

Title 16. Business Regulation
Division 27. Bureau of Electronic and Appliance Repair

Notice of Proposed Changes

NOTICE IS HEREBY GIVEN that the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest.

Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs' First Floor Hearing Room located at 1625 North Market Blvd, Sacramento, California 95834, at 10:00 a.m. on September 19, 2016. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on September 19, 2016, or must be received by the Bureau at the hearing.

The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference

Pursuant to the authority vested by sections 9814 of the Business and Professions Code (BPC) and to implement, interpret, or make specific sections 9873 of said code, the Bureau is considering changes to Division 27 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

In accordance with the provisions of the Administrative Procedures Act, Business and Professions Code section 9814 generally authorizes the Bureau to adopt rules and regulations declaring policy of the Bureau and for the administration of Division 27 of that code.

Business and Professions Code section 9873 establishes the statutory maximum fee schedule for application, annual renewal, and other fees for the Bureau's service dealer applicants and registrants.

Business and Professions Code section 9873 establishes the criteria to determine the delinquency fee for registrations that are not renewed prior to their expiration.

Assembly Bill (AB) 1175 (Ridley-Thomas, Chapter 187, Statutes of 2015) amends section 9873 of the Business and Professions Code to increase the statutory fee ceilings for all registration types by approximately 25 percent. Prior to this, the statutory fee schedule was last amended in 1998.

Title 16 of the California Code of Regulations Section 2760 specifies fee schedules for the application and annual renewal of various registrations. The fee schedule was last updated January 1998 to raise the fees for the Bureau of Electronic and Appliance Repair.

This proposed rulemaking seeks to amend section 2760 to increase registration fees by approximately 19 percent. Depending on the registration type, the proposed increase will equate to an additional \$20 to \$50 annually per registrant. This proposed regulatory action is anticipated to go into effect on January 1, 2017. The implementation of the fee increase will make the following changes to existing regulations:

Amend Section 2760 of Article 6 of Title 16 of the California Code of Regulation:

This proposed amendment raises the registration fee and annual renewal fee for service dealers and service contractors.

Pursuant to section 9873 and in response to the implementation of the proposed fee increase, the delinquency fees imposed on those that fail to renew their registration prior to expiration will also increase. As mandated, a delinquency fee will be assessed at the rate of 50 percent of the renewal fee. Depending on the registration type, the increase to the delinquency fee equates to \$10 to \$37.50.

The proposed fee increase intends to address the Bureau's structural imbalance and protect the Electronic and Appliance Repair Fund (Fund) from becoming insolvent as projected in Fiscal Year (FY) 2018/19. Specifically, at the conclusion of FY 2017/18, the Fund is expected to have 1.2 months in reserve. In FY 2018/19, the Fund is expected to have a deficit of -1.6 months in reserve. Correcting the Bureau's structural imbalance will be unattainable without a fee increase.

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 all registration types have remained unchanged while inflation has increased over the years. According to the Consumer Price Index, the rate of inflation is calculated at 30.75 percent since 2002 and 58.00 percent since 1994. A review of the Bureau's Fund condition report demonstrates that the overall revenue

of the Bureau has increased by 33 percent, yet expenditures have increased by 55 percent, since FY 2002/03.

B. Policy Statement Overview/Anticipated Benefits of the Proposed Regulations

The Bureau regulates approximately 19,867 registrants in its service dealer and service contractor program. Through this rulemaking, the Bureau proposes to amend section 2760 of the California Code of Regulation to increase registration fees by an average of 19 percent. This proposal is necessary to ensure sufficient resources are available to maintain current Bureau operations to meet its consumer protection mandate.

As specified in Business and Professions Code section 19004.1, protection of the public shall be the highest priority for the Bureau when exercising its regulatory function under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

The proposed fee increase ensures registration revenues match expenditures, thereby protecting the Bureau's Fund from insolvency. This proposal benefits consumer protection as it is designed to enable the Bureau to maintain its registration 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 an average of 19 percent rather than to the statutory ceiling.

C. Consistency and Compatibility With Existing Regulations

During the process of developing this regulatory amendment, the Bureau conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State

It is estimated that the proposed fee increase will result in an increase in Bureau revenues for FY 16/17 by approximately \$241,000 and an increase to ongoing annual revenue by approximately \$482,000.

The Bureau does not anticipate any impact on federal funding.

Nondiscretionary Costs/Savings to Local Agencies

None.

Local Mandate

None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement

None.

Business Impact

The Bureau has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The business impact is expected to be minimal as the registration fees for service dealers and service contractors have not been increased since 1998. During that time, the Consumer Price Index has increased more than 59 percent; however, a fee increase of that scale would not be reasonable. In order to minimize the impact to its registrants' businesses, the Bureau is proposing an increase that would ensure it remains fiscally solvent but will not generate significant surpluses.

Cost Impact on Representative Private Person or Business

The Bureau is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This initial determination is based on the fact that the registration fee will be increased by \$20 to \$50 annually, depending on the registration type. An additional \$10 to \$37.50 delinquent fee may be assessed only when a registrant fails to renew their registration prior to expiration.

The cost impact is expected to be minimal as the registration fees have not been increased since 1998. 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 representative private persons or businesses.

Effect on Housing Costs

None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Business

The Bureau has determined that this regulatory proposal will not have a significant impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. The proposed registration fee increase equates to \$20 to \$50 annually 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 registration trends that would necessitate the creation or elimination of jobs or the expansion of businesses.

Effect on Small Business

The Bureau has determined that this regulatory proposal will not have a significant impact on small businesses in the State of California. This initial determination is based on the fact that the registration fee will be increased by \$20 to \$50 annually, depending on the registration type. An additional \$10 to \$37.50 delinquent fee may be assessed only when a registrant fails to renew their registration prior to expiration.

The cost impact is expected to be minimal as the registration fees have not been increased since 1998. Although the Bureau does not have nor does it maintain data to determine if any of its registrants are "small businesses" as defined in Government Code Section 11342.610, this determination has been made based upon the absence of public testimony to this effect during public meetings where this proposal has been discussed, most recently during the February 10, 2016, Advisory Council Meeting.

Benefits of Regulation:

The Bureau has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety, and the state's environment:

- This regulatory proposal may benefit the health and welfare of California residents because this proposal is designed to enable the Bureau to maintain its registration 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 registration 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 may affect the state's environment.

Consideration of Alternatives

The Bureau must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present written statements relevant to the above determinations to the Bureau at the address indicated under contact person.

Initial Statement of Reasons and information

The Bureau has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

Text of Proposal

Copies of the exact language of the proposed regulations and of the initial statement of reasons may be obtained upon request from the Bureau at 4244 South Market Court, Suite D, Sacramento, California 95834, or from the Bureau website at www.bearhfti.ca.gov.

Availability and Location of the Final Statement of Reasons and Rulemaking File

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

Contact Person

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Terri Rice
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Home Furnishings & Thermal Insulation
4244 South Market Ct., Ste. D,
Sacramento, California 95834
Phone: (916) 999-2058
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The backup contact person is:

Diana Godines
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Website Access: Materials regarding this proposal can be found at www.bearhfti.ca.gov.