

1 AN ACT relating to occupational licensing regulations.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 3 of this Act:*

6 *(1) "Agency" has the same meaning as an administrative agency defined in KRS*  
7 *13B.010;*

8 *(2) "Occupational licensing regulation" or "regulation" means any law, policy, fee,*  
9 *condition, test, permit, administrative regulation, or other prerequisite relating to*  
10 *entry into a market, or the opportunity to engage in an any business, profession,*  
11 *or occupation. "Occupational licensing regulation" includes but is not limited to*  
12 *certificates of need; and*

13 *(3) "Welfare" means the protection of members of the public against fraud or harm.*  
14 *"Welfare" does not include the protection of existing businesses or agencies,*  
15 *whether publicly or privately owned, against competition.*

16 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO  
17 READ AS FOLLOWS:

18 *(1) On and after November 15, 2018, all occupational licensing regulations*  
19 *established by an agency shall be:*

20 *(a) Limited to those essential to fulfilling the statutory requirements for entry*  
21 *into a market, business, occupation, or profession;*

22 *(b) Devoid of unnecessary burdens or restrictions on a person seeking entry*  
23 *into a market, business, occupation, or profession; and*

24 *(c) Carefully tailored to ensure the legitimate health, safety, and welfare of the*  
25 *public.*

26 *(2) By November 15, 2018, and by November 15 every five (5) years thereafter, each*  
27 *agency shall conduct a comprehensive review of all occupational licensing*

1 regulations within its jurisdiction.

2 (3) For each occupational licensing regulation, the agency shall determine as part of  
3 its review:

4 (a) How the regulation is limited and essential to fulfilling the statutory  
5 requirements for the entry of a person into a market, business, occupation,  
6 or profession;

7 (b) Any unnecessary burdens or restrictions that may limit a person's entry into  
8 a market, business, occupation, or profession; and

9 (c) That the regulation is carefully tailored to ensure the legitimate health,  
10 safety, and welfare of the public.

11 (4) If an agency finds that an occupational licensing regulation does not meet the  
12 objectives identified in subsection (3) of this section, the agency shall:

13 (a) Repeal the occupational licensing regulation;

14 (b) Amend the regulation to conform to the requirements of subsection (3) of  
15 this section; or

16 (c) Identify in the form of recommendations any actions necessary to repeal,  
17 modify, or amend the regulation if the agency does not have the authority to  
18 do so.

19 (5) Each agency shall prepare and submit a report on or before November 30 every  
20 five (5) years to the Legislative Research Commission that:

21 (a) Conveys whether existing occupational licensing regulations under its  
22 jurisdiction meet the requirements of this section; and

23 (b) Articulates any recommendations for repeal, amendment, or modification  
24 that the agency lacks the authority to make.

25 (6) The Legislative Research Commission shall distribute the reports to the  
26 appropriate standing or interim joint committees.

27 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) Any person may petition an agency to repeal or modify an occupational licensing  
3 regulation within the agency's jurisdiction if the occupational licensing  
4 regulation does not meet the criteria identified in subsection (1) of Section 2 of  
5 this Act.

6 (2) Within ninety (90) days of a petition filed under this section, the agency shall:

7 (a) Repeal the occupational licensing regulation;

8 (b) Modify or amend the occupational licensing regulation to conform to the  
9 standards set forth in subsection (1) of Section 2 of this Act; or

10 (c) State the specific basis on which the agency concludes the occupational  
11 licensing regulation conforms to the standards set forth in subsection (1) of  
12 Section 2 of this Act.

13 (3) (a) If a petition filed pursuant to this section has not been acted upon by the  
14 agency within ninety (90) days, or if the petitioner is aggrieved by the  
15 actions taken by the agency pursuant to subsection (2) of this section, the  
16 person who filed the petition challenging the occupational licensing  
17 regulation may appeal to the Circuit Court having jurisdiction in the county  
18 of the agency's main place of business.

19 (b) If the court finds by clear and convincing evidence that the occupational  
20 licensing regulation in question:

21 1. Creates an unnecessary burden or restriction on a person seeking  
22 entry into a market, business, occupation, or profession;

23 2. Is not essential to fulfilling the statutory requirements for entry of a  
24 person into a market, business, occupation, or profession;

25 3. Is not carefully constructed to ensure the legitimate health, safety, and  
26 welfare of the public; or

27 4. Is not necessary to the legitimate public health, safety, and welfare

1                   objectives, but the objectives may be effectively served by regulations  
2                   less burdensome to economic opportunity;  
3                   then the person appealing the actions or inaction of the agency shall prevail  
4                   and the court shall enjoin further enforcement of the challenged  
5                   occupational licensing regulation.