

CHAPTER 47

GOVERNMENT - STATE

HOUSE BILL 12-1055

BY REPRESENTATIVE(S) Schafer S., Casso, Court, Fields, Fischer, Labuda, Solano, Todd, Tyler, Vigil, Wilson, Young, Hammer;
also SENATOR(S) White, Newell, Nicholson, Williams S.

AN ACT

CONCERNING THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES, AND, IN CONNECTION THEREWITH, RENAMING THE DIVISION AS THE DIVISION OF PROFESSIONS AND OCCUPATIONS AND REQUIRING PERIODIC REVIEW OF THE FUNCTIONS OF THE DIVISION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-34-102, **amend** (1), (2), (3), (7), (8) (a), (8) (c), (9), (10), (12), and (13); and **add** (15) and (16) as follows:

24-34-102. Division of professions and occupations - creation - duties of division and department heads - license renewal, reinstatement, and endorsement - definitions - rules - review of functions - repeal. (1) (a) AS USED IN THIS PART 1, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY AGENCIES.

(II) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS OR THE DIRECTOR'S DESIGNEE.

(III) "DIVISION" MEANS THE DIVISION OF PROFESSIONS AND OCCUPATIONS CREATED IN THE DEPARTMENT PURSUANT TO THIS SECTION.

(IV) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

(V) "LICENSE" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-4-102.

(VI) "LICENSEE" MEANS A PERSON WHO HAS BEEN ISSUED A LICENSE.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) There is hereby created a division of ~~registrations~~ PROFESSIONS AND OCCUPATIONS in the department, ~~of regulatory agencies~~, the head of which ~~shall be~~ IS the director of ~~registrations~~, ~~which office is hereby created~~ PROFESSIONS AND OCCUPATIONS. The executive director of the department of regulatory agencies shall appoint pursuant to section 13 of article XII of the state constitution; the director of ~~the division of registrations who~~ IN ACCORDANCE WITH SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION. EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (1), THE DIRECTOR shall appoint ~~such~~ other personnel as ~~may be~~ necessary for the efficient operation of the division. ~~except that,~~

(c) Subject to available appropriations, ~~said~~ THE director shall give good faith consideration to the recommendations of any **type 1** board or commission relating to the employment of the primary administrator to assist ~~such~~ THE board or commission, whether ~~such~~ THE person is designated as an executive secretary, or a program administrator, or is ~~designated otherwise~~ ANOTHER TITLE OR POSITION.

(2) The division ~~of registrations shall have~~ HAS supervision and control of the **type 2** examining and licensing boards and agencies ~~and the registration of licenses thereof~~ transferred to the department of regulatory agencies by the "Administrative Organization Act of 1968". For **type 1** boards or commissions, the division shall provide necessary management support.

(3) The supervision and control of, and the management support for, ~~said~~ examining and licensing boards and agencies by the department ~~of regulatory agencies~~ and the division of ~~registrations thereof shall also include~~ INCLUDES the approval or disapproval of ~~such~~ rules and ~~regulations~~ of ~~said~~ THE boards and agencies ~~as relate~~ RELATING to the examination AND LICENSURE of applicants ~~and registration of licenses to the end~~ ENSURE that ~~such examinations and registrations shall be~~ THE RULES ARE fair and impartial. ~~No licensee of any of said boards and agencies shall be registered by the division of registrations~~ THE DIVISION SHALL NOT LICENSE A PERSON WHO HAS APPLIED TO, AND OTHERWISE SATISFIED THE REQUIREMENTS FOR, LICENSURE BY A BOARD OR AGENCY until THE APPLICANT HAS PAID AND THE DIVISION HAS RECEIVED all APPLICABLE fees. ~~for examination or license or both have been paid by the licensee and receipt therefor delivered to the division of registrations.~~

(7) NOTWITHSTANDING any provision of the law to the contrary, ~~notwithstanding~~ UPON THE APPROVAL AND RECOMMENDATION OF ANY EXAMINING OR LICENSING BOARD OR COMMISSION IN THE DIVISION, the executive director ~~of the department of regulatory agencies~~, upon the approval and recommendation of any examining or licensing board or commission in the division of registrations; may change the period of the validity of any license ~~or certificate~~ issued by ~~such~~ THE board or commission for a period not to exceed three years. If the EXECUTIVE DIRECTOR CHANGES THE period of validity of any ~~such~~ A license ~~or certificate is changed~~ pursuant to ~~the provisions of~~ this subsection (7), the DIRECTOR SHALL PROPORTIONATELY INCREASE OR DECREASE THE fee for ~~such~~ THE license, ~~or certificate shall be proportionately increased or decreased;~~ as the case may be, but ~~no increases~~ THE DIRECTOR shall ~~be made which~~ NOT IMPOSE A FEE INCREASE THAT would result in hardship to the licensee.

(8) (a) **Renewal.** Notwithstanding any provision of the law to the contrary, the director ~~of the division of registrations within the department of regulatory agencies, hereinafter referred to as the "director",~~ may change the renewal date of any license ~~registration, or certificate~~ issued by ~~such~~ A licensing board or commission ~~to the end~~ SO that approximately the same number of ~~certificates, registrations, or licenses~~ are scheduled for renewal in each month of the year. Where any renewal date is so changed, the fee for the license ~~or certificate shall be~~ IS proportionately increased or decreased, as the case may be. ~~Any certificate, A license or registration shall be~~ IS valid for a period of no less than one year and no longer than three years, as determined by the director in consultation with the licensing board or commission within the division. ~~of registrations: A LICENSEE SHALL SUBMIT an application for renewal shall be submitted to the licensing board or commission on forms and in the manner prescribed by the director. of the division of registrations.~~

(c) The director shall allow for a grace period for licenses ~~certificates, and registrations~~ from licensing boards or commissions within the division. ~~of registrations: A licensee registrant, or certificate holder shall have~~ HAS a sixty-day grace period after the expiration of his or her license ~~registration, or certificate~~ to renew ~~such~~ THE license ~~registration, or certificate~~ without the imposition of a disciplinary sanction for practicing on an expired license, registration, or certificate by the director, licensing board, or commission for such profession FOR PRACTICING ON AN EXPIRED LICENSE. The licensee ~~registrant, or certificate holder~~ shall satisfy all renewal requirements pursuant to the applicable practice act and shall pay a delinquency fee in an amount determined pursuant to sections 24-34-105 and 24-79.5-102.

(9) The executive director ~~of the department of regulatory agencies is charged with the responsibility of receipt~~ RESPONSIBLE FOR RECEIVING and monitoring the disposition of complaints. ~~and may cause~~ THE EXECUTIVE DIRECTOR MAY REQUIRE an investigation to be made of any A complaint presented to him concerning a person licensed by any board or agency in the division of registrations. ~~Such investigations shall be subject to the provisions of~~ CONCERNING A PERSON REGULATED BY A BOARD OR AGENCY IN THE DIVISION IN ACCORDANCE WITH section 24-34-103.

(10) The EXECUTIVE DIRECTOR, AFTER CONSULTATION WITH THE EXAMINING OR LICENSING BOARD OR COMMISSION CONCERNED, SHALL DETERMINE THE form and content of any license ~~certificate, permit, or similar indicia of authority~~ issued by any examining or licensing board or commission in the division, ~~of registrations,~~ including any document evidencing renewal of a license. ~~certificate, permit, or similar indicia of authority shall be determined by the executive director of the department of regulatory agencies after consultation with the examining or licensing board or commission concerned.~~

(12) Notwithstanding any **type 1** transfer as such transfer is defined by the "Administrative Organization Act of 1968", article 1 of this title, the executive director ~~of the department of regulatory agencies shall have the power to~~ MAY employ an administrative law judge, and ~~to~~ MAY require any board in the division ~~of registrations~~ to use an administrative law judge in lieu of a hearing by the board, to conduct hearings on any matter within the jurisdiction of the examining and licensing boards and agencies in the division, ~~of registrations,~~ subject to

appropriations made to the department of personnel. Administrative law judges ~~shall be~~ ARE appointed pursuant to part 10 of article 30 of this title. ~~Any hearing conducted by~~ An administrative law judge employed pursuant to this subsection (12) shall ~~be conducted~~ CONDUCT HEARINGS in accordance with ~~the provisions of~~ section 24-4-105, and the administrative law judge ~~shall have~~ HAS the authority specified ~~therein~~ IN SECTION 24-4-105.

(13) ~~All laws~~ NOTWITHSTANDING ANY LAW to the contrary, ~~notwithstanding,~~ each member of a board or commission within the division ~~of registrations shall~~ IS ENTITLED TO receive a per diem allowance of fifty dollars for each day spent in attendance at board meetings, hearings, or examinations and ~~shall~~ TO be reimbursed for actual and necessary expenses incurred in the discharge of such official duties. ~~except that such~~ THE per diem compensation ~~shall~~ FOR BOARD OR COMMISSION MEMBERS MUST not exceed that sum in any fiscal year ~~which may be approved by~~ THAT the state personnel board APPROVES for employees not under the state personnel system. THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEYS FROM THE DIVISION OF PROFESSIONS AND OCCUPATIONS CASH FUND FOR THE payment for ~~all such~~ OF per diem compensation and expenses. ~~shall be made out of annual appropriations from the division of registrations cash fund by the general assembly.~~ A STATE EMPLOYEE SHALL NOT RECEIVE per diem compensation ~~shall not be paid to a state employee~~ for services performed during normal working hours, when on paid administrative leave, or when otherwise prohibited by fiscal rules adopted by the state controller.

(15) **Periodic evaluation of division functions.** THE DEPARTMENT SHALL CONDUCT AN ANALYSIS AND EVALUATION OF THE DIVISION AND ITS FUNCTIONS AS SET FORTH IN THIS PART 1 AND IN TITLE 12, C.R.S. THE DEPARTMENT SHALL CONDUCT THE ANALYSIS AND EVALUATION IN ACCORDANCE WITH SECTION 24-34-104 (8) AND SHALL SUBMIT ITS REPORT AND RECOMMENDATIONS FOR LEGISLATION, IF ANY, IN ACCORDANCE WITH THAT SECTION. THE DEPARTMENT SHALL CONDUCT ITS INITIAL ANALYSIS AND EVALUATION OF THE DIVISION AND SUBMIT ITS REPORT BY OCTOBER 15, 2015, AND SHALL CONDUCT AN ANALYSIS AND EVALUATION OF THE DIVISION EVERY TEN YEARS THEREAFTER. NOTHING IN THIS SECTION REQUIRES THE TERMINATION OF THE DIVISION OR ITS FUNCTIONS AS SPECIFIED IN THIS PART 1 AND IN TITLE 12, C.R.S.

(16) **Change of name - direction to revisor - repeal.** (a) WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (16), THE REVISOR OF STATUTES SHALL CHANGE ALL REFERENCES TO THE DIVISION OF REGISTRATIONS AND THE DIRECTOR OF REGISTRATIONS IN THIS PART 1 AND EVERYWHERE ELSE A REFERENCE IS CONTAINED IN THE COLORADO REVISED STATUTES TO THE DIVISION OF PROFESSIONS AND OCCUPATIONS AND THE DIRECTOR OF PROFESSIONS AND OCCUPATIONS.

(b) THIS SUBSECTION (16) IS REPEALED, EFFECTIVE JANUARY 1, 2016.

SECTION 2. In Colorado Revised Statutes, 24-34-105, **amend** (1), (2) (a), (2) (b) (I), and (2) (b) (II); **repeal** (2) (b) (III) and (2) (b) (IV); and **add** (3) as follows:

24-34-105. Fee adjustments - division of professions and occupations cash fund created - legal defense account - repeal. (1) This section ~~shall apply~~ APPLIES

to all activities of the boards and commissions in the division of ~~registrations~~ in the department. ~~of regulatory agencies.~~

(2) (a) Each board and commission in the division of ~~registrations~~ shall propose, as part of its annual budget request, an adjustment in the amount of each fee that ~~such~~ THE board or commission is authorized by law to collect. The budget request and the adjusted fees for each board or commission ~~shall~~ MUST reflect direct and indirect costs that are appropriated in the annual general appropriation act.

(b) (I) Based upon the appropriation made and subject to the approval of the executive director, ~~of the department of regulatory agencies,~~ each board or commission shall adjust its fees so that the revenue generated from ~~said~~ THE fees approximates its direct and indirect costs; except that the costs of the state board of psychologist examiners, the state board of marriage and family therapist examiners, the state board of licensed professional counselor examiners, the state board of social work examiners, the state board of registered psychotherapists, and the state board of addiction counselor examiners shall be considered collectively in the renewal fee-setting process. Subsequent revenue generated by the fees set by ~~such~~ THE boards plus revenues generated pursuant to section 12-43-702.5, C.R.S., shall be compared to those collective costs to determine recovery of direct and indirect costs. ~~Such~~ THE fees ~~shall~~ remain in effect for the fiscal year for which the budget request applies. All fees collected by each board and commission, not including any fees retained by contractors as established pursuant to ~~the provisions of~~ section 24-34-101 (10), shall be transmitted to the state treasurer, who shall credit the same to the division of ~~registrations~~ PROFESSIONS AND OCCUPATIONS cash fund, which fund is hereby created. All moneys credited to the division of ~~registrations~~ PROFESSIONS AND OCCUPATIONS cash fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund.

(II) The excise tax collected pursuant to section 24-34-104.4 shall be credited to the legal defense account, which account is hereby created within the division of ~~registrations~~ PROFESSIONS AND OCCUPATIONS cash fund. The excise tax ~~shall be~~ IS the sole source of funding for the account, and no other fee, or any portion thereof, collected by a board or commission and credited to the division of ~~registrations~~ PROFESSIONS AND OCCUPATIONS cash fund shall be deposited in or transferred to the account. The account shall be used to supplement revenues received by a board or commission but shall only be used for the purpose of paying legal expenses incurred by said board or commission. Upon a determination of the need of a board or commission for additional revenues for the payment of legal expenses, the director ~~of the division of registrations~~ may authorize the transfer of revenues from the legal defense account to the account of such board or commission in the division of ~~registrations~~ PROFESSIONS AND OCCUPATIONS cash fund. For purposes of this subparagraph (II), "legal expenses" includes ~~but is not limited to,~~ costs relating to the holding of administrative hearings and charges for legal services provided by the department of law, administrative law judge services, investigative services, expert witnesses, and consultants.

(III) ~~Notwithstanding any provision of this paragraph (b) to the contrary, on July 1, 1998, the state treasurer shall deduct one million dollars from the division of registrations cash fund and transfer such sum to the Colorado economic~~

~~development fund created in section 24-46-105.~~

~~(IV) Notwithstanding any provision of this paragraph (b) to the contrary, on July 1, 1998, the state treasurer shall deduct two hundred sixty-seven thousand seven hundred fifty-six dollars from the division of registrations cash fund and transfer such sum to the retail electricity policy development fund created in section 40-4-114, C.R.S.~~

(3) Change of name - direction to revisor - repeal. (a) WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3), THE REVISOR OF STATUTES SHALL CHANGE ALL REFERENCES TO THE DIVISION OF REGISTRATIONS CASH FUND IN THIS PART 1 AND EVERYWHERE ELSE A REFERENCE IS CONTAINED IN THE COLORADO REVISED STATUTES TO THE DIVISION OF PROFESSIONS AND OCCUPATIONS CASH FUND.

(b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JANUARY 1, 2016.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 22, 2012