

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the General Government Appropriations Committee

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BILL: PCS/SB 1820

INTRODUCER: General Government Appropriations and Senator Alexander

SUBJECT: Department of Business and Professional Regulation

DATE: March 28, 2008

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick	DeLoach	GA	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

This bill authorizes the Department of Business and Professional Regulation (department) to adopt rules to adjust and to waive the unlicensed activity special fee for each licensee in a profession regulated by the department not to exceed five dollars, when certain operating accounts have an excess cash balance.

The bill revises the amount of permit fees paid for professional boxing and mixed martial arts events to create an equalization of event fees paid for pugilistic contests.

The bill authorizes the department to set fees, paid annually by rule, for condominium associations, cooperative associations, and time share plans, not to exceed a specified amount. Additionally, the bill allows the department to reduce fees when funds being collected are in excess of the amount required to regulate the entities.

This bill eliminates the requirement that the Division of Hotels and Restaurants within the department assist the State Fire Marshal in updating the Florida Fire Prevention Code. It also eliminates the division's responsibility to enforce the Florida Fire Prevention Code when it conducts inspections of public lodging and public food service establishments.

Removal of these fire code enforcement and inspection responsibilities will result in a reduction of three full-time equivalent positions and \$250,000 in department expenditures.

This bill substantially amends the following sections of the Florida Statutes: 455.2281, 509.032, 548.035, 718.501, 719.501, and 721.27.

## II. Present Situation:

Currently, s. 455.2281, F.S., requires that all licensees regulated under ch. 545, F.S., pay an unlicensed activity special fee of five dollars for an initial license and at the time of renewal, to fund efforts to combat unlicensed activity. Fees for each profession are required to be maintained in separate accounts within the Professional Regulation Trust Fund within the department and used only for that profession.

Section 455.219, F.S., requires that all license fees be set for each profession, based on the department's prepared long range estimates of required revenue. These estimates must ensure that license fees are adequate to cover all anticipated operating costs and to maintain a reasonable cash balance. When the professions trust fund moneys are in excess of what is necessary to cover the costs of the program, the statute authorizes the department to adopt rules to implement a waiver of license fees for a period not to exceed two years.

The fee paid by licensees in each profession is the same. However, the regulatory efforts required to combat and pursue unlicensed activity are not the same for each profession.

The Division of Florida Land Sales, Condominiums, and Mobile Homes within the department is responsible for regulating condominium associations, cooperative associations, and managing entities of timeshare plans. Fees are set in the statute as follows.

- For condominiums, a four dollar fee is paid annually for each residential unit pursuant to 718.501(2)(a), F.S.
- For cooperative associations, a four dollar fee is paid annually for each residential unit pursuant to 719.501(2)(a), F.S.
- For timeshares, an annual fee of two dollars for each seven-day period pursuant to 721.27, F.S.

Currently, fees in these trust fund accounts have excessive cash balances. The department has no ability to reduce fees other than through a statutory change, which does not allow for flexibility to adjust to economic changes and make timely adjustments.

Chapter 548, F.S., creates the Florida State Boxing Commission and provides for exclusive jurisdiction over every boxing and mixed martial arts and kickboxing event involving a professional within the state. Permit fees are set pursuant s. 548.035, F.S. For boxing events, fees are based on seating capacity, ranging from \$50 to \$250 per event. For mixed martial arts matches, fees are set at \$5,000 per event.

Currently, the Division of Hotels and Restaurants provides technical assistance to the Florida Building Commission and the State Fire Marshal in updating the construction standards of the Florida Building Code and the Florida Fire Prevention Code. These entities, aided by the department, govern public lodging and public food service establishments and enforce the provisions of the Florida Building Code and the Florida Fire Prevention Code that apply to public establishments, when conducting authorized inspections.

**III. Effect of Proposed Changes:**

The bill authorizes the department to adopt rules and to set the unlicensed activity special fee and to waive the special fee when certain accounts have an excess balance. The bill limits the special fees to a maximum of five dollars per licensee.

The bill equalizes boxing and mixed martial arts event fees by increasing boxing event fees from a range \$50 to \$250 to \$1,800 and by decreasing mixed martial arts event fees from \$5,000 to \$1,800.

The bill authorizes the department to set fees, paid annually by rule, for condominium associations, cooperative associations, and timeshare plans, while limiting fees to a maximum of four dollars for condominium and cooperative associations and a maximum of two dollars for each seven-day period of annual use for timeshare plans.

The bill removes the requirement that the Division of Hotels and Restaurants provide technical assistance to the State Fire Marshal when updating the Florida Fire Prevention Code. Additionally, the division is no longer required to enforce the Fire Prevention Code while conducting fire safety inspections of public lodging and food services establishments. Removal of these requirements will eliminate the duplication of fire safety code enforcement and inspections currently being performed by local fire authorities.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The bill allows the department to set unlicensed activity, condominium association, cooperative association, and timeshare plan fees by rule, not to exceed the amounts set in statute. This allows the department to reduce fees in order to maintain reasonable trust fund balances for operational purposes.

Equalization of the permit fees for boxing events will increase fees paid by boxing promoters and decrease fees paid by mixed martial arts promoters.

**B. Private Sector Impact:**

The impact to the private sector depends on the fee adjustments made by the department to unlicensed activity, condominium filing, cooperative annual, timeshare annual, and timeshare multi-site fees.

**C. Government Sector Impact:**

The bill has an indeterminate fiscal impact on current agency trust funds. The impact depends on the fee adjustments made by the department to unlicensed activity, condominium filing, cooperative annual, timeshare annual and timeshare multi-site fees.

According to the department, implementation of the bill will require rulemaking each time the department adjusts fees. However, the workload for technology changes and rulemaking can be absorbed within existing resources.

The equalization of permit fees paid for professional boxing and mixed martial arts events will result in an insignificant but positive fiscal impact on the Florida Boxing Commission’s operating account.

The removal of the requirement that the department provide technical assistance to the State Fire Marshal, enforcement of the Florida Fire Prevention Code and conducting fire safety inspections will result in the elimination of duplicative activities currently being performed by local fire authorities. Accordingly, the department anticipates that the Division of Hotels and Restaurants’ expenditures will decrease as a result of eliminating fire inspection and fire code enforcement when conducting inspections of public lodging and public food service establishments.

The department estimates the following fiscal impact of the bill.

<b>Expenditures from the Hotel and Restaurant Trust Fund</b>	
<b>Recurring Budget</b>	<b>FY 2008-09</b>
Salaries/Benefits (3.00) FTE	\$(144,583)
Salary Rate (104,922)	
Other Personal Services	
Expenses	(95,214)
Operation of Motor Vehicles	(9,000)
Transfer to DMS/HR Services	(1,203)
<b>Total</b>	<b>\$(250,000)</b>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

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This bill eliminates the requirement that the Division of Hotels and Restaurants within the department assist the State Fire Marshal in updating the Florida Fire Prevention Code. It also eliminates the division's responsibility to enforce the Florida Fire Prevention Code when it conducts inspections of public lodging and public food service establishments.

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**B. Amendments:**

None.