

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.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SPB 7046

INTRODUCER: For consideration by the Regulated Industries Committee

SUBJECT: Licensing Fee Relief

DATE: April 3, 2023

REVISED: _____

ANALYST

STAFF DIRECTOR

REFERENCE

ACTION

Kraemer

Imhof

Pre-meeting

I. Summary:

SPB 7046 requires the Department of Business and Professional Regulation (DBPR) to waive certain license application and license fees until July 1, 2025.

Under the bill, the following fees must be waived during Fiscal Year 2023-2024 and Fiscal Year 2024-2025:

- 50 percent of the initial licensing fee for an applicant applying for an initial license for a profession, up to \$200 per year per license.
- 50 percent of a licensee's license renewal fee, up to \$200 per year per license.

The bill provides that waived fees may not include any applicable unlicensed activity fees or background check fees.

The above provisions expire July 1, 2025.

There is a \$50 million appropriation from the General Revenue Fund to the Professional Regulation Trust Fund. See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Background information about the DBPR and the professions it regulates is provided below.

Organization of the DBPR

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has the following 11 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;

- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

The Florida Athletic Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.¹ The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.²

Powers and Duties of the DBPR

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”³ The chapter also provides the procedural and administrative framework for those divisions and the professional boards within the DBPR.⁴ The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”⁵ Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.⁶

However, “neither the [DBPR] nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those desiring to engage in a profession or occupation from finding employment.⁷

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.⁸ When a

¹ Section 548.003(1), F.S.

² See Parts I and III of ch. 450, F.S.

³ Section 455.01(6), F.S.

⁴ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by staff counsel of the DBPR. See s. 455.221(1), F.S.

⁵ Section 455.201(2), F.S.

⁶ *Id.*

⁷ Section 455.201(4)(b), F.S.

⁸ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. See s. 455.221(1), F.S.

person is authorized to engage in a profession or occupation in Florida, the DBPR issues a “permit, registration, certificate, or license” to the licensee.⁹

License Fees

Section 455.219, F.S., requires each board within the DBPR to determine by rule the amount of license fees for its profession, based upon DBPR-prepared long-range estimates of the revenue required for the DBPR and the boards to implement all laws relating to regulated professions. Renewal fees may be imposed for a two-year (biennial) or four-year license, if authorized by the DBPR.¹⁰

If the DBPR determines, based on the long-range estimates, that a profession’s trust fund moneys exceed the amount required to cover the necessary functions of its board, or the DBPR when there is no board, the DBPR may adopt rules to waive license renewal fees for that profession for a period not to exceed two years, as determined by the DBPR.¹¹ Each board, or the DBPR when there is no board, must ensure license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by DBPR rule, with advice of the applicable board.

License Fee Waivers

Under s. 455.213, F.S., the DBPR must waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran or his or her spouse at the time of discharge, if he or she applies to the DBPR for a license within 60 months after being honorably discharged from any branch of the United States Armed Forces.

Section 455.219, F.S., requires the DBPR, or the applicable board, to waive the initial licensing fee, upon appropriate documentation to support eligibility for the waiver, for:

- A member of the Armed Services of the United States who has served on active duty;
- The spouse of a member of the Armed Services of the United States who was married to the member during a period of active duty;
- The surviving spouse of a member of the Armed Services of the United States who at the time of death was serving on active duty; or
- A low-income individual¹² upon application by the individual in a format prescribed by the DBPR.

The DBPR or applicable board must process an application for a fee waiver within 30 days of receiving it from the applicant.

⁹ Section 455.01(4) and (5), F.S.

¹⁰ See s. 455.203(1), F.S.

¹¹ See s. 455.219(1), F.S. If retired professionals apply for and meet the requirements for issuance of a limited license, and their employers certify no monetary compensation for professional services will be paid to the applicant, the application fee and all licensure fees must be waived. See s. 455.214, F.S.

¹² The term “low-income individual” means a person whose household income, before taxes, is at or below 130 percent of the federal poverty guidelines prescribed for the family’s household size by the United States Department of Health and Human Services; enrollment in a state or federal public assistance program that requires participants to be at or below 130 percent of the federal poverty guidelines to qualify, serves as proof of meeting these guidelines.

Unlicensed Activity Fees

Section 455.2281, F.S. requires the DBPR to impose, upon initial licensure and each subsequent renewal, an unlicensed activity fee of \$5 per licensee, to combat unlicensed activity, unless the profession's unlicensed fee account balance is more than twice the total of unlicensed activity enforcement expenditures in the prior two years.

Division of Certified Public Accounting

In Fiscal Year 2021-2022, there were 38,541 active licensees in the DBPR's Division of Certified Public Accounting.¹³

Division of Professions

In Fiscal Year 2021-2022, in the DBPR's Division of Professions, which regulates all licensees, there were 937,960 active licensees (of which 38,541 were licensed accountants; 66,936 were licensed engineers, and 345,026 were real estate-related licensees), including:¹⁴

- Accountants (CPAs);
- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;
- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;
- Employee leasing companies;
- Engineers;
- Geologists;
- Home inspectors;
- Harbor pilots (pilot commissioners);
- Landscape architects;
- Mold-related services;
- Real estate appraisers;
- Real estate (brokers/associates)
- Talent agencies; and
- Veterinarians.

¹³ See Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2021-2022*, at 10, at <http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2021-22.pdf> (last visited Mar. 21, 2023).

¹⁴ *Id.*

Division of Real Estate

In Fiscal Year 2021-2022, there were 345,026 active licensees in the DBPR's Division of Real Estate.¹⁵

III. Effect of Proposed Changes:

The bill requires the DBPR to waive, for licenses for professions subject to ch. 455, F.S., the following fees during Fiscal Year 2023-2024 and Fiscal Year 2024-2025:

- 50 percent of the initial licensing fee for an applicant applying for an initial license for a profession, up to \$200 per year per license.
- 50 percent of a licensee's license renewal fee, up to \$200 per year per license.

The bill provides that waived fees may not include any applicable unlicensed activity fees¹⁶ or background check fees. The requirement to waive the above fees expires July 1, 2025.

The bill is effective July 1, 2023.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

¹⁵ *Id.*

¹⁶ Upon initial licensure and each subsequent renewal, the DBPR is required to impose an unlicensed activity fee of \$5 per licensee, to combat unlicensed activity, unless the unlicensed fee account balance is more than twice the total of unlicensed activity enforcement expenditures in the prior two years. *See* s. 455.2281, F.S.

B. Private Sector Impact:

During Fiscal Years 2023-2024 and 2024-2025, applicants and licensees for professions regulated by the DBPR will have the benefit of a reduction in application fees and license renewal fee that would otherwise be payable.

C. Government Sector Impact:

The bill provides an appropriation for the licensing fees that may be waived, in the sum of \$50 million in nonrecurring funds from the General Revenue Fund to the DBPR to be deposited into the Professional Regulation Trust Fund for Fiscal Year 2023-2024. Any unexpended balance of funds remaining on June 30, 2024 will revert and is appropriated to the DBPR for Fiscal Year 2024-2025 for the same purpose.

To date, no analysis by the DBPR of the impact of the bill on their respective operations, revenue, and expenditures has been provided.

The bill provides an effective date of July 1, 2023.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 455.213 of the Florida Statutes.

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

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

None.

B. Amendments:

None.