fee, and documentation of
 1217 the completion of a minimum of 16 ~~12~~ hours approved continuing
 1218 education courses, as defined by department rule, during the
 1219 previous 3-year period. Applications for renewal must be made 30
 1220 calendar days before ~~prior to~~ expiration. Persons failing to
 1221 renew before ~~prior to~~ the expiration date must reapply and take
 1222 a qualifier competency examination in order to reestablish
 1223 category I liquefied petroleum gas dealer qualifier and
 1224 liquefied petroleum gas installer qualifier status. If a
 1225 category I liquefied petroleum gas qualifier or liquefied
 1226 petroleum gas installer qualifier becomes a master qualifier at
 1227 any time during the effective date of the qualifier card, the
 1228 card shall remain in effect until expiration of the master
 1229 qualifier certification.

1230 (5) In addition to all other licensing requirements, each
 1231 category I liquefied petroleum gas dealer and liquefied
 1232 petroleum gas installer must, at the time of application for

HB 7023

2013

1233 licensure, identify to the department one master qualifier who
1234 is a full-time employee at the licensed location. This person
1235 shall be a manager, owner, or otherwise primarily responsible
1236 for overseeing the operations of the licensed location and must
1237 provide documentation to the department as provided by rule. The
1238 master qualifier requirement shall be in addition to the
1239 requirements of subsection (1).

1240 (a) In order to apply for certification as a master
1241 qualifier, each applicant must be a category I liquefied
1242 petroleum gas dealer qualifier or liquefied petroleum gas
1243 installer qualifier, must be employed by a licensed category I
1244 liquefied petroleum gas dealer, liquefied petroleum gas
1245 installer, or applicant for such license, must provide
1246 documentation of a minimum of 1 year's work experience in the
1247 gas industry, and must pass a master qualifier competency
1248 examination. Master qualifier examinations shall be based on
1249 Florida's laws, rules, and adopted codes governing liquefied
1250 petroleum gas safety, general industry safety standards, and
1251 administrative procedures. The applicant ~~examination~~ must be
1252 successfully pass the examination ~~completed by the applicant~~
1253 with a grade of 75 percent or above ~~more~~. Each applicant for
1254 master qualifier status must ~~shall~~ submit to the department a
1255 nonrefundable \$30 examination fee before ~~prior to~~ the
1256 examination.

1257 (c) Master qualifier status shall expire 3 years after the
1258 date of issuance of the certificate and may be renewed by
1259 submission to the department of documentation of completion of
1260 at least 16 ~~12~~ hours of approved continuing education courses

HB 7023

2013

1261 during the 3-year period; proof of employment with a licensed
 1262 category I liquefied petroleum gas dealer, liquefied petroleum
 1263 gas installer, or applicant; and a \$30 certificate renewal fee.
 1264 The department shall define, by rule, approved courses of
 1265 continuing education.

1266 Section 32. Section 527.03, Florida Statutes, is amended
 1267 to read:

1268 527.03 Annual renewal of license.—All licenses required
 1269 under this chapter shall be renewed annually subject to the
 1270 license fees prescribed in s. 527.02. All licenses, except
 1271 Category III Liquefied Petroleum Gas Cylinder Exchange Unit
 1272 Operator licenses and Dealer in Appliances and Equipment for Use
 1273 of Liquefied Petroleum Gas licenses, shall be renewed for the
 1274 period beginning September 1 and shall expire on the following
 1275 August 31 unless sooner suspended, revoked, or otherwise
 1276 terminated. Category III Liquefied Petroleum Gas Cylinder
 1277 Exchange Unit Operator licenses and Dealer in Appliances and
 1278 Equipment for Use of Liquefied Petroleum Gas licenses shall be
 1279 renewed for the period beginning April 1 and shall expire on the
 1280 following March 31 unless sooner suspended, revoked, or
 1281 otherwise terminated. Any license allowed to expire ~~on August 31~~
 1282 shall become inoperative because of failure to renew. The fee
 1283 for restoration of a license is equal to the original license
 1284 fee and must be paid before the licensee may resume operations.

1285 Section 33. Subsection (3) of section 531.415, Florida
 1286 Statutes, is amended to read:

1287 531.415 Fees.—

1288 (3) Any ~~petroleum product taxed under s. 525.09 and any~~

1289 | petroleum equipment used to measure petroleum fuel, as defined
 1290 | in s. 525.01, owned by a person licensed pursuant to chapter 206
 1291 | is exempt from the fees established in this section.

1292 | Section 34. Subsection (3) of section 531.61, Florida
 1293 | Statutes, is amended to read:

1294 | 531.61 Exemptions from permit requirement.—Commercial
 1295 | weights or measures instruments or devices are exempt from the
 1296 | permit requirements of ss. 531.60-531.66 if:

1297 | (3) The device is used exclusively for measuring aviation
 1298 | fuel or petroleum products inspected ~~taxed~~ under chapter 525 ~~s.~~
 1299 | ~~525.09.~~

1300 | Section 35. Section 531.67, Florida Statutes, is created
 1301 | to read:

1302 | 531.67 Expiration of sections.—Sections 531.60, 531.61,
 1303 | 531.62, 531.63, 531.64, 531.65, and 531.66 shall expire July 1,
 1304 | 2020.

1305 | Section 36. Section 40 of chapter 2009-66, Laws of
 1306 | Florida, is repealed.

1307 | Section 37. Paragraph (c) of subsection (5) of section
 1308 | 539.001, Florida Statutes, is amended to read:

1309 | 539.001 The Florida Pawnbroking Act.—

1310 | (5) APPLICATION FOR LICENSE.—

1311 | (c) Each initial application for a license must be
 1312 | accompanied by a complete set of fingerprints taken by an
 1313 | authorized law enforcement officer or a fingerprinting service
 1314 | provider approved by the Department of Law Enforcement, \$300 for
 1315 | the first year's license fee, and the actual cost to the agency
 1316 | for fingerprint analysis for each person subject to the

HB 7023

2013

1317 eligibility requirements. The agency shall submit the
1318 fingerprints to the Department of Law Enforcement for state
1319 processing, and the Department of Law Enforcement shall forward
1320 the fingerprints to the Federal Bureau of Investigation for a
1321 national criminal history check. These fees and costs are not
1322 refundable.

1323 Section 38. Paragraph (b) of subsection (1) of section
1324 559.802, Florida Statutes, is amended to read:

1325 559.802 Franchises; exemption.—

1326 (1) The sale of a franchise is exempt from this part if:

1327 (b) Before offering for sale or selling a franchise to be
1328 located in this state or to a resident of this state, the
1329 franchisor files a notice with the department, on a form adopted
1330 by the department, stating that the franchisor is in substantial
1331 compliance with the requirements of the Federal Trade Commission
1332 rule~~7~~ and pays a fee in an amount set by the department~~7~~ not
1333 exceeding \$100.

1334 Section 39. Section 559.803, Florida Statutes, is amended
1335 to read:

1336 559.803 Disclosure statement.—At least 3 working days
1337 before ~~prior to~~ the time the purchaser signs a business
1338 opportunity contract, or at least 3 working days before ~~prior to~~
1339 the receipt of any consideration by the seller, whichever occurs
1340 first, the seller must provide the prospective purchaser a
1341 written document, the cover sheet of which is entitled in at
1342 least 12-point boldfaced capital letters "DISCLOSURES REQUIRED
1343 BY FLORIDA LAW." Under this title shall appear the following
1344 statement in at least 10-point type: "The State of Florida has

HB 7023

2013

1345 not reviewed and does not approve, recommend, endorse, or
1346 sponsor any business opportunity. The information contained in
1347 this disclosure has not been verified by the state. If you have
1348 any questions about this investment, see an attorney before you
1349 sign a contract or agreement." Nothing except the title and
1350 required statement shall appear on the cover sheet. Immediately
1351 following the cover sheet, the seller must provide an index page
1352 that briefly lists the contents of the disclosure document as
1353 required in this section and any pages on which the prospective
1354 purchaser can find each required disclosure. At the top of the
1355 index page, the following statement must appear in at least 10-
1356 point type: "The State of Florida requires sellers of business
1357 opportunities to disclose certain information to prospective
1358 purchasers. This index is provided to help you locate this
1359 information." If the index contains other information not
1360 required by this section, the seller shall place a designation
1361 beside each of the disclosures required by this section and
1362 provide an explanation of the designation at the end of the
1363 statement at the top of the index page. The disclosure document
1364 shall contain the following information:

1365 (1) The name of the seller; whether the seller is doing
1366 business as an individual, partnership, corporation, or other
1367 business entity; the names under which the seller has done
1368 business; and the name of any parent or affiliated company that
1369 will engage in business transactions with the purchasers or who
1370 takes responsibility for statements made by the seller.

1371 (2) The names, addresses, and titles of the seller's
1372 officers, directors, trustees, general partners, general

HB 7023

2013

1373 managers, and principal executives and of any other persons
1374 charged with the responsibility for the seller's business
1375 activities relating to the sale of business opportunities.

1376 (3) The length of time the seller has:

1377 (a) Sold business opportunities; or

1378 (b) Sold business opportunities involving the products,
1379 equipment, supplies, or services currently being offered to the
1380 purchaser.

1381 (4) A full and detailed description of the actual services
1382 that the business opportunity seller undertakes to perform for
1383 the purchaser.

1384 (5) A copy of a current ~~(not older than 13 months)~~
1385 financial statement of the seller that is no older than 13
1386 months, updated to reflect material changes in the seller's
1387 financial condition.

1388 (6) If training is promised by the seller, a complete
1389 description of the training, the length of the training, and the
1390 cost or incidental expenses of that training, including the
1391 ~~which~~ cost or expense the purchaser will be required to incur.

1392 (7) If the seller promises services to be performed in
1393 connection with the placement of the equipment, product, or
1394 supplies at a location, the full nature of those services as
1395 well as the nature of the agreements to be made with the owners
1396 or managers of the location where the purchaser's equipment,
1397 product, or supplies will be placed.

1398 (8) If the business opportunity seller is required to
1399 secure a bond, guaranteed letter of credit, or certificate of
1400 deposit pursuant to s. 559.807, either of the following

HB 7023

2013

1401 statements:

1402 (a) "As required by Florida law, the seller has secured a
1403 bond issued by, a surety company authorized to do business
1404 in this state. Before signing a contract to purchase this
1405 business opportunity, you should confirm the bond's status with
1406 the surety company."; or

1407 (b) "As required by Florida law, the seller has
1408 established a guaranteed letter of credit or certificate of
1409 deposit ...(number of account)... with ...(name and address of
1410 bank or savings institution).... Before signing a contract to
1411 purchase this business opportunity, you should confirm with the
1412 bank or savings institution the current status of the guaranteed
1413 letter of credit or certificate of deposit."

1414 (9) The following statement: "If the seller fails to
1415 deliver the product, equipment, or supplies necessary to begin
1416 substantial operation of the business within 45 days of the
1417 delivery date stated in your contract, you may notify the seller
1418 in writing and cancel your contract."

1419 (10) If the seller makes any statement concerning sales or
1420 earnings or a range of sales or earnings that may be made
1421 through this business opportunity, a statement disclosing:

1422 (a) The total number of purchasers of business
1423 opportunities involving the product, equipment, supplies, or
1424 services being offered who have actually achieved sales of or
1425 received earnings in the amount or range specified within 3
1426 years prior to the date of the disclosure statement.

1427 (b) The total number of purchasers of business
1428 opportunities involving the product, equipment, supplies, or

HB 7023

2013

1429 services being offered within 3 years before ~~prior to~~ the date
1430 of the disclosure statement.

1431 (11) (a) The total number of persons who purchased the
1432 business opportunity being offered by the seller within the past
1433 3 years.

1434 (b) The names, addresses, and telephone numbers of the 10
1435 persons who previously purchased the business opportunity from
1436 the seller and who are geographically closest to the potential
1437 purchaser.

1438 (12) A statement disclosing who, if any, of the persons
1439 listed in subsections (1) and (2):

1440 (a) Has, at any time during the previous 10 fiscal years,
1441 regardless of adjudication, been convicted of, or found guilty
1442 of, or pled guilty or nolo contendere to, or has been
1443 incarcerated within the last 10 years as a result of having
1444 previously been convicted of, or found guilty of, or pled guilty
1445 or nolo contendere to, a felony or a crime involving fraud,
1446 theft, larceny, violation of any franchise or business
1447 opportunity law or unfair or deceptive practices law,
1448 embezzlement, fraudulent conversion, misappropriation of
1449 property, or restraint of trade.

1450 (b) Has, at any time during the previous 7 fiscal years,
1451 been held liable in a civil action resulting in a final judgment
1452 or has settled out of court any civil action or is a party to
1453 any civil action involving allegations of fraud (including
1454 violation of any franchise or business opportunity law or unfair
1455 or deceptive practices law), embezzlement, fraudulent
1456 conversion, misappropriation of property, or restraint of trade

HB 7023

2013

1457 or any civil action which was brought by a present or former
1458 franchisee or franchisees and which involves or involved the
1459 franchise relationship. However, only material individual civil
1460 actions need be so listed pursuant to this paragraph, including
1461 any group of civil actions which, irrespective of the
1462 materiality of any single such action, in the aggregate is
1463 material.

1464 (c) Is subject to any currently effective state or federal
1465 agency or court injunctive or restrictive order, or has been
1466 subject to any administrative action in which an order by a
1467 governmental agency was rendered, or is a party to a proceeding
1468 currently pending in which such order is sought, relating to or
1469 affecting business opportunities activities or the business
1470 opportunity seller-purchaser relationship or involving fraud,
1471 ~~(including violation of any franchise or business opportunity~~
1472 ~~law or unfair or deceptive practices law)~~, embezzlement,
1473 fraudulent conversion, misappropriation of property, or
1474 restraint of trade.

1475
1476 Such statement shall set forth the identity and location of the
1477 court or agency; the date of conviction, judgment, or decision;
1478 the penalty imposed; the damages assessed; the terms of
1479 settlement or the terms of the order; and the date, nature, and
1480 issuer of each such order or ruling. A business opportunity
1481 seller may include a summary opinion of counsel as to any
1482 pending litigation, but only if counsel's consent to the use of
1483 such opinion is included in the disclosure statement.

1484 (13) A statement disclosing who, if any, of the persons

1485 listed in subsections (1) and (2) at any time during the
 1486 previous 7 fiscal years has:

- 1487 (a) Filed in bankruptcy.
- 1488 (b) Been adjudged bankrupt.
- 1489 (c) Been reorganized due to insolvency.
- 1490 (d) Been a principal, director, executive officer, or
- 1491 partner of any other person that has so filed or was so adjudged
- 1492 or reorganized during or within 1 year after the period that
- 1493 such person held such position in relation to such other person.
- 1494 If so, the name and location of the person having so filed or
- 1495 having been so adjudged or reorganized, the date thereof, and
- 1496 any other material facts relating thereto shall be set forth.

1497 (14) A copy of the business opportunity contract which the
 1498 seller uses as a matter of course and which is to be presented
 1499 to the purchaser at closing.

1500
 1501 ~~Should any seller of business opportunities prepare a disclosure~~
 1502 ~~statement pursuant to 16 C.F.R. ss. 436.1 et seq., a Trade~~
 1503 ~~Regulation Rule of the Federal Trade Commission regarding~~
 1504 ~~Disclosure Requirements and Prohibitions Concerning Franchising~~
 1505 ~~and Business Opportunity Ventures, the seller may file that~~
 1506 ~~disclosure statement in lieu of the document required pursuant~~
 1507 ~~to this section. Should the seller be required pursuant to 16~~
 1508 ~~C.F.R. to prepare any other documents to be presented to the~~
 1509 ~~prospective purchaser, those documents shall also be filed with~~
 1510 ~~the department.~~

1511 Section 40. Section 559.805, Florida Statutes, is
 1512 repealed.

1513 Section 41. Section 559.807, Florida Statutes, is amended
 1514 to read:

1515 559.807 Bond or other security required.—

1516 ~~(1)~~ If the business opportunity seller makes any
 1517 representations set forth in s. 559.801(1)(a)3., the seller must
 1518 either have obtained a surety bond issued by a surety company
 1519 authorized to do business in this state or have established a
 1520 certificate of deposit or a guaranteed letter of credit with a
 1521 licensed and insured bank or savings institution located in the
 1522 state. The amount of the bond, certificate of deposit, or
 1523 guaranteed letter of credit shall be an amount not less than
 1524 \$50,000.

1525 ~~(2) The bond, certificate of deposit, or guaranteed letter~~
 1526 ~~of credit shall be in the favor of the department for the use~~
 1527 ~~and benefit of any person who is injured by the fraud,~~
 1528 ~~misrepresentation, breach of contract, financial failure, or~~
 1529 ~~violation of any provision of this part by the seller. Such~~
 1530 ~~liability may be enforced by filing an action at law in a court~~
 1531 ~~of competent jurisdiction without precluding enforcement in an~~
 1532 ~~administrative action pursuant to chapter 120. However, the~~
 1533 ~~bond, certificate of deposit, or guaranteed letter of credit~~
 1534 ~~shall be amenable and enforceable only by and through~~
 1535 ~~administrative proceedings before the department. A money~~
 1536 ~~judgment resulting from an action at law, less any award for~~
 1537 ~~costs and attorney's fees, shall be prima facie evidence~~
 1538 ~~sufficient to establish the value of the claim in an~~
 1539 ~~administrative action. It is the intent of the Legislature that~~
 1540 ~~such bond, certificate of deposit, or guaranteed letter of~~

HB 7023

2013

1541 ~~credit shall be applicable and liable only for payment of claims~~
1542 ~~duly adjudicated by order of the department. The bond,~~
1543 ~~certificate of deposit, or guaranteed letter of credit shall be~~
1544 ~~open to successive claims but the aggregate amount may not~~
1545 ~~exceed the amount of the bond, certificate of deposit, or~~
1546 ~~guaranteed letter of credit.~~

1547 Section 42. Section 559.813, Florida Statutes, is amended
1548 to read:

1549 559.813 Remedies; enforcement.—

1550 (1) If a business opportunity seller uses untrue or
1551 misleading statements in the sale of a business opportunity,
1552 fails to give the proper disclosures in the manner required by
1553 this part, or fails to deliver the equipment, supplies, or
1554 products necessary to begin substantial operation of the
1555 business within 45 days after ~~of~~ the delivery date stated in the
1556 business opportunity contract, or if the contract does not
1557 comply with the requirements of this part, the purchaser may,
1558 within 1 year after ~~of~~ the date of execution of the contract and
1559 upon written notice to the seller, rescind the contract and
1560 shall be entitled to receive from the business opportunity
1561 seller all sums paid to the business opportunity seller. Upon
1562 receipt of such sums, the purchaser shall make available to the
1563 seller at the purchaser's address, or at the places at which
1564 they are located at the time notice is given, all products,
1565 equipment, or supplies received by the purchaser. The purchaser
1566 shall not be entitled to unjust enrichment by exercising the
1567 remedies provided in this subsection.

1568 ~~(2) (a) The department may enter an order imposing one or~~

HB 7023

2013

1569 ~~more of the penalties set forth in paragraph (b) if the~~
1570 ~~department finds that a seller or any of the seller's principal~~
1571 ~~officers or agents:~~

1572 ~~1. Violated or is operating in violation of any of the~~
1573 ~~provisions of this part or of the rules adopted or orders issued~~
1574 ~~thereunder;~~

1575 ~~2. Made a material false statement in any application,~~
1576 ~~document, or record required to be submitted or retained under~~
1577 ~~this part;~~

1578 ~~3. Refused or failed, after notice, to produce any~~
1579 ~~document or record or disclose any information required to be~~
1580 ~~produced or disclosed under this part or the rules of the~~
1581 ~~department;~~

1582 ~~4. Made a material false statement in response to any~~
1583 ~~request or investigation by the department, the Department of~~
1584 ~~Legal Affairs, or the state attorney; or~~

1585 ~~5. Has intentionally defrauded the public through~~
1586 ~~dishonest or deceptive means.~~

1587 ~~(b) Upon a finding as set forth in paragraph (a), the~~
1588 ~~department may enter an order doing one or more of the~~
1589 ~~following:~~

1590 ~~1. Issuing a notice of noncompliance pursuant to s.~~
1591 ~~120.695.~~

1592 ~~2. Imposing an administrative fine not to exceed \$5,000~~
1593 ~~per violation for each act which constitutes a violation of this~~
1594 ~~part or a rule or order.~~

1595 ~~3. Directing that the seller or its principal officers or~~
1596 ~~agents cease and desist specified activities.~~

1597 | 4. ~~Refusing to issue or revoking or suspending an~~
 1598 | ~~advertisement identification number.~~

1599 | 5. ~~Placing the registrant on probation for a period of~~
 1600 | ~~time, subject to such conditions as the department may specify.~~

1601 | (c) ~~The administrative proceedings which could result in~~
 1602 | ~~the entry of an order imposing any of the penalties specified in~~
 1603 | ~~paragraph (b) shall be conducted in accordance with chapter 120.~~

1604 | (2)~~(3)~~ Any purchaser injured by a violation of this part,
 1605 | or by the business opportunity seller's breach of a contract
 1606 | subject to this part or any obligation arising therefrom, may
 1607 | bring an action for recovery of damages, including reasonable
 1608 | attorney ~~attorney's~~ fees.

1609 | (3)~~(4)~~ Upon complaint of any person that a business
 1610 | opportunity seller has violated ~~the provisions of~~ this part, the
 1611 | circuit court shall have jurisdiction to enjoin the defendant
 1612 | from further such violations.

1613 | (4)~~(5)~~ The Department of Legal Affairs, ~~the Department of~~
 1614 | ~~Agriculture and Consumer Services,~~ or the state attorney, if a
 1615 | violation of this part occurs in her or his judicial circuit, is
 1616 | ~~are~~ the enforcing authority ~~authorities~~ for purposes of this
 1617 | part, ~~and they~~ may bring civil actions in circuit court for
 1618 | temporary or permanent injunctive relief and may seek other
 1619 | appropriate civil relief, including, but not limited to, a civil
 1620 | penalty not to exceed \$5,000 for each violation, restitution and
 1621 | damages for injured purchasers of business opportunities, and
 1622 | court costs and reasonable attorney ~~attorney's~~ fees.

1623 | (5)~~(6)~~ Any remedy provided in this section may be
 1624 | recovered in an appropriate action, or the enforcing authority

1625 | may terminate any investigation or action upon agreement by the
 1626 | offender to pay a ~~as~~ stipulated civil penalty, to make
 1627 | restitution or pay damages to purchasers, or to satisfy any
 1628 | other relief authorized in this section and requested by the
 1629 | enforcing authority.

1630 | ~~(6)-(7)~~ The remedies provided in this section ~~herein~~ shall
 1631 | be in addition to any other remedies provided by law or in
 1632 | equity.

1633 | ~~(8) The department has the authority to adopt rules~~
 1634 | ~~pursuant to chapter 120 to implement this part.~~

1635 | Section 43. Section 559.815, Florida Statutes, is amended
 1636 | to read:

1637 | 559.815 Penalties.—Any person who ~~fails to file with the~~
 1638 | ~~department as required by s. 559.805 or who~~ commits an act
 1639 | described in s. 559.809 is guilty of a felony of the third
 1640 | degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1641 | 775.084.

1642 | Section 44. Paragraph (a) of subsection (1) of section
 1643 | 559.9221, Florida Statutes, is amended to read:

1644 | 559.9221 Motor Vehicle Repair Advisory Council.—The Motor
 1645 | Vehicle Repair Advisory Council is created to advise and assist
 1646 | the department in carrying out this part.

1647 | (1) The membership of the council may not exceed nine ~~11~~
 1648 | members appointed by the Commissioner of Agriculture.

1649 | (a) Six ~~Eight~~ industry members of the council must be
 1650 | chosen from individuals already engaged in the motor vehicle
 1651 | repair business who are eligible to be registered under this
 1652 | part. The professional members of this council must be licensed

1653 | under this part. The commissioner shall select one industry
 1654 | member from each of the following categories:

- 1655 | 1. Independent automotive mechanics shops.
- 1656 | 2. Franchise or company-owned automotive mechanics shops.
- 1657 | 3. ~~Independent~~ Automotive collision shops.
- 1658 | ~~4. Franchise or company-owned automotive collision shops.~~
- 1659 | 4.5. ~~Independent~~ Tire dealer.
- 1660 | ~~6. Franchise or company-owned tire dealer.~~
- 1661 | 5.7. Independent motor vehicle dealer licensed under s.
- 1662 | 320.27.
- 1663 | ~~6.8.~~ Franchise motor vehicle dealer licensed under s.
- 1664 | 320.27.

1665 | Section 45. Paragraphs (a) and (b) of subsection (9) of
 1666 | section 616.242, Florida Statutes, are amended to read:

1667 | 616.242 Safety standards for amusement rides.—

1668 | (9) INSURANCE REQUIREMENTS.—

1669 | (a) An owner may not operate an amusement ride unless the
 1670 | owner has in effect at all times of operation ~~insurance meeting~~
 1671 | ~~the following requirements:~~

1672 | ~~1.~~ an insurance policy in an amount of at least ~~not less~~
 1673 | ~~than~~ \$1 million per occurrence, \$1 million in the aggregate,
 1674 | which insures the owner of the amusement ride against liability
 1675 | for injury to persons arising out of the use of the amusement
 1676 | ride; ~~or~~

1677 | ~~2. A bond in a like amount; however, the aggregate~~
 1678 | ~~liability of the surety under the bond may not exceed the face~~
 1679 | ~~amount thereof.~~

1680 | (b) The policy ~~or bond~~ must be procured from an insurer ~~or~~

HB 7023

2013

1681 ~~surety~~ that is licensed to transact business in this state or
1682 that is approved as a surplus lines insurer.

1683 Section 46. Subsection (9) is added to section 721.20,
1684 Florida Statutes, to read:

1685 721.20 Licensing requirements; suspension or revocation of
1686 license; exceptions to applicability; collection of advance fees
1687 for listings unlawful.—

1688 (9) A person who meets the definition of a commercial
1689 telephone seller or salesperson as defined in s. 501.603 must be
1690 licensed under part IV of chapter 501 before doing business in
1691 this state under this chapter.

1692 Section 47. This act shall take effect July 1, 2013.