

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 303 Unlicensed Activity Fees
SPONSOR(S): Burton
TIED BILLS: IDEN./SIM. **BILLS:** SB 394

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	11 Y, 0 N	Brown-Blake	Anstead
2) Government Operations Appropriations Subcommittee	10 Y, 0 N	Topp	Topp
3) Regulatory Affairs Committee	11 Y, 0 N	Brown-Blake	Hamon

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (Department) licenses and regulates businesses and professionals in Florida. The Department's mission is to license efficiently and regulate fairly.

The Department is required to investigate persons practicing a profession without being licensed to do so. The costs of investigation of unlicensed activity are covered with an unlicensed activity fee of \$5 per licensee upon initial licensure and biennial renewal. The funds are collected by the Department and placed in a fund for each specified profession.

The bill would require the Department to waive unlicensed activity fee under certain circumstances.

The bill prohibits the Department from requiring payment of the unlicensed activity fee if, at the beginning of the fiscal year, the profession's unlicensed activity account balance totals more than twice the cost of that profession's expenses for unlicensed activity investigations from the preceding two fiscal years combined. If a professional board meets these requirements, all of the licensees licensed by that board are exempt from paying the unlicensed activity fee for that renewal period. A profession that has a deficit in its operating account or is projected to have such a deficit within the next five years must continue to obtain the unlicensed activity fee from its licensees for each renewal cycle.

The bill is anticipated to significantly reduce unlicensed activity fee revenue to the Department's Professional Regulation Trust Fund. The reduction in fee revenue is estimated to be \$1,564,735 in Fiscal Year 2016-2017, \$1,624,715 in Fiscal Year 2017-2018, and \$1,568,735 in Fiscal Year 2018-2019.

The bill has no fiscal impact on local government.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Department licenses and regulates businesses and professionals in Florida. The Department includes separate divisions and various professional boards that are responsible for carrying out the Department's mission to license efficiently and regulate fairly.

The Department is required to investigate persons practicing a profession without being licensed to do so.¹ Section 455.01(6), F.S., defines "professions" as "any activity, occupation, profession, or vocation regulated by the [D]epartment in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation." The Division of Professions houses the:

- Board of Architecture and Interior Design;
- Florida Board of Auctioneers;
- Barbers' Board;
- Florida Building Code Administrators and Inspectors Board;
- Construction Industry Licensing Board;
- Board of Cosmetology;
- Electrical Contractors' Licensing Board;
- Board of Employee Leasing Companies;
- Board of Landscape Architecture;
- Board of Pilot Commissioners;
- Board of Professional Engineers;
- Board of Professional Geologists;
- Board of Veterinary Medicine;
- Home inspection services licensing program; and
- Mold-related services licensing program.

Each individual profession is required to cover the costs of investigation and enforcement.² The Department imposes an unlicensed activity fee of \$5 per licensee upon initial licensure and biennial renewal to fund efforts to combat unlicensed activity.³

The Department has indicated that some professions have enough funds to cover the costs of unlicensed activity investigation and enforcement without collecting unlicensed activity fees every renewal cycle. The following chart illustrates that some boards collect more in unlicensed activity fees than is used to cover the costs, while maintaining a large board account balance:

	ULA Fee Revenue 2014 and 2015 Total	ULA Expenditures 2014 and 2015 Total	ULA Account Balance July 1, 2014
Barber's Board	\$103,407	\$103,486	\$270,739
Board of Cosmetology	\$1,242,594	\$427,937	\$2,352,799

Effect of the Bill

¹ s. 455.2281, F.S.

² s. 455.2281, F.S.

³ s. 455.2281, F.S.

The bill prohibits the Department from requiring payment of the unlicensed activity fee during a license renewal for a profession if, at the beginning of the fiscal year prior to the renewal, the profession's unlicensed activity account balance totals more than twice the cost of that profession's unlicensed activity enforcement from the preceding two fiscal years combined. If a professional board meets these requirements, all of the licensees licensed by that board are exempt from paying the unlicensed activity fee for that renewal period.

A profession that has a deficit in its operating account or is projected to have a deficit within the next 5 years must continue to obtain the unlicensed activity fee from its licensees for each renewal cycle.

B. SECTION DIRECTORY:

Section 1 amends s. 455.2281, F.S., prohibiting the Department of Business and Professional Regulation from imposing an unlicensed activity fee in certain circumstances.

Section 2 provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department indicates that they will have a reduction in unlicensed activity fee revenue of approximately \$1,564,735 in Fiscal Year 2016-2017, \$1,624,715 in Fiscal Year 2017-2018, and \$1,568,735 in Fiscal Year 2018-2019.⁴ There will be a corresponding reduction in the 8% service charge sent to General Revenue of approximately \$125,179 in Fiscal Year 2016-2017, \$129,977 in Fiscal Year 2017-2018, and \$125,499 in Fiscal Year 2018-2019.

There is no adverse impact on the operating accounts of any profession/board as the proposed fee waiver targets those professions with a specified surplus balance in their unlicensed activity accounts.

The bill has no fiscal impact on local government.

Professional Regulation Trust Fund			
	FY 2016-17	FY 2017-18	FY 2018-19
Beginning Balance	51,561,943	59,405,441	61,993,255
Estimated Revenue	80,733,880	74,567,686	79,363,825
Impact of HB 303	(1,564,735)	(1,624,715)	(1,568,735)
TOTAL Revenue	130,731,088	132,348,412	139,788,345
Estimated Expenditures	(71,325,647)	(70,355,157)	(71,723,987)
Estimated Year-end Balance	59,405,441	61,993,255	68,064,358

Profession / Board	Projected to qualify for Unlicensed Activity Fee Waiver⁵
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⁴ Email from Department of Business and Professional Regulation staff regarding fiscal impact of CS/HB 303 (Jan. 25, 2016 on file with Government Operations Appropriations Subcommittee).

⁵ Email from Department of Business and Professional Regulation staff to Government Operations Appropriations Subcommittee staff, (February 2, 2016, on file with Government Operations Appropriations Subcommittee).

	2016-17	2017-18	2018-19
Board of Accountancy	No	No	No
Board of Architecture and Interior Design	No	No	No
Asbestos Unit	Yes	Yes	Yes
Athlete Agents	Yes	No	Yes
Board of Auctioneers	No	No.	No
Barber's Board	No	No	No
Building Code Admin & Inspectors	No	Yes	No
Community Association Managers	No	No	No
Construction Industry Licensing Board	No	No	No
Board of Cosmetology	Yes	Yes	Yes
Electrical Contractors Licensing Board	No	No	No
Board of Employee Leasing	No	No	No.
Board of Professional Engineers	No	No	Yes
Board of Professional Geologists	No	No	No
Board of Pilot Commissioners	No	No	No
Home Inspections	No	No	Yes
Board of Landscape Architects	No	Yes	No
Mold Related Service	No	No	No
Real Estate Appraisal Board	Yes	No	Yes
Real Estate Commission	Yes	Yes	Yes
Talent Agents	No	No	No
Board of Veterinary Medicine	No	Yes	No

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce licensee expenditures for renewal of licenses for certain professions by \$5 per license renewal.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

N/A

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.