

FIRST REGULAR SESSION

# HOUSE BILL NO. 916

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE COOPER (120).

Read 1<sup>st</sup> time March 31, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2201L.02I

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### AN ACT

To repeal section 324.010, RSMo, and to enact in lieu thereof five new sections relating to professional licenses, with a penalty provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 324.010, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 143.775, 143.777, 143.778, 143.779, and 620.1900, to read as follows:

**143.775. As used in sections 143.775 to 143.779, the following terms mean:**

- (1) "Director", the director of revenue;**
- (2) "License", a license, certificate, registration, or authorization issued by a licensing authority under sections 209.319 to 209.339, RSMo, sections 256.010 to 256.453, RSMo, section 375.014, RSMo, and chapters 324 to 340, RSMo, and chapters 344 to 346, RSMo, granting a natural person a right or privilege to engage in an occupation or profession that is subject to suspension, revocation, forfeiture, or termination by the licensing authority. Any new requirement to license a profession assigned to the division of professional registration after the effective date of this section shall be included in the definition of a license;**
- (3) "Licensee", any person who holds a license;**
- (4) "Licensing authority", any department, division, board, agency, or instrumentality of this state that issues a license under sections 209.319 to 209.339, RSMo, sections 256.010 to 256.453, RSMo, section 375.014, RSMo, and chapters 324 to 340, RSMo, and chapters 344 to 346, RSMo. Any board or commission assigned to the division of**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 professional registration after the effective date of this section shall be included in the  
17 definition of a licensing authority;

18 (5) "Payment plan", a written plan signed by the taxpayer and approved by the  
19 director that incorporates an arrangement for periodic payment of state taxes owed;

20 (6) "Tax compliance letter", a letter issued by the director that states the taxpayer  
21 is in compliance for all of the tax years in which the taxpayer was determined to be  
22 delinquent in payment of state taxes or the filing of tax returns.

143.777. 1. The director shall send, via first class mail, a notice to any taxpayer  
2 who is the subject of the transmission of data from the licensing authority to the director  
3 under section 143.779 and who is delinquent on any state taxes or has failed to file state  
4 income tax returns for any of the three years immediately preceding the license renewal.  
5 The notice shall state that the taxpayer's license shall be suspended one hundred twenty  
6 days from the date of the notice unless, within such time, the taxpayer presents to the  
7 appropriate licensing authority a tax compliance letter.

8 2. The notice shall include the following information:

9 (1) A statement that the taxpayer is delinquent in payment of state taxes owed or  
10 has failed to file state income tax returns;

11 (2) The date that the suspension shall go into effect, which shall be one hundred  
12 twenty days from the date the notice was issued;

13 (3) A conspicuous statement as follows: "NOTICE TO TAXPAYER: IN ORDER  
14 TO PREVENT YOUR LICENSE SUSPENSION FROM GOING INTO EFFECT, YOU  
15 ARE RESPONSIBLE FOR PRESENTING A TAX COMPLIANCE LETTER FROM THE  
16 MISSOURI DEPARTMENT OF REVENUE TO YOUR LICENSING ENTITY PRIOR  
17 TO THE DATE OF SUSPENSION CITED IN THIS NOTICE.";

18 (4) A conspicuous statement as follows: "NOTICE TO TAXPAYER: YOU ARE  
19 ENTITLED TO A REVIEW OF THE NOTIFICATION PROCESS WITH THE  
20 DIRECTOR OF REVENUE. ANY REQUEST FOR REVIEW MUST BE FILED IN  
21 WRITING WITHIN FIFTY (50) DAYS FROM THE DATE OF THIS NOTICE AT THE  
22 FOLLOWING ADDRESS: ..... (INSERT ADDRESS).";

23 (5) A conspicuous statement as follows: "NOTICE TO TAXPAYER: IF YOU DO  
24 NOT OBTAIN A TAX COMPLIANCE LETTER OR SEEK REVIEW UNDER SECTION  
25 143.778, RSMo, YOUR LICENSE SHALL BE SUSPENDED BY OPERATION OF LAW  
26 EFFECTIVE THE DATE OF SUSPENSION CITED IN THIS NOTICE.".

27 3. A tax compliance letter shall be issued by the director to the taxpayer if the  
28 taxpayer:

29           **(1) Files any delinquent state tax return and pays the entire amount of delinquent**  
30 **state taxes, interest, and additions due; or**

31           **(2) Enters into and complies with a payment plan. If the taxpayer fails to comply**  
32 **with the terms of a payment plan, the director may issue a notice informing the taxpayer**  
33 **that the license shall be suspended by operation of law as of the date of the notice.**

34           **4. The notice required under subsection 1 of this section shall be sent to the last**  
35 **known address supplied to the director unless no such address has been provided,**  
36 **whereupon the notice shall be sent to the last known address supplied to the licensing**  
37 **authority.**

38           **5. The notice shall apply only to the license that is the subject of the transmission**  
39 **of data from the licensing authority to the director under section 143.779.**

40           **6. Within thirty days of the date of the notice required under subsection 1 of this**  
41 **section, the licensing authority shall send a letter to the taxpayer indicating that the license**  
42 **is subject to automatic suspension by operation of law as of the date provided in the notice**  
43 **required under subsection 1 of this section, unless the taxpayer provides the licensing**  
44 **authority a copy of a tax compliance letter by the date provided in the notice required**  
45 **under subsection 1 of this section.**

**143.778. 1. Within fifty days of the date of the notice, the taxpayer may file with**  
2 **the director at the address provided in the notice, a written request for review of the notice**  
3 **required under subsection 1 of section 143.777, stating the grounds upon which the**  
4 **taxpayer claims the notice was not proper.**

5           **2. Upon timely receipt of a request for review from a taxpayer, the director shall**  
6 **review the notice and mail the director's determination to the taxpayer by certified or**  
7 **registered mail within thirty days of receipt of the request. Such determination shall set**  
8 **forth briefly the director's findings of fact, and the basis of the decision and information**  
9 **regarding the taxpayer's right to appeal.**

10           **3. The issues that may be determined in a review under this section shall be limited**  
11 **to:**

12           **(1) The identity of the taxpayer;**

13           **(2) Whether the director has properly applied any credits or payments by the**  
14 **taxpayer; and**

15           **(3) Whether the director sent the notice to the proper address under subsection 4**  
16 **of section 143.777.**

17           **4. The determination of the director, after a review under this section, shall be a**  
18 **final agency decision and shall be subject to appeal to the administrative hearing**  
19 **commission under chapter 621, RSMo.**

20           **5. A taxpayer shall appeal under chapter 621, RSMo, by filing a petition within**  
21 **thirty days of the date of the director's determination.**

22           **6. Suspension of a taxpayer's license shall be automatically stayed pending the**  
23 **appeal under chapter 621, RSMo.**

24           **7. A determination made by the director under this section is independent of any**  
25 **action imposed by the licensing authority.**

**143.779. 1. All state licensing authorities subject to sections 143.775 to 143.779 shall**  
2 **provide specified information, in a format agreed upon by the director and the licensing**  
3 **authorities, to the director within thirty days following the date of the receipt of an**  
4 **application for licensure or at least thirty days after the required renewal date of a**  
5 **licensee's license. Such information shall include, but is not limited to, the following:**

6           **(1) Name;**

7           **(2) Address of record;**

8           **(3) Social Security number;**

9           **(4) Type of license.**

10           **2. For licensees who are not residents of this state, the licensing authority shall**  
11 **include in the application and renewal forms a method allowing the nonresident licensee**  
12 **to indicate that they received no Missouri source income within the applicable three-year**  
13 **period. The licensing authority shall transmit this information to the director in a**  
14 **mutually agreed upon manner.**

15           **3. The director shall promulgate rules necessary for the administration of sections**  
16 **143.775 to 143.779. Any rule or portion of a rule, as that term is defined in section 536.010,**  
17 **RSMo, that is created under the authority delegated in this section shall become effective**  
18 **only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,**  
19 **if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**  
20 **nonseverable and if any of the powers vested with the general assembly pursuant to**  
21 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**  
22 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**  
23 **rule proposed or adopted after August 28, 2005, shall be invalid and void.**

**620.1900. 1. As used in this section the term "licensing authority" shall mean any**  
2 **department, division, board, agency, or instrumentality of this state that issues a license**  
3 **under sections 209.319 to 209.339, RSMo, sections 256.010 to 256.453, RSMo, section**  
4 **375.014, RSMo, and chapters 324 to 340, RSMo, and chapters 344 to 346, RSMo. Any**  
5 **board or commission assigned to the division of professional registration after the effective**  
6 **date of this section shall be included in the definition of a licensing authority.**

7           **2. With regard to any licensee who has been issued a notice under section 143.777,**  
8 **RSMo, the licensing authority shall enter a suspension of the applicable license on the**  
9 **effective date set out in the notice, unless the licensee has presented a tax compliance letter,**  
10 **or has timely filed for review in the administrative hearing commission as provided under**  
11 **section 143.778, RSMo.**

12           **3. The suspension shall be processed by the licensing authority without any**  
13 **additional review or hearing by such licensing authority.**

14           **4. The suspension shall continue until a tax compliance letter is issued by the**  
15 **director of the department of revenue.**

16           **5. If a license is suspended under sections 143.775 to 143.779, RSMo, any funds**  
17 **paid by the licensee to the licensing authority for costs related to issuance, renewal or**  
18 **maintenance of a license shall not be refunded to the licensee.**

19           **6. During any period of suspension imposed under sections 143.775 to 143.779,**  
20 **RSMo, the licensee shall continue to pay all license or license renewal fees and obtain all**  
21 **continuing education hours as required by the licensing authority's statutes and**  
22 **regulations.**

23           **7. A licensee who continues to engage in the business, occupation, profession or**  
24 **other licensed activity while the license is suspended under sections 143.775 to 143.779,**  
25 **RSMo, is guilty of a class A misdemeanor. The licensing authority may refer the licensee**  
26 **to the appropriate prosecuting or circuit attorney or the attorney general for prosecution**  
27 **under this section, in addition to any other remedy provided by law for engaging in a**  
28 **licensed activity without a license or while a license is suspended.**

29           **8. The licensing authority shall be exempt from liability to the licensee for activities**  
30 **conducted under sections 143.775 to 143.779, RSMo, or this section.**

31           **9. The licensing authority shall not modify, remand, reverse, vacate or stay a**  
32 **suspension; except that, if the director of revenue certifies that an error has been made by**  
33 **the department or if an error is made by the licensing authority, the licensing authority**  
34 **may expunge the suspension from the licensee's permanent record.**

2           [324.010. All governmental entities issuing professional licenses,  
3 certificates, registrations, or permits pursuant to sections 209.319 to 209.339,  
4 RSMo, sections 214.270 to 214.516, RSMo, sections 256.010 to 256.453, RSMo,  
5 section 375.014, RSMo, sections 436.005 to 436.071, RSMo, and chapter 317,  
6 RSMo, and chapters 324 to 346, RSMo, shall provide the director of revenue  
7 with the name and Social Security number of each applicant for licensure with  
8 or licensee of such entities within one month of the date the application is filed  
9 or at least one month prior to the anticipated renewal of a licensee's license. If  
10 such licensee is delinquent on any state taxes or has failed to file state income tax  
returns in the last three years, the director shall then send notice to each such

11           entity and licensee. In the case of such delinquency or failure to file, the  
12           licensee's license shall be suspended within ninety days after notice of such  
13           delinquency or failure to file, unless the director of revenue verifies that such  
14           delinquency or failure has been remedied or arrangements have been made to  
15           achieve such remedy. The director of revenue shall, within ten business days of  
16           notification to the governmental entity issuing the professional license that the  
17           delinquency has been remedied or arrangements have been made to remedy such  
18           delinquency, send written notification to the licensee that the delinquency has  
19           been remedied. Tax liability paid in protest or reasonably founded disputes with  
20           such liability shall be considered paid for the purposes of this section.]