

By Representative Feeney

1 A bill to be entitled
2 An act relating to professions, occupations,
3 and businesses; prohibiting specified state
4 agencies from penalizing a person for violating
5 specified regulations of which he had no
6 knowledge; prohibiting such agencies from
7 enforcing regulations applicable to the
8 collection of taxes or to professions,
9 occupations, or businesses when specified
10 conditions are met; providing a defense for
11 enforcement actions in specified circumstances;
12 providing an effective date.

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

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16 Section 1. (1) A state agency that collects taxes or
17 regulates the activities of any profession, occupation, or
18 business and that has knowledge that a person has violated one
19 of the regulations applicable to the payment of those taxes or
20 applicable to the profession, occupation, or business may not
21 institute a criminal, civil, or administrative proceeding
22 against the person to impose a penalty for the violation or to
23 compel compliance with the regulation until it informs the
24 person of the requirements of the regulation and gives the
25 person a reasonable time to comply. However, this prohibition
26 does not apply if the violation constitutes a felony under
27 state law or if the violator had prior actual knowledge of the
28 requirements of the regulation.

29 (2) In any criminal, civil, or administrative
30 proceeding to impose a penalty for a violation of, or to
31 compel compliance with, the regulation, it is a defense that

1 the state agency has a pattern of failure to enforce the
2 regulation with respect to substantially the same violation
3 committed by others.

4 Section 2. A state agency that collects taxes or
5 regulates the activities of any profession, occupation, or
6 business and that has actual knowledge that a person has
7 violated one of the regulations applicable to the payment of
8 those taxes or applicable to the profession, occupation, or
9 business or, with the exercise of due diligence, should have
10 known of the violation, is estopped from enforcing the
11 regulation against the person if the state agency had actual
12 or imputed knowledge of the violation for a period of more
13 than 1 year and did not give the violator notice of the
14 requirements of the regulation within that time. This
15 prohibition does not apply if the violator had prior actual
16 knowledge of the requirements of the regulation.

17 Section 3. This act shall take effect upon becoming a
18 law.

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21 SENATE SUMMARY

22 Prohibits any state agency that collects taxes or
23 regulates any profession, occupation, or business from
24 enforcing a regulation until it gives the violator notice
25 of noncompliance and time to comply. Provides that it is
26 a defense in an enforcement proceeding if the agency has
27 shown a pattern of nonenforcement. However, this does
28 not apply to a violation that is a felony or to the
29 violation of any regulation that the violator had prior
30 actual knowledge of. If the state agency had actual or
31 constructive knowledge of the violation for more than 1
year and failed to give the violator notice of the
requirements of the regulation, it is estopped from
enforcing it against the person in the future unless the
person had prior actual knowledge of the requirements
within the 1-year period.