

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JEC 08-12 Department of Business and Professional Regulation
SPONSOR(S): Jobs & Entrepreneurship Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Jobs & Entrepreneurship Council	14 Y, 0 N	Smith/Topp	Thorn
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (department) is a trust funded agency that charges fees to its licensees in order to provide licensing and regulatory activities. At times, the fees being charged by the department may exceed the actual costs associated with providing these services. Evaluation of the current fees compared with current regulatory expenditures has resulted in this legislation that will reduce fees deemed to be excessive at this time.

- The bill proposes to reduce the annual fee charged to condominium owners, currently set at \$4, to \$2 annually.
- The bill proposes to reduce the annual fee charged to timeshare owners, currently set at \$2, to \$1 annually.
- Both of the proposed fee adjustments are automatically repealed on July 1, 2009, unless reenacted by the Legislature.

Section 455.2281, F.S., provides that, upon initial licensure and renewal, each licensee pays a \$5 unlicensed activity fee to be used to combat the unlicensed practice of professions that are regulated by the state and require licensure. Evaluation of the current Unlicensed Activity Account balances for each board compared to actual unlicensed expenditures has resulted in this legislation that will provide a one-year fee waiver to various boards and licensees deemed to have sufficient balances to support their FY 2008-09 unlicensed activity functions.

- The bill provides a one-year fee waiver for the Board of Architecture and Interior Design, the Florida Board of Auctioneers, the Board of Landscape Architecture, the Board of Pilot Commissioners, the Board of Professional Surveyors and Mappers, the Florida Real Estate Appraisal Board, the Asbestos Unit, Athlete Agents, Community Association Managers, the Board of Employee Leasing Companies, and the Florida Real Estate Commission.
- The waiver is automatically repealed on July 1, 2009, unless reenacted by the Legislature.

The department estimates a reduction in fees of approximately \$6.8 million for FY 2008-09.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensuring lower taxes – The bill proposes to reduce fees for at least a year and to eliminate fees for construction and electrical contractors.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Condominiums

The department currently requires condominium associations which operate more than two units to pay to the Division of Florida Land Sales, Condominiums, and Mobile Homes (division) an annual fee of \$4 for each residential unit operated by the association. Section 718.501(2)(a), Florida Statutes, stipulates when the fee must be paid and provides for penalties to be assessed for nonpayment. The Condominium account in the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund had an ending balance of approximately \$11.2 million in FY 2006-07 and anticipates an ending cash balance of approximately \$10.3 million as of June 30, 2008.

Timeshares

The department currently requires managing entities of timeshares to collect and pay to the division an annual fee of \$2 for each 7 days of annual use availability existing within the timeshare at that time. Section 721.27, Florida Statutes, stipulates when the fee must be paid and provides for penalties to be assessed for nonpayment. The Timeshare account in the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund had an ending balance of approximately \$15.2 million in FY 2006-07 and anticipates an ending cash balance of approximately \$18.3 million as of June 30, 2008.

Unlicensed Activity

The department, under s. 455.2281, Florida Statutes, requires that all professions licensed and regulated by the department pay a \$5 unlicensed activity fee. Each profession has both an operating account and an unlicensed activity account, and transfers between the two are possible when authorized by the department and the respective board. The unlicensed activity fees are used for activities designed to reduce the occurrence of non-licensed individuals engaging in activities that are regulated by the state. The funds are also used for media advertisements intended to assist consumers with identifying and verifying licensed practitioners vs. non-licensed individuals.

Effect of Proposed Changes

Condominiums

The bill proposes to reduce the current annual fee of \$4 to \$2 for a one-year period unless reenacted by the Legislature. If the \$2 reduction is adopted, the Condominium account in the division will end FY 2008-09 with a projected balance of approximately \$7 million, representing a reduction in projected revenues at the \$4 level of approximately \$3.3 million.

Timeshares

The bill proposes to reduce the current annual fee of \$2 to \$1 for a one-year period unless reenacted by the Legislature. If the \$1 reduction is adopted, the Timeshare account in the division will end FY 2008-09 with a projected balance of approximately \$20 million, representing a reduction in projected revenues at the \$2 level of approximately \$2.3 million.

Unlicensed Activity

The bill proposes to waive the \$5 unlicensed activity fee for specified boards and licensees who are deemed by the department to have sufficient funds in their unlicensed activity accounts to support anticipated functions. The waiver would apply for FY 2008-09 and would automatically be repealed unless reenacted by the Legislature. If the fee waiver is adopted, the department would realize a reduction of approximately \$1.2 million in unlicensed activity fees.

C. SECTION DIRECTORY:

Section 1. Amends s. 718.501, F.S., to provide a reduction of the annual fee paid by condominium owners from \$4 to \$2.

Section 2. Amends s. 721.27, F.S., to provide a reduction of the annual fee paid by timeshare owners from \$2 to \$1.

Section 3. Amends s. 455.2281, F.S., to provide an unlicensed activity fee waiver to specified boards and licensees.

Section 4. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This legislation, with regard to the fee reductions and unlicensed activity waiver, will reduce the amount of revenues collected by the department.

The department estimates the one-year fee reduction in the condominium fee will reduce revenues by approximately \$3.3 million in FY 2008-09; however, the department anticipates collecting approximately \$4.5 million in fees and charges. The department estimates the one-year fee reduction in the timeshare fee will reduce revenues by approximately \$2.3 million; however, the department anticipates collecting approximately \$2.7 million in fees and charges.

The department estimates that the unlicensed activity waiver for specified boards and licensees will reduce projected revenues to the boards' and licensees' unlicensed activity accounts by approximately \$1.2 million.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Affected licensees will enjoy more cost effective regulation by having their fees reduced, waived or eliminated.

D. FISCAL COMMENTS:

The department estimates a total fee reduction of approximately \$6.8 million for its licensees:

Estimated Condominium Reductions:	3,300,000
Estimated Timeshare Reductions:	2,300,000
Unlicensed Activity Waiver:	<u>1,200,000</u>
	\$6,800,000

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

This legislation does not affect the department's current rule-making authority and does not provide any new rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 8, 2008, the Jobs and Entrepreneurship Council adopted one amendment and passed the bill favorably as amended. The amendment added the Florida Real Estate Commission to the list of licensees included in the one-year unlicensed activity waiver, increasing the fee reduction from approximately \$5.8 million to \$6.8 million.