



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4012

Introduced 3/4/2021, by Rep. Anna Moeller

SYNOPSIS AS INTRODUCED:

New Act

Creates the Regulatory Sunrise Review Act. Establishes a process 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 any professional or occupational group or organization, any individual, or any other interested party may submit to the Department of Financial and Professional Regulation an application for sunrise review of proposed 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 of a licensed profession or occupation. Establishes minimum criteria for sunrise review. 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 July 1, 2022.

LRB102 17184 SPS 22636 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
13 or occupation or expansion of scope of practice thereof, is
14 necessary to ensure such legislation will be necessary to
15 protect the public health, safety, or welfare from significant
16 and discernible harm or damage.

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

1 Assembly otherwise considering legislation on any regulatory
2 matter.

3 Section 10. Definitions. In this Act:

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

7 "Applicant" means a person or entity requesting a sunrise
8 review for legislation to regulate a profession or occupation
9 or to expand the scope of practice of a regulated profession or
10 occupation.

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

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

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

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

24 "Licensing" and "Licensure" means a process by which the
25 Department grants to a person who has met certain prerequisite

1 qualifications the right to perform prescribed professional or
2 occupational tasks and to use the title of the profession or
3 occupation.

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

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

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

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

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

15 All applicants shall:

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

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

24 Section 20. Fees. The Department shall establish by rule a

1 schedule of fees for the administration and maintenance of
2 this Act. The fees shall not be refundable.

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

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

1 Professional Regulation Law of the Civil Administration Code
2 of Illinois.

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

9 Section 40. Application for sunrise review.

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

21 (b) Applicants for sunrise review shall have one year
22 after the date of application to complete the application
23 process for review by the Department's Sunrise Review Unit. If
24 the process has not been completed in one year, the

1 application shall be denied, the fee shall be forfeited, and
2 the applicant must reapply and meet the requirements in effect
3 at the time of reapplication.

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

10 (d) The Department may adopt additional rules to
11 administer this Section.

12 Section 45. Department procedures for sunrise reviews.

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

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

1 Department; the applicant shall provide the Department a
2 copy of the notice and a list of the persons,
3 organizations or associations, or any opposition group to
4 whom the notice was sent;

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

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

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

18 (5) receive any information or documentation for
19 consideration to the Sunrise Review Unit from the public,
20 including professional and government organizations; and

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

24 (b) In conducting the sunrise review, the Sunrise Review
25 Unit shall consider the information provided by the applicant
26 as set forth in Section 50 of this Act to determine whether the

1 applicant has satisfied the minimum requirements. The
2 applicant carries the burden of demonstrating to the Sunrise
3 Review Unit that the proposed regulation is necessary to
4 protect the public health, safety, or welfare from significant
5 and discernible harm or damage.

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

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

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

24 (3) a recommendation on whether legislation is needed
25 to regulate the profession or occupation, or expansion of
26 the scope of practice thereof, and, if so, the type and

1 scope of regulation needed.

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

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

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

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

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

24 (4) whether and how any current protections exist for
25 consumers of the goods and services provided by the

1 unregulated profession or occupation or expansion of scope
2 of practice thereof;

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

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

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

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

21 (9) a copy of any federal legislation mandating
22 regulation;

23 (10) a list of states that regulate the profession or
24 occupation, the type of regulation, copies of other
25 states' laws and available evidence from those states of
26 the effects of regulation on the profession or occupation;

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

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

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

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

21 (15) the educational or training programs that exist,
22 the cost of such educational or training programs, the
23 relevance of such educational or training programs for the
24 full scope of practice proposed to be licensed, and
25 whether all applicants will be required to pass an
26 examination and, if an examination is required, its

1 relevance to the skills of the profession or occupation,
2 by whom it will be developed, and how the costs of
3 development will be met;

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

7 (17) the standards for licensure as compared with the
8 standards of other jurisdictions;

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

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

13 Additional criteria may be established by the Department
14 by rule.

15 Section 55. Review by the General Assembly.

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

19 (b) The General Assembly shall consider the Department's
20 recommendation.

21 Section 60. Severability. This Act is declared to be
22 severable, and should any word, phrase, sentence, provision,
23 or Section hereof be hereafter declared unconstitutional or
24 otherwise invalid, the remainder of this Act shall not thereby

1 be affected, but shall remain valid and in full force and
2 effect for all intents and purposes.

3 Section 65. Rulemaking authority. The Department may adopt
4 rules for the administration and enforcement of this Act.

5 Section 99. Effective date. This Act takes effect July 1,
6 2022.