



Rep. Anna Moeller

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10200HB4012ham001

LRB102 17184 SPS 25759 a

1 AMENDMENT TO HOUSE BILL 4012

2 AMENDMENT NO. _____. Amend House Bill 4012 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Regulatory Sunrise and Sunset Review Act.

6 Section 5. Declaration of public policy.

7 (a) It is hereby declared that the Department of Financial
8 and Professional Regulation is charged with protecting the
9 health, safety, and welfare of Illinois residents and that
10 creation of a Sunrise and Sunset Review Unit within the
11 Department of Financial and Professional Regulation to conduct
12 comprehensive reviews of any sunsets and proposed legislation
13 to regulate a profession or occupation or expansion of scope
14 of practice thereof regulated by the Department to ensure such
15 legislation will be necessary to protect the public health,
16 safety, or welfare from significant and discernible harm or

1 damage.

2 (b) It is also declared that, if there is a need to protect
3 the health, safety, and welfare by way of legislation to
4 provide for or continue licensure or title protection of an
5 unregulated or regulated profession or occupation or an
6 expansion of scope of practice thereof regulated by the
7 Department, the General Assembly may consider the Sunrise and
8 Sunset Review Unit's recommendations as part of its
9 legislative function. Nothing in this Act shall interfere with
10 the General Assembly otherwise considering legislation on any
11 regulatory matter.

12 Section 10. Definitions. In this Act:

13 "Address of record" means the designated address recorded
14 by the Department in the applicant's sunrise application file
15 maintained by the Department.

16 "Applicant" means a person or entity requesting a sunrise
17 review for legislation to regulate a profession or occupation
18 or to expand the scope of practice of a regulated profession or
19 occupation regulated by the Department.

20 "Department" means the Department of Financial and
21 Professional Regulation.

22 "Email address of record" means the designated email
23 address recorded by the Department in the applicant's sunrise
24 application file maintained by the Department.

25 "License" means the privilege conferred by the Department

1 to a person or entity that has fulfilled all the requirements
2 prerequisite to any type of licensure under this Act.

3 "Licensee" means a person or entity that holds or claims
4 to hold a license. An unlicensed person or entity that holds
5 himself, herself, or itself out as a licensee or engages in a
6 licensed activity shall be deemed to be a licensee for the
7 purposes of investigation or disciplinary action.

8 "Licensing" and "licensure" means a process by which the
9 Department grants to a person who has met certain prerequisite
10 qualifications the right to perform prescribed professional or
11 occupational tasks and to use the title of the profession or
12 occupation.

13 "Practitioner" means a person who is actively engaged in a
14 specified profession or occupation.

15 "Secretary" means the Secretary of Financial and
16 Professional Regulation or a person authorized by the
17 Secretary to act in the Secretary's stead.

18 "Sunrise application" means the application for review by
19 an applicant for licensure of an unregulated profession,
20 occupation, or respective scope of practice thereof.

21 "Sunrise review" means the process as provided in this Act
22 by which the Department shall assess the sunrise application.

23 "Sunset review" means the process of legislative review of
24 Acts and rules regulating professional or occupational
25 licensure under the jurisdiction of the Department.

26 "Unit" means the Sunrise and Sunset Review Unit.

1 Section 15. Address of record; email address of record.

2 All applicants for sunrise review shall:

3 (1) provide a valid address and email address to the
4 Department, which shall serve as the address of record and
5 email address of record, respectively, at the time of
6 application for sunrise review; and

7 (2) inform the Department of any change of address of
8 record or email address of record within 14 days after
9 such change either through the Department's website or by
10 otherwise contacting the Department.

11 Section 20. Fees. The Department shall establish by rule a
12 schedule of fees for the administration and maintenance of
13 this Act. The fees shall not be refundable.

14 Section 25. Returned checks; fines. Any person who
15 delivers a check or other payment to the Department that is
16 returned to the Department unpaid by the financial institution
17 upon which it is drawn shall pay to the Department, in addition
18 to the amount already owed to the Department, a fine of \$50.
19 The Department shall notify the person or entity that payment
20 of fees and fines shall be paid to the Department by certified
21 check or money order within 30 calendar days of the
22 notification. If, after the expiration of 30 days from the
23 date of the notification, the person or entity has failed to

1 submit the necessary remittance, the Department shall
2 automatically withdraw the applicant's sunrise application.

3 Section 30. Disposition of funds. All of the fees
4 collected as authorized under this Act shall be deposited into
5 the Professions Indirect Cost Fund.

6 Section 35. Establishment of the Sunrise and Sunset Review
7 Unit within the Department. Subject to appropriation, the
8 Department shall establish the Sunrise and Sunset Review Unit
9 to carry out the provisions of this Act.

10 Section 40. Application for sunrise review.

11 (a) Any professional or occupational group or
12 organization, any individual, or any other interested party
13 seeking licensure of a profession or occupation or seeking to
14 expand the scope of practice of a licensed profession or
15 occupation shall submit a sunrise application. Applications
16 for sunrise review shall be made to the Department in writing
17 on forms or in a format provided by the Department and shall be
18 accompanied by the required nonrefundable fee. All
19 applications shall contain information that, in the judgment
20 of the Department, will enable the Department to evaluate an
21 application for sunrise review.

22 (b) Applicants for sunrise review shall have one year
23 after the date of application to complete the application

1 process for review by the Department's Unit. If the process
2 has not been completed in one year, the application shall be
3 denied, the fee shall be forfeited, and the applicant must
4 reapply and meet the requirements in effect at the time of
5 reapplication.

6 (c) Multiple applications for the same review made by the
7 same applicant shall result in a denial of all applications
8 for sunrise review in process by the Department. The fees
9 shall be forfeited. The applicant shall be prohibited to
10 reapply for sunrise review by the Department for one year from
11 the date of the last application.

12 (d) The Department may adopt additional rules to
13 administer this Section.

14 Section 45. Department procedures for sunrise reviews.

15 (a) Upon receipt of a completed application for sunrise
16 review, the Department may, in the course of its review, do the
17 following:

18 (1) request the applicant to provide notice, in a
19 format prescribed by the Department, of its sunrise
20 application and proposed legislation to regulate
21 practitioners of the profession or occupation, or an
22 expansion of scope of practice thereof, to the public, to
23 any professional organizations or associations that
24 include practitioners of the profession or occupation that
25 is proposed by the applicant to be regulated, as

1 determined by the Department, and to any opposition groups
2 to the proposed legislation, as determined by the
3 Department; the applicant shall provide the Department a
4 copy of the notice and a list of the persons,
5 organizations or associations, or any opposition group to
6 whom the notice was sent;

7 (2) request information from state agencies that
8 contract with individuals in the unregulated profession or
9 occupation, the Attorney General Consumer Protection
10 division, and others knowledgeable of the profession or
11 occupation;

12 (3) identify evidence, if any, of present, significant
13 or discernible harm that the unregulated profession or
14 occupation or its current regulatory treatment has caused
15 to consumers;

16 (4) when deemed appropriate, provide notice and hold
17 public hearings subject to the Open Meetings Act to gather
18 additional information from members of the public and
19 anyone opposed or in favor of the proposed regulation;

20 (5) receive any information or documentation for
21 consideration to the Unit from the public, including
22 professional and government organizations; and

23 (6) recommend if the proposed regulation is necessary
24 to protect consumers from present, significant, and
25 discernible harms.

26 (b) In conducting the sunrise review, the Unit shall

1 consider the information provided by the applicant as set
2 forth in Section 50 of this Act to determine whether the
3 applicant has satisfied the minimum requirements. The
4 applicant carries the burden of demonstrating to the Unit that
5 the proposed regulation is necessary to protect the public
6 health, safety, or welfare from significant and discernible
7 harm or damage.

8 (c) The Unit shall commence its review within 12 months
9 after receipt of a completed application and prepare a final
10 report within 6 months of the review conclusion date. The
11 Department may issue a report in advance of the time allotted.
12 The report shall contain, but not be limited to, the
13 following:

14 (1) a summary of proposed legislation to regulate an
15 unregulated profession or occupation, or the expansion of
16 scope of practice thereof, the criteria and standards
17 provided by the applicant, comments or arguments made by
18 the public or opponent groups, and any steps taken to
19 include the public and any opposition group in the sunrise
20 process;

21 (2) an analysis of whether the applicant's responses
22 to the criteria set forth in Section 50 demonstrate that
23 the proposed regulation is necessary to protect the public
24 health, safety, or welfare from significant and
25 discernible harm or damage; and

26 (3) a recommendation on whether legislation is needed

1 to regulate the profession or occupation, or expansion of
2 the scope of practice thereof, and, if so, the type and
3 scope of regulation needed.

4 (d) The Department has the discretion to decline to
5 conduct a sunrise review in certain circumstances, including,
6 but not limited to, repeat applications where no new
7 substantive information is provided and where the requested
8 review is not applicable to the Department's regulatory
9 oversight. When the Department exercises its discretion to
10 decline to conduct a sunrise review, it shall provide a
11 written explanation of its decision to the applicant.

12 Section 50. Minimum criteria for sunrise review. Prior to
13 review as authorized under this Act, an applicant for sunrise
14 review shall provide, at minimum, the following criteria in
15 this Section:

16 (1) the name or type of profession or occupation or
17 expansion of scope of practice thereof that is requested
18 to be regulated or expanded;

19 (2) the types of harm to the public health, safety, or
20 welfare in this State that will be remedied by legislation
21 to regulate a profession or occupation or to expand the
22 scope of practice thereof;

23 (3) whether and how the public can reasonably expect
24 to benefit from an assurance of initial and continuing
25 professional or occupational competence;

1 (4) whether and how any current protections exist for
2 consumers of the goods and services provided by the
3 unregulated profession or occupation or expansion of scope
4 of practice thereof;

5 (5) the nature of the potential or discernible harm or
6 threat to the public health, safety, or welfare if the
7 profession or occupation or expansion of scope of practice
8 thereof is not regulated or expanded, and an explanation
9 of why regulatory frameworks other than licensure would
10 not be adequate to protect the public;

11 (6) the approximate number of individuals or
12 businesses that would be subject to the legislation to
13 regulate the profession or occupation, or the expansion of
14 the scope of practice thereof, and a list of associations,
15 organizations, and other groups available to practitioners
16 of the profession or occupation;

17 (7) the existence of national accreditations or
18 national certification systems for the profession or
19 occupation;

20 (8) a list and description of State and federal laws
21 that have been enacted to protect the public with respect
22 to the profession or occupation;

23 (9) a copy of any federal legislation mandating
24 regulation;

25 (10) a list of states that regulate the profession or
26 occupation, the type of regulation, copies of other

1 states' laws and available evidence from those states of
2 the effects of regulation on the profession or occupation;

3 (11) a description of any previous efforts in this
4 State to implement legislation to regulate the profession
5 or occupation or an expansion of scope of practice
6 thereof;

7 (12) a description of the extent that the legislation
8 to regulate will place unreasonable barriers to entry on
9 individuals that practice the profession or occupation, or
10 in the expansion of scope of practice thereof, including,
11 but not limited to, a description of any anticipated
12 barriers for practitioners based on criminal history and
13 any barriers for active military members and their
14 spouses;

15 (13) a description of how legislation to regulate a
16 profession or occupation, or the expansion of scope of
17 practice thereof, will increase the cost of goods or
18 services provided or affect the availability of goods or
19 services to the public;

20 (14) the cost that will be imposed on practitioners of
21 the profession or occupation, or the expansion of scope of
22 practice thereof, resulting from the regulation;

23 (15) the educational or training programs that exist,
24 the cost of such educational or training programs, the
25 relevance of such educational or training programs for the
26 full scope of practice proposed to be licensed, and

1 whether all applicants will be required to pass an
2 examination and, if an examination is required, its
3 relevance to the skills of the profession or occupation,
4 by whom it will be developed, and how the costs of
5 development will be met;

6 (16) whether renewal will be based only upon payment
7 of a fee or whether renewal will involve continuing
8 education, reexamination, or other methodologies;

9 (17) the standards for licensure as compared with the
10 standards of other jurisdictions;

11 (18) the form, powers, and composition of a licensing
12 board if needed; and

13 (19) any other information the Department requests for
14 its analysis of the proposed legislation.

15 Additional criteria may be established by the Department
16 by rule.

17 Section 55. Review by the General Assembly.

18 (a) After evaluating the application for sunrise review,
19 the Department shall submit its final report to the General
20 Assembly as provided for in subsection (c) of Section 45.

21 (b) The General Assembly may consider the Department's
22 recommendation.

23 Section 60. Procedure for sunset review. Prior to the
24 expiration or termination of any Acts and rules regulating

1 professional or occupational licensure under the jurisdiction
2 of the Department, the Department shall conduct a sunset
3 review based on the factors set forth in the Regulatory Sunset
4 Act or any other factors deemed relevant by the Department.

5 Section 65. Severability. This Act is declared to be
6 severable, and should any word, phrase, sentence, provision,
7 or Section hereof be hereafter declared unconstitutional or
8 otherwise invalid, the remainder of this Act shall not thereby
9 be affected, but shall remain valid and in full force and
10 effect for all intents and purposes.

11 Section 70. Rulemaking authority. The Department may adopt
12 rules for the administration and enforcement of this Act.

13 Section 99. Effective date. This Act takes effect July 1,
14 2022."