



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5516

by Rep. Anna Moeller

SYNOPSIS AS INTRODUCED:

New Act

Creates the Regulatory Sunrise Review Act. Establishes a system to investigate and review the necessity of new regulation over a previously unregulated profession or occupation or the expansion of the scope of practice thereof. Provides that applicants may submit to the Department of Financial and Professional Regulation an application for sunrise review for legislation to regulate a profession or occupation that at the time of application does not require authorization by any agency of the State to practice or the expansion of the scope of practice thereof. Provides that the Department shall establish the Sunrise Review Unit to consider applications for sunrise review. Specifies actions the Department may take in the course of considering an application for sunrise review. Provides that after evaluating the application, the Department shall submit its final report to the General Assembly. Effective January 1, 2022.

LRB101 20646 SPS 70300 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Regulatory Sunrise 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 Review Unit within the Department of
11 Financial and Professional Regulation to conduct comprehensive
12 reviews of any proposed legislation to regulate a profession or
13 occupation or expansion of scope of practice thereof, is
14 necessary to ensure such legislation will best serve the
15 public.

16 (b) It is also declared that, if there is a need to protect
17 the health, safety, and welfare by way of legislation to
18 provide for licensure or title protection of an unregulated
19 profession or occupation or an expansion of scope of practice
20 thereof, the General Assembly may consider the Sunrise Review
21 Unit's recommendations as part of its legislative function.
22 Nothing in this Act shall interfere with the General Assembly
23 otherwise considering legislation on any regulatory matter.

1 Section 10. Definitions. In this Act:

2 "Address of record" means the designated address recorded
3 by the Department in the applicant's sunrise application file
4 maintained by the Department.

5 "Applicant" means an applicant requesting a sunrise review
6 for legislation to regulate a profession or occupation that, at
7 the time of application, does not require authorization by any
8 agency of this State to practice, or an expansion of the scope
9 of practice thereof.

10 "Department" means the Department of Financial and
11 Professional Regulation.

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

15 "License" means the privilege conferred by the Department
16 to a person that has fulfilled all the requirements
17 prerequisite to any type of licensure under this Act.

18 "Licensee" means a person who holds or claims to hold a
19 license. An unlicensed person or entity that holds himself,
20 herself, or itself out as a licensee or engages in a licensed
21 activity shall be deemed to be a licensee for the purposes of
22 investigation or disciplinary action.

23 "Licensing" and "Licensure" means a process by which the
24 Department grants to a person who has met certain prerequisite
25 qualifications the right to perform prescribed professional or

1 occupational tasks and to use the title of the profession or
2 occupation.

3 "Practitioner" means a person who is actively engaged in a
4 specified profession or occupation.

5 "Secretary" means the Secretary of Financial and
6 Professional Regulation or a person authorized by the Secretary
7 to act in the Secretary's stead.

8 "Sunrise application" means the application for review by
9 an applicant for licensure of an unregulated profession,
10 occupation, or respective scope thereof.

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

13 Section 15. Address of record; email address of record. All
14 applicants shall:

15 (a) provide a valid address and email address to the
16 Department, which shall serve as the address of record and
17 email address of record, respectively, at the time of
18 application for sunrise review; and

19 (b) inform the Department of any change of address of
20 record or email address of record within 14 days after such
21 change either through the Department's website or by
22 otherwise contacting the Department.

23 Section 20. Fees. The Department shall establish by rule a
24 schedule of fees for the administration and maintenance of this

1 Act. The fees shall not be refundable.

2 Section 25. Returned checks; fines. Any person who delivers
3 a check or other payment to the Department that is returned to
4 the Department unpaid by the financial institution upon which
5 it is drawn shall pay to the Department, in addition to the
6 amount already owed to the Department, a fine of \$50. The
7 Department shall notify the person that payment of fees and
8 fines shall be paid to the Department by certified check or
9 money order within 30 calendar days of the notification. If,
10 after the expiration of 30 days from the date of the
11 notification, the person has failed to submit the necessary
12 remittance, the Department shall automatically withdraw the
13 applicant's sunrise application.

14 Section 30. Disposition of funds. All of the fees collected
15 as authorized under this Act shall be deposited into the
16 General Professions Dedicated Fund. The moneys deposited into
17 the General Professions Dedicated Fund may be used for the
18 expenses of the Department in the administration of this Act.
19 Moneys from the Fund may also be used for direct and allocable
20 indirect costs related to the public purposes of the Department
21 of Financial and Professional Regulation. Moneys in the Fund
22 may be transferred to the Professions Indirect Cost Fund as
23 authorized by Section 2105-300 of the Department of
24 Professional Regulation Law of the Civil Administration Code of

1 Illinois.

2 Section 35. Establishment of the Sunrise Review Unit within
3 the Department. Subject to appropriation, the Department shall
4 establish the Sunrise Review Unit to carry out the provisions
5 of this Act. Subject to appropriation, the Secretary shall
6 appoint 3 members to the Sunrise Review Unit from within the
7 Department.

8 Section 40. Application for sunrise review.

9 (a) Applications for sunrise review shall be made to the
10 Department in writing on forms provided by the Department and
11 shall be accompanied by the required nonrefundable fee. All
12 applications shall contain information that, in the judgment of
13 the Department, will enable the Department to evaluate an
14 application for sunrise review.

15 (b) Applicants for sunrise review shall have one year after
16 the date of application to complete the application process for
17 review by the Department's Sunrise Review Unit. If the process
18 has not been completed in one year, the application shall be
19 denied, the fee shall be forfeited, and the applicant must
20 reapply and meet the requirements in effect at the time of
21 reapplication.

22 (c) Multiple applications for the same review made by the
23 same applicant shall result in a denial of all applications for
24 sunrise review in process by the Department. The fees shall be

1 forfeited. The applicant shall be prohibited to reapply for
2 sunrise review by the Department for one year from the date of
3 the last application.

4 Section 45. Department procedures for sunrise reviews.

5 (a) Upon receipt of a completed application for sunrise
6 review, the Department may, in the course of its review, do the
7 following:

8 (1) request the applicant to provide notice to the
9 public, in writing, of its sunrise application and proposed
10 legislation to regulate practitioners of the profession or
11 occupation, or an expansion of scope of practice thereof,
12 any professional organizations or associations that
13 include practitioners of the profession or occupation that
14 is proposed by the applicant to be regulated, and any
15 opposition groups to the proposed legislation; the
16 applicant shall also provide to the Department a copy of
17 the notice and a list of the persons, organizations or
18 associations, or any opposition group to whom the notice
19 was sent;

20 (2) provide notice, when deemed appropriate, and may
21 hold public hearings subject to the Open Meetings Act to
22 gather additional information from members of the public
23 and anyone opposed or in favor of the proposed regulation;
24 and

25 (3) allow any member of the public, practitioners of

1 the profession or occupation proposed to be regulated, or
2 opposition group or person to submit any information or
3 documentation to the Sunrise Review Unit for its
4 consideration.

5 (b) In conducting the sunrise review, the Sunrise Review
6 Unit shall apply the information provided by the applicant as
7 set forth in Section 40 of this Act to determine whether the
8 applicant has satisfied the minimum requirements.

9 (c) the Sunrise Review Unit may also consider information
10 provided by any member of the public or anyone opposing the
11 regulation as part of the sunrise review;

12 (d) The Sunrise Review Unit shall prepare a final report
13 that shall contain the 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 has met the
22 criteria set forth in Section 50 of this Act; and

23 (3) a recommendation on whether legislation is needed
24 to regulate the profession or occupation, or expansion of
25 the scope of practice thereof, and the type of regulation
26 needed, such as full licensure or title protection.

1 (e) The Department has the discretion to decline to conduct
2 a sunrise review in certain circumstances, including, but not
3 limited to, repeat applications where no new substantive
4 information is provided.

5 Section 50. Minimum criteria for sunrise review. Prior to
6 review as authorized under this Act, an applicant for sunrise
7 review shall provide, at minimum, the following criteria in
8 this Section:

9 (1) the name or type of profession or occupation or
10 expansion of scope of practice thereof that is requested to
11 be regulated or expanded;

12 (2) the types of harm to the public health, safety, or
13 welfare that will be remedied by legislation to regulate an
14 unregulated profession or occupation or the expansion of
15 the scope of practice thereof;

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

19 (4) whether and how any current protections exist for
20 consumers of the goods and services provided by the
21 unregulated profession or occupation or expansion of scope
22 of practice thereof;

23 (5) the nature of the potential harm or threat to the
24 public health, safety, or welfare, if the profession or
25 occupation or expansion of scope of practice thereof is not

1 regulated or expanded;

2 (6) the approximate number of individuals or
3 businesses that would be in favor of legislation to
4 regulate the profession or occupation, or the expansion of
5 the scope of practice thereof, and a list of associations,
6 organization, and other groups available to practitioners
7 of the unregulated profession or occupation;

8 (7) the existence of national accreditations or
9 national certification systems for the profession or
10 occupation;

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

14 (9) a copy of any federal legislation mandating
15 regulation;

16 (10) a list of states that regulate the profession or
17 occupation, the type of regulation, copies of other states'
18 laws and available evidence from those states of the
19 effects of regulation on the profession or occupation;

20 (11) a description of any previous efforts in this
21 State to implement legislation to regulate the profession
22 or occupation or an expansion of scope of practice thereof;

23 (12) a description of the extent that the legislation
24 to regulate will place unreasonable barriers to entry of
25 individuals that practice the profession or occupation, or
26 in the expansion of scope of practice thereof;

1 (13) a description of how legislation to regulate a
2 profession or occupation, or the expansion of scope of
3 practice thereof, will increase the cost of goods or
4 services provided or affect the availability of goods or
5 services to the public;

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

9 (15) the educational or training programs that exist in
10 this State, the cost of such education or training, and
11 whether all applicants will be required to pass an
12 examination and, if an examination is required, by whom it
13 will be developed and how the costs of development will be
14 met;

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

18 (17) the standards for licensure as compared with the
19 standards of other jurisdictions;

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

22 (19) any other information the Department requests for
23 its analysis of the proposed legislation; and

24 Additional criteria may be defined by the Department by
25 rule.

1 Section 55. Review by the General Assembly.

2 (a) After evaluating the application for sunrise review,
3 the Department shall submit its final report to the General
4 Assembly.

5 (b) The General Assembly may consider the Department's
6 recommendation.

7 Section 60. Confidentiality. All information collected by
8 the Department in the course of an examination of an applicant
9 shall be maintained for the confidential use of the Department
10 and shall not be disclosed. The Department may not disclose the
11 information to anyone other than law enforcement officials,
12 other regulatory agencies that have an appropriate regulatory
13 interest as determined by the Director, or a party presenting a
14 lawful subpoena to the Department. Information and documents
15 disclosed to a federal, State, county, or local law enforcement
16 agency shall not be disclosed by the agency for any purpose to
17 any other agency or person.

18 Section 65. Severability. This Act is declared to be
19 severable, and should any word, phrase, sentence, provision, or
20 Section hereof be hereafter declared unconstitutional or
21 otherwise invalid, the remainder of this Act shall not thereby
22 be affected, but shall remain valid and in full force and
23 effect for all intents and purposes.

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

3 Section 99. Effective date. This Act takes effect January
4 1, 2022.