

Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation Initial Statement of Reasons

Subject Matter of Proposed Regulation: License Fees

Sections Affected: Amend Section 1107 of Article 1 of Division 3 of Title 4 of the California Code of Regulation

Specific Purpose of the Proposed Changes

The Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau) proposes to amend Section 1107 of Article 1 of Division 3 of Title 4 of the California Code of Regulations. The purpose for amending the regulation is to allow the Bureau to raise fees to address structural imbalances in the Bureau's budget.

Business and Professions Code section 19034 generally authorizes the Bureau to amend rules and regulations pertaining to the administration of Chapter 3 of Division 8 of the Business and Professions Code also referred to as the Home Furnishings and Thermal Insulation Act (Act).

Business and Professions Code section 19170 establishes the statutory minimum and maximum fee schedule for application, biennial renewal, and other fees for the Bureau's home furnishing industry applicants and licensees. Business and Professions Code section 19170.3 establishes the statutory minimum and maximum fee schedule for application and annual renewal for the Bureau's thermal insulation applicants and licensees.

Business and Professions Code section 19170.5 establishes the criteria to determine the delinquency and penalty fee for licenses that are not renewed prior to their expiration and after the renewal remains unpaid after 90 days.

Assembly Bill (AB) 1175 (Ridley-Thomas, Chapter 187, Statutes of 2015) amends section 19170 of the Business and Professions Code to increase the statutory fee ceilings for all license types. The maximum fees increased by approximately 25 percent as follows:

License Type	Previous Maximum Fee	Current Maximum Fee
Importer's License	\$750	\$940
Furniture and Bedding Manufacturer's License	\$750	\$940
Wholesale Furniture and Bedding Dealer's License	\$540	\$675
Supply Dealer's License	\$540	\$675
Custom Upholsterer's License	\$360	\$450
Sanitizer's License	\$360	\$450
Retail Furniture and Bedding Dealer's License	\$240	\$300
Retail Furniture Dealer's License	\$120	\$150
Retail Bedding Dealer's License	\$120	\$150

Currently, section 1107 of the California Code of Regulation provides that the fees for majority of the licenses be set to the ceiling, as established prior to AB 1175. The importer and manufacturer fees were last increased in regulation in 2002 while all other license types have remained the same since 1994. In this proposed rulemaking, the Bureau seeks to amend section 1107 to increase licensing fees by approximately 15 percent. Depending on the license type, the proposed increase will equate to an additional \$20 to \$100 biennially. More specifically, the Bureau proposes to increase the license fees as follows:

Section 1107(a) Subsections and License Type	Current Fee	Proposed Fee	Percent Increase
(1) Importer's License	\$650	\$750	15.38%
(2) Furniture and Bedding Manufacturer's License	\$650	\$750	15.38%
(3) Wholesale Furniture and Bedding Dealer's License	\$540	\$625	15.74%
(4) Supply Dealer's License	\$540	\$625	15.74%
(5) Custom Upholsterer's License	\$360	\$420	16.67%
(6) Sanitizer's License	\$360	\$420	16.67%
(7) Retail Furniture Dealer's License	\$120	\$140	16.67%
(8) Retail Bedding Dealer's License	\$120	\$140	16.67%
(9) Retail Furniture and Bedding Dealer's License	\$240	\$280	16.67%

The proposed fee increase intends to address the Bureau's structural imbalance and protect the Home Furnishings and Thermal Insulation Fund (Fund) from becoming insolvent as projected in Fiscal Year (FY) 2017/18. Specifically, at the conclusion of FY 2017/18, the Fund is expected to have a deficit of 0.7 months in reserve. Correcting the Bureau's structural imbalance will be unattainable without a fee increase.

Thermal Insulation Manufacturing License

Business and Profession Code section 19170.3 establishes an insulation manufacturing license and that the Bureau collect an annual licensing fee of no less than \$1,850 and no more than \$2,500 for that license. Since 1985, the Bureau has charged \$2,000 annually to insulation manufacturers. A review of the Bureau's regulations indicates this fee has not been established in Division 3 of Title 4. Due to this oversight, the Bureau is seeking to codify this existing fee in this proposal.

Impact to Delinquency Fees

Pursuant to section 19170.5 and in response to the implementation of the proposed fee increase, the delinquency and penalty fees imposed on those that fail to renew their license prior to expiration will also increase. Upon expiration, a delinquency fee will be assessed at the rate of 20 percent of the renewal fee but not more than one hundred dollars. Depending on license type, the increase to the delinquency fee equates to \$4 to \$12, as follows:

License Type	Current Delinquency Fee	Proposed Delinquency Fee	Increase Amount
Importer's License	\$100	\$100	\$0
Furniture and Bedding Manufacturer's License	\$100	\$100	\$0
Wholesale Furniture and Bedding Dealer's License	\$100	\$100	\$0
Supply Dealer's License	\$100	\$100	\$0
Custom Upholsterer's License	\$72	\$84	\$12
Sanitizer's License	\$72	\$84	\$12
Retail Furniture Dealer's License	\$24	\$28	\$4
Retail Bedding Dealer's License	\$24	\$28	\$4
Retail Furniture and Bedding Dealer's License	\$48	\$56	\$8
Thermal Insulation Manufacturer's License	\$100	\$100	\$0

When the renewal and delinquency fees are not paid within 90 days, the penalty fee is assessed at an additional 30 percent of the renewal fee. Depending on the license type, the increase to the penalty fee equates to \$6 to \$30, as follows:

License Type	Current Penalty Fee	Proposed Penalty Fee	Increase Amount
Importer's License	\$195	\$225	\$30
Furniture and Bedding Manufacturer's License	\$195	\$225	\$30
Wholesale Furniture and Bedding Dealer's License	\$162	\$187.50	\$25.50
Supply Dealer's License	\$162	\$187.50	\$25.50
Custom Upholsterer's License	\$108	\$126	\$18
Sanitizer's License	\$108	\$126	\$18
Retail Furniture Dealer's License	\$36	\$42	\$6
Retail Bedding Dealer's License	\$36	\$42	\$6
Retail Furniture and Bedding Dealer's License	\$72	\$84	\$12
Thermal Insulation Manufacturer's License	\$600	\$600	\$0

Problem Being Addressed

The fund balance provides specific information on the Bureau's current fund as well as projections for future years. There are several factors that have contributed to the Fund's imbalance such as the costs the Bureau incurs to deliver its services. In addition, the fees for the majority of licenses have remained unchanged while the Consumer Price Index has increased over the years. The rate of inflation is calculated at 30.75 percent since 2002 and 58.00 percent since 1994 (See: The Bureau of Labor Statistics' Consumer Price Index Detailed Report Data for December 2015 Table 24-Page 73).

A review of the Bureau's Fund condition report demonstrates that the overall revenue for the Bureau has increased by 29 percent, yet expenditures have increased by 59 percent, since FY 2002/03.

Anticipated benefits from this regulatory action:

The proposed fee increase ensures licensing revenues match expenditures, thereby protecting the Bureau's Fund from insolvency. This proposal is designed to enable the Bureau to maintain its licensing and oversight operations while also ensuring significant surpluses are not created. In addition, the proposal minimizes the economic impact of a fee increase by raising the fee approximately 15 percent rather than to the statutory ceiling and by having no effect on the thermal insulation license fee, which remains \$2,000.

Factual Basis/Rationale

Currently, section 1107 of the California Code of Regulation provides that the fees for majority of the licenses be set to the ceiling, as established prior to AB 1175. The importer and manufacturer fees were last increased in regulation in 2002 while all other license types have remained the same since 1994. The demonstrated increase in costs is a fraction of the amount of inflation on the United States Dollar's 30.75 percent increase since 2002 and 58.00 percent increase since 1994. This created a structural imbalance that is unsustainable without a fee increase.

Based on trends of revenues remaining stable while costs have increased over several fiscal years, the Bureau sought legislation to increase its statutory fee ceilings. AB 1175 raised statutory fee ceilings for all license types subject to the provisions of section 19170 of the Business and Professions Code by approximately 25 percent. Based on fund projections, this increased authority is anticipated to enable the Bureau to remain fiscally stable through FY 2024/25.

The Bureau licenses thermal insulation manufacturers, its laboratory tests thermal insulation products, reviews reports from private laboratories to certify insulation materials as being compliant, publishes an annual electronic directory used by industry and State building officials of certified products and their specifications, conducts field inspections to assess products in the market and assures companies are properly licensed, reviews labeling, issues citations and takes disciplinary action against companies who violate the law. Laboratory costs include purchase, maintenance, calibration and repair of equipment, accreditation, certification and assessment, testing time, report review. The costs associated with these activities are approximately \$215,000 per year. The Bureau currently has 115 licensees. Based on the revenue stream being able to support all the functions associated with this program, the \$2,000 license fee is considered appropriate to maintain the necessary level of consumer protection as mandated.

Underlying Data

Consumer Price Index - Table 24

Analysis of Fund Condition with Current Fees

Analysis of Fund Condition with Proposed Fees, Effective October 2016

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the license fee will be increased by \$20 to \$100 biennially, depending on the license type. An additional \$4 to \$12 delinquent fee

and \$6 to \$30 penalty may be assessed only when a licensee fails to renew their license prior to expiration and after the renewal remains unpaid for 90 days. The business impact is expected to be minimal as the licensing fees for Importers and Furniture and Bedding Manufacturers have not been increased since 2002. All other license types have not experienced a fee increase since 1994. In addition, based upon the absence of testimony or comment to the Bureau during Advisory Council discussions about this regulation proposal the Bureau anticipates a minimal impact on businesses.

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the fee increase equates to \$20 to \$100 biennially which is anticipated to have a minimal impact on businesses. The Bureau does not anticipate the fee increase will have any impact on current business practices or licensing trends that would necessitate the creation or elimination of jobs.
- It will not create new businesses or eliminate existing businesses within the State of California because the fee increase equates to \$20 to \$100 biennially which is anticipated to have a minimal impact on businesses. The Bureau does not anticipate the fee increase will have any impact on current business practices or licensing trends that would result in the creation or elimination of businesses.
- It will not affect the expansion of businesses currently doing business within the State of California because the fee increase equates to \$20 to \$100 biennially which is anticipated to have a minimal impact on businesses. The Bureau does not anticipate the fee increase will impact the expansion of businesses.
- This regulatory proposal may benefit the health and welfare of California residents because this proposal is designed to enable the Bureau to maintain its licensing and oversight operations while also ensuring significant surpluses are not created.
- This regulatory proposal does not affect worker safety because this proposal is specific to fee increases and it is not anticipated to impact current business practices or licensing trends affecting worker safety.
- This regulatory proposal does not affect the state's environment because it is specific to an increase in fees and is not anticipated to impact current business practices that would affect the state's environment.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

There is no reasonable alternative that would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the amendment of the regulation.

The only alternative to this proposal is to keep fees at current levels. However, this would create a significant deficit for the Bureau and would prevent it from fulfilling its consumer protection mandate as the Bureau would no longer be able to perform many of the services mandated by the law. Therefore, this is not a viable option.