

By Representative Argenziano

1 A bill to be entitled
2 An act relating to state agency rules;
3 requiring certain state agencies to inform a
4 person of the requirements of certain rules
5 before imposing a penalty or compelling
6 compliance with the rule under certain
7 conditions; providing exceptions; providing a
8 defense in proceedings to impose a penalty for
9 violation of, or compel compliance with, such
10 rules; prohibiting such agencies from enforcing
11 such rules under certain conditions; providing
12 application; 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 rules 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 rule until it informs the person of
24 the requirements of the rule and gives the person a reasonable
25 time to comply. However, this prohibition does not apply if
26 the violation constitutes a felony under state law, or if the
27 violator had prior actual knowledge of the requirements of the
28 rule, or if it would affect an agency's ability to obtain or
29 retain a federally delegated or approved environmental
30 program. This prohibition does not apply if the agency

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1 determines the violation constitutes an imminent detriment to
2 the public health, safety, and welfare.

3 (2) In any criminal, civil, or administrative
4 proceeding to impose a penalty for a violation of, or to
5 compel compliance with, the rule, it is a defense that the
6 state agency has a demonstrated pattern of failure to enforce
7 the rule with respect to substantially the same violation
8 committed by others.

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

20 Section 3. This act does not apply to taxes,
21 penalties, fees, surcharges, or interest imposed by statute.

22 Section 4. This act does not apply to rules directly
23 related to the practice of a profession, occupation, or
24 business subject to licensure by the state.

25 Section 5. This act shall take effect upon becoming a
26 law.

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HOUSE SUMMARY

Requires a state agency that collects taxes or regulates a profession or business to inform a person of the requirements of certain rules before imposing a penalty or compelling compliance if the person did not have prior knowledge of the rule, except under specified circumstances. Provides a defense in proceedings to impose a penalty for violation of, or compel compliance with, such rules. Prohibits such agencies from enforcing such rules under certain conditions. Does not apply to taxes or penalties imposed by statute or rules related to the practice of a profession or business licensed by the state.