

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 4011 Dance Studios

**SPONSOR(S):** Gaetz

**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	15 Y, 0 N	Livingston	Creamer
2) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill repeals regulatory provisions relating to the operation of ballroom dance studios. Section 501.143, F.S., is repealed and s. 205.1969, F.S., is amended to remove a reference to payment of the local business tax. These changes remove the statutory requirements relating to the operation of dance studios and the requirements for registration by the Department of Agriculture and Consumer Services (DACS).

The bill is anticipated to have a negative fiscal impact on state trust funds from the reduction in fees associated with registration. The DACS estimates this reduction to be \$59,100 per fiscal year based on the \$300 fee paid to the DACS for each studio.

A positive fiscal impact on state trust funds is anticipated to occur from the reduction in cost associated with processing registration applications. The DACS reports that this reduction would approach \$34,339 per year.

The bill has an effective date of July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current situation

Currently, s. 501.143, F.S., is cited as the "Dance Studio Act."

This section defines "ballroom dance studio" to mean:

any person that engages in the sale of ballroom dance studio lessons or services which are provided at a location specifically used for dance studio lessons or services or secures floor space at a registered ballroom dance studio facility or other facility which is not used primarily for rendering dance studio lessons or services and enters into contracts for future dance studio lessons or services.

It is common to use the reference to dance studio or ballroom dance studio interchangeably.

The owner or operator of a dance studio must register with the DACS annually. The registration procedure requires:

- the legal business or trade name, mailing address, and business locations, and the full names, addresses, and telephone numbers of its owners or corporate officers and directors and the Florida agent of the corporation;
- copies of contracts to be offered to the public;
- payment of the registration fee of \$300;
- the DACS may refuse registration if the applicant or any of its directors, has been found guilty of a crime involving fraud, has not satisfied an administrative fine or civil judgment, or has a judgment against it for unfair trade practices.

If approved, the DACS issues a certificate evidencing proof of registration. The holder of the certificate is required to display the certificate at each business location. Additionally, each advertisement or contract of a ballroom dance studio must include the phrase "(NAME OF FIRM) is registered with the State of Florida as a Ballroom Dance Studio Registration No ....."

Statutory contract requirements specify that:

- the contract is in writing and all provisions, requirements, and prohibitions which are mandated by this statutory section must be contained in the written contract before it is signed by the customer;
- a copy of the signed contract must be given to the customer at the time the customer signs the contract; and
- the contract for ballroom dance studio services or lessons include the customer's total payment obligation for services or lessons and contain a written statement of the hourly or lesson rate charged for which the customer has contracted.

A contract for the sale of future dance studio services or lessons which are paid for in advance or which the buyer agrees to pay for in future installment payments must be in writing and contain a disclosure to include the following:

- a provision for the penalty-free cancellation of the contract within 3 days upon written notice to the ballroom dance studio (a refund must be issued within 20 days after receipt of the notice of cancellation made within the 3-day period);
- a provision for the cancellation of the contract, if the buyer dies or becomes unable to avail himself or herself of the lessons or services or if the lessons or services cease to be offered as

stated in the contract (the studio must refund the balance in three equal monthly installments, to be completed within not more than 90 days); and

- studio management must keep a copy of each contract on file for as long as the contract is in effect and for a period of 2 years thereafter.

Each studio that has been in business under the same ownership for less than 3 years and receives an advance payment in excess of \$250 or enters into retail installment contract for payment is required to establish a mechanism for ensuring customer refunds.

Financial security is required by statute and must be maintained in the form of a bond, an irrevocable letter of credit, or a guaranty agreement that is secured by a certificate of deposit as follows:

- if the studio has been in business under the same ownership for less than 1 year - \$5,000;
- if the studio has been in business under the same ownership for at least 1 year, but less than 2 years - \$10,000; and
- if the studio has been in business under the same ownership for at least 2 years, but less than 3 years - \$15,000.

The DACS indicates that “the statute only addresses businesses under 3 years and the Department has interpreted that to mean NO bond is required”<sup>1</sup> if a studio has been under the same ownership for more than three years.

Enforcement authority is vested with the DACS and the Department of Legal Affairs for administrative, civil, and criminal penalties. Subsection 501.143(9), F.S. specifies that any moneys recovered by the enforcing authority as a penalty must be deposited in the General Inspection Trust Fund if the action was brought by the DACS or the Legal Affairs Revolving Trust Fund if the action was brought by the Department of Legal Affairs.

Additionally, a customer injured by a fraudulent act in violation of this section may bring an action for the recovery of damages. Judgment may be entered for three times the amount, at which the actual damages are assessed plus costs and reasonable attorney’s fees.

#### Effect of proposed changes

The bill repeals regulatory provisions relating to the operation of ballroom dance studios. Section 501.143, F.S., is repealed and s. 205.1969, F.S., is amended to remove a reference to registration by the state. These changes remove the statutory requirements concerning the operation of dance studios and the requirements for registration by the DACS.

#### B. SECTION DIRECTORY:

Section 1. Repeals s. 501.143, F.S., relating to the regulation of dance studios.

Section 2. Amends s. 205.1969, F.S., to delete a reference to the regulation of dance studios and, therefore, conform to the repeal of the regulation of this activity.

Section 3. Effective date – July 1, 2011.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

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<sup>1</sup> E-mail response to committee staff from Grace Lovett, Director of the Office of legislative Affairs, Department of Agriculture and Consumer Services, February 8, 2011

The bill is anticipated to have a negative fiscal impact on state trust funds from the reduction in fees associated with registration. The DACS estimates this reduction to be \$59,100 per fiscal year based on the \$300 fee paid to the DACS for each studio.

2. Expenditures:

A positive fiscal impact on state trust funds is anticipated to occur from the reduction in cost associated with processing registration applications. The DACS reports that this reduction would approach \$34,339 per year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Not anticipated to be significant. Business overhead costs could be anticipated to be reduced, primarily, in association with the payment of registration fees. Other savings could be associated with the practice of posting security collateral and contract content requirements.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that the counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.