

FIRST REGULAR SESSION

HOUSE BILL NO. 766

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STINNETT.

0989H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 324.001, 324.010, 337.647, and 339.845, RSMo, and to enact in lieu thereof two new sections relating to suspension of professional licenses for failure to pay state taxes or file state tax returns.

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

Section A. Sections 324.001, 324.010, 337.647, and 339.845, RSMo, are repealed
2 and two new sections enacted in lieu thereof, to be known as sections 324.001 and 337.647, to
3 read as follows:

324.001. 1. For the purposes of this section, the following terms mean:

- 2 (1) "Department", the department of commerce and insurance;
- 3 (2) "Director", the director of the division of professional registration; and
- 4 (3) "Division", the division of professional registration.

5 2. There is hereby established a "Division of Professional Registration" assigned to
6 the department of commerce and insurance as a type III transfer, headed by a director
7 appointed by the governor with the advice and consent of the senate. All of the general
8 provisions, definitions and powers enumerated in section 1 of the Omnibus State
9 Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and
10 its divisions, agencies, and personnel.

11 3. The director of the division of professional registration shall promulgate rules and
12 regulations which designate for each board or commission assigned to the division the
13 renewal date for licenses or certificates. After the initial establishment of renewal dates, no
14 director of the division shall promulgate a rule or regulation which would change the renewal
15 date for licenses or certificates if such change in renewal date would occur prior to the date on

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 which the renewal date in effect at the time such new renewal date is specified next occurs.
17 Each board or commission shall by rule or regulation establish licensing periods of one, two,
18 or three years. Registration fees set by a board or commission shall be effective for the entire
19 licensing period involved, and shall not be increased during any current licensing period.
20 Persons who are required to pay their first registration fees shall be allowed to pay the pro rata
21 share of such fees for the remainder of the period remaining at the time the fees are paid.
22 Each board or commission shall provide the necessary forms for initial registration, and
23 thereafter the director may prescribe standard forms for renewal of licenses and certificates.
24 Each board or commission shall by rule and regulation require each applicant to provide the
25 information which is required to keep the board's records current. Each board or commission
26 shall have the authority to collect and analyze information required to support workforce
27 planning and policy development. Such information shall not be publicly disclosed so as to
28 identify a specific health care provider, as defined in section 376.1350. Each board or
29 commission shall issue the original license or certificate.

30 4. The division shall provide clerical and other staff services relating to the issuance
31 and renewal of licenses for all the professional licensing and regulating boards and
32 commissions assigned to the division. The division shall perform the financial management
33 and clerical functions as they each relate to issuance and renewal of licenses and certificates.
34 "Issuance and renewal of licenses and certificates" means the ministerial function of
35 preparing and delivering licenses or certificates, and obtaining material and information for
36 the board or commission in connection with the renewal thereof to include verifying if the
37 applicant has submitted all required documentation and that the documentation is legible. It
38 does not include any discretionary authority with regard to the original review of an
39 applicant's qualifications for licensure or certification, or the subsequent review of licensee's
40 or certificate holder's qualifications, or any disciplinary action contemplated against the
41 licensee or certificate holder. The division may develop and implement microfilming systems
42 and automated or manual management information systems.

43 5. The director of the division shall maintain a system of accounting and budgeting, in
44 cooperation with the director of the department, the office of administration, and the state
45 auditor's office, to ensure proper charges are made to the various boards for services rendered
46 to them. The general assembly shall appropriate to the division and other state agencies from
47 each board's funds moneys sufficient to reimburse the division and other state agencies for all
48 services rendered and all facilities and supplies furnished to that board.

49 6. For accounting purposes, the appropriation to the division and to the office of
50 administration for the payment of rent for quarters provided for the division shall be made
51 from the "Professional Registration Fees Fund", which is hereby created, and is to be used
52 solely for the purpose defined in subsection 5 of this section. The fund shall consist of

53 moneys deposited into it from each board's fund. Each board shall contribute a prorated
54 amount necessary to fund the division for services rendered and rent based upon the system of
55 accounting and budgeting established by the director of the division as provided in subsection
56 5 of this section. Transfers of funds to the professional registration fees fund shall be made by
57 each board on July first of each year; provided, however, that the director of the division may
58 establish an alternative date or dates of transfers at the request of any board. Such transfers
59 shall be made until they equal the prorated amount for services rendered and rent by the
60 division. The provisions of section 33.080 to the contrary notwithstanding, money in this
61 fund shall not be transferred and placed to the credit of general revenue.

62 7. The director of the division shall be responsible for collecting and accounting for
63 all moneys received by the division or its component agencies. Any money received by a
64 board or commission shall be promptly given, identified by type and source, to the director.
65 The director shall keep a record by board and state accounting system classification of the
66 amount of revenue the director receives. The director shall promptly transmit all receipts to
67 the department of revenue for deposit in the state treasury to the credit of the appropriate
68 fund. The director shall provide each board with all relevant financial information in a timely
69 fashion. Each board shall cooperate with the director by providing necessary information.

70 8. All educational transcripts, test scores, complaints, investigatory reports, and
71 information pertaining to any person who is an applicant or licensee of any agency assigned
72 to the division of professional registration by statute or by the department are confidential and
73 may not be disclosed to the public or any member of the public, except with the written
74 consent of the person whose records are involved. The agency which possesses the records or
75 information shall disclose the records or information if the person whose records or
76 information is involved has consented to the disclosure. Each agency is entitled to the
77 attorney-client privilege and work-product privilege to the same extent as any other person.
78 Provided, however, that any board may disclose confidential information without the consent
79 of the person involved in the course of voluntary interstate exchange of information, or in the
80 course of any litigation concerning that person, or pursuant to a lawful request, or to other
81 administrative or law enforcement agencies acting within the scope of their statutory
82 authority. Information regarding identity, including names and addresses, registration, and
83 currency of the license of the persons possessing licenses to engage in a professional
84 occupation and the names and addresses of applicants for such licenses is not confidential
85 information.

86 9. Any deliberations conducted and votes taken in rendering a final decision after a
87 hearing before an agency assigned to the division shall be closed to the parties and the public.
88 Once a final decision is rendered, that decision shall be made available to the parties and the
89 public.

90 10. A compelling governmental interest shall be deemed to exist for the purposes of
91 section 536.025 for licensure fees to be reduced by emergency rule, if the projected fund
92 balance of any agency assigned to the division of professional registration is reasonably
93 expected to exceed an amount that would require transfer from that fund to general revenue.

94 11. (1) The following boards and commissions are assigned by specific type transfers
95 to the division of professional registration: Missouri state board of accountancy, chapter 326;
96 board of cosmetology and barber examiners, chapters 328 and 329; Missouri board for
97 architects, professional engineers, professional land surveyors and landscape architects,
98 chapter 327; Missouri state board of chiropractic examiners, chapter 331; state board of
99 registration for the healing arts, chapter 334; Missouri dental board, chapter 332; state board
100 of embalmers and funeral directors, chapter 333; state board of optometry, chapter 336;
101 Missouri state board of nursing, chapter 335; board of pharmacy, chapter 338; state board of
102 podiatric medicine, chapter 330; Missouri real estate appraisers commission, chapter 339; and
103 Missouri veterinary medical board, chapter 340. The governor shall appoint members of
104 these boards by and with the advice and consent of the senate.

105 (2) The boards and commissions assigned to the division shall exercise all their
106 respective statutory duties and powers, except those clerical and other staff services involving
107 collecting and accounting for moneys and financial management relating to the issuance and
108 renewal of licenses, which services shall be provided by the division, within the appropriation
109 therefor. Nothing herein shall prohibit employment of professional examining or testing
110 services from professional associations or others as required by the boards or commissions on
111 contract. Nothing herein shall be construed to affect the power of a board or commission to
112 expend its funds as appropriated. However, the division shall review the expense vouchers of
113 each board. The results of such review shall be submitted to the board reviewed and to the
114 house and senate appropriations committees annually.

115 (3) Notwithstanding any other provisions of law, the director of the division shall
116 exercise only those management functions of the boards and commissions specifically
117 provided in the Reorganization Act of 1974, and those relating to the allocation and
118 assignment of space, personnel other than board personnel, and equipment.

119 (4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329,
120 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, shall mean personnel whose
121 functions and responsibilities are in areas not related to the clerical duties involving the
122 issuance and renewal of licenses, to the collecting and accounting for moneys, or to financial
123 management relating to issuance and renewal of licenses; specifically included are executive
124 secretaries (or comparable positions), consultants, inspectors, investigators, counsel, and
125 secretarial support staff for these positions; and such other positions as are established and
126 authorized by statute for a particular board or commission. Boards and commissions may

127 employ legal counsel, if authorized by law, and temporary personnel if the board is unable to
128 meet its responsibilities with the employees authorized above. Any board or commission
129 which hires temporary employees shall annually provide the division director and the
130 appropriation committees of the general assembly with a complete list of all persons
131 employed in the previous year, the length of their employment, the amount of their
132 remuneration, and a description of their responsibilities.

133 (5) Board personnel for each board or commission shall be employed by and serve at
134 the pleasure of the board or commission, shall be supervised as the board or commission
135 designates, and shall have their duties and compensation prescribed by the board or
136 commission, within appropriations for that purpose, except that compensation for board
137 personnel shall not exceed that established for comparable positions as determined by the
138 board or commission pursuant to the job and pay plan of the department of commerce and
139 insurance. Nothing herein shall be construed to permit salaries for any board personnel to be
140 lowered except by board action.

141 12. All the powers, duties, and functions of the division of athletics, chapter 317, and
142 others, are assigned by type I transfer to the division of professional registration.

143 13. Wherever the laws, rules, or regulations of this state make reference to the
144 division of professional registration of the department of economic development, such
145 references shall be deemed to refer to the division of professional registration.

146 14. (1) The state board of nursing, board of pharmacy, Missouri dental board, state
147 committee of psychologists, state board of chiropractic examiners, state board of optometry,
148 Missouri board of occupational therapy, or state board of registration for the healing arts may
149 individually or collectively enter into a contractual agreement with the department of health
150 and senior services, a public institution of higher education, or a nonprofit entity for the
151 purpose of collecting and analyzing workforce data from its licensees, registrants, or permit
152 holders for future workforce planning and to assess the accessibility and availability of
153 qualified health care services and practitioners in Missouri. The boards shall work
154 collaboratively with other state governmental entities to ensure coordination and avoid
155 duplication of efforts.

156 (2) The boards may expend appropriated funds necessary for operational expenses of
157 the program formed under this subsection. Each board is authorized to accept grants to fund
158 the collection or analysis authorized in this subsection. Any such funds shall be deposited in
159 the respective board's fund.

160 (3) Data collection shall be controlled and approved by the applicable state board
161 conducting or requesting the collection. Notwithstanding the provisions of ~~sections 324.010~~
162 ~~and~~ **section** 334.001, the boards may release identifying data to the contractor to facilitate
163 data analysis of the health care workforce including, but not limited to, geographic,

164 demographic, and practice or professional characteristics of licensees. The state board shall
165 not request or be authorized to collect income or other financial earnings data.

166 (4) Data collected under this subsection shall be deemed the property of the state
167 board requesting the data. Data shall be maintained by the state board in accordance with
168 chapter 610, provided that any information deemed closed or confidential under subsection 8
169 of this section or any other provision of state law shall not be disclosed without consent of the
170 applicable licensee or entity or as otherwise authorized by law. Data shall only be released in
171 an aggregate form by geography, profession or professional specialization, or population
172 characteristic in a manner that cannot be used to identify a specific individual or entity. Data
173 suppression standards shall be addressed and established in the contractual agreement.

174 (5) Contractors shall maintain the security and confidentiality of data received or
175 collected under this subsection and shall not use, disclose, or release any data without
176 approval of the applicable state board. The contractual agreement between the applicable
177 state board and contractor shall establish a data release and research review policy to include
178 legal and institutional review board, or agency-equivalent, approval.

179 (6) Each board may promulgate rules subject to the provisions of this subsection and
180 chapter 536 to effectuate and implement the workforce data collection and analysis authorized
181 by this subsection. Any rule or portion of a rule, as that term is defined in section 536.010,
182 that is created under the authority delegated in this section shall become effective only if it
183 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
184 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with
185 the general assembly under chapter 536 to review, to delay the effective date, or to disapprove
186 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
187 authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

337.647. 1. The committee shall develop a school social work program verification
2 and acknowledgment of completion for individuals who have met the requirements set forth
3 in this section.

4 2. The committee shall issue a document similar to the document described in
5 subsection 2 of section 173.1400 to any individual who:

6 (1) Submits an application to the board;

7 (2) Holds a credential in school social work issued by a nationally recognized
8 credentialing organization in social work, or demonstrates competency in school social work
9 by successful passage of a school social worker exam approved by the committee;

10 (3) Holds a license issued by the committee; and

11 (4) Submits the fee as required by rule of the committee.

12 3. The committee shall promulgate rules and shall charge fees necessary to implement
13 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is

14 created under the authority delegated in this section shall become effective only if it complies
 15 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
 16 This section and chapter 536 are nonseverable and if any of the powers vested with the
 17 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
 18 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
 19 rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid
 20 and void.

21 4. Notwithstanding any provision of law to the contrary, any school social work
 22 program verification and acknowledgment of completion issued by the committee under
 23 subsection 2 of this section shall not be deemed a license, certificate, registration or permit for
 24 any purpose, and such documents convey no authority to practice social work in Missouri and
 25 convey no authority to use any social work title in Missouri. Each school social work
 26 program verification and acknowledgment of completion issued by the committee under
 27 subsection 2 of this section shall state on its face that it:

- 28 (1) Is not a license, certificate, registration or permit;
- 29 (2) Conveys no authority to practice social work in Missouri; and
- 30 (3) Conveys no authority to use any social work title in Missouri.

31 5. Notwithstanding any provision of law to the contrary, school social work program
 32 verification and acknowledgment of completion issued by the committee under subsection 2
 33 of this section shall not:

- 34 (1) Expire;
- 35 (2) Be subject to renewal;
- 36 (3) Be subject to denial or discipline under section 337.630; **or**
- 37 (4) ~~Be subject to suspension under section 324.010; or~~
- 38 (5) Be subject to any other action to which professional licenses may be subjected.

~~324.010. All governmental entities issuing professional licenses, certificates, registrations, or permits pursuant to sections 209.319 to 209.339, sections 214.270 to 214.516, sections 256.010 to 256.453, section 375.014, sections 436.005 to 436.071, and chapter 317 and chapters 324 to 346 shall provide the director of revenue with the name and Social Security number of each applicant for licensure with or licensee of such entities within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If 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 entity and licensee. In the case of such delinquency or failure to file, the licensee's license shall be suspended within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. The director of revenue shall, within ten business days of notification to the governmental~~

16 ~~entity issuing the professional license that the delinquency has been remedied~~
17 ~~or arrangements have been made to remedy such delinquency, send written~~
18 ~~notification to the licensee that the delinquency has been remedied. Tax~~
19 ~~liability paid in protest or reasonably founded disputes with such liability shall~~
20 ~~be considered paid for the purposes of this section.]~~

2 ~~[339.845. If the commission receives a notice of delinquent taxes from~~
3 ~~the director of revenue under the provisions of section 324.010 regarding a real~~
4 ~~estate broker or salesperson, the commission shall immediately send a copy of~~
5 ~~such notice to the real estate broker with which the real estate broker or~~
salesperson is associated.]

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