

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Regulatory Sunset Act is amended by  
5 changing Sections 2, 3, 5, 6, and 7 as follows:

6 (5 ILCS 80/2) (from Ch. 127, par. 1902)

7 Sec. 2. Findings and intent.

8 (a) The General Assembly finds that State government  
9 actions have produced a substantial increase in numbers of  
10 agencies, growth of programs and proliferation of rules and  
11 regulations and that the whole process developed without  
12 sufficient legislative oversight, regulatory accountability or  
13 a system of checks and balances. The General Assembly further  
14 finds that by establishing a system for the termination or  
15 continuation of such agencies and programs, it will be in a  
16 better position to evaluate the need for the continued  
17 existence of present and future regulatory bodies.

18 (b) It is the intent of the General Assembly:

19 (1) That no profession, occupation, business, industry  
20 or trade shall be subject to the State's regulatory power  
21 unless the exercise of such power is necessary to protect  
22 the public health, safety or welfare from significant and  
23 discernible harm or damage. The exercise of the State's

1 police power shall be done only to the extent necessary  
2 for that purpose.

3 (2) That the State shall not regulate a profession,  
4 occupation, industry, business or trade in a manner which  
5 will unreasonably and adversely affect either the  
6 competitive market or equitable access to quality jobs and  
7 economic opportunities.

8 (3) To provide systematic legislative review of the  
9 need for, and public benefits derived from, a program or  
10 function that licenses or otherwise regulates the initial  
11 entry into a profession, occupation, business, industry or  
12 trade by a periodic review and termination, modification,  
13 or continuation of those programs and functions.

14 (Source: P.A. 90-580, eff. 5-21-98.)

15 (5 ILCS 80/3) (from Ch. 127, par. 1903)

16 Sec. 3. Definitions. As used in this Act, unless the  
17 context clearly requires otherwise:

18 "Regulatory agency" or "agency" means any arm, branch,  
19 department, board, committee or commission of State government  
20 that licenses, supervises, exercises control over, or issues  
21 rules regarding, or otherwise regulates any trade, occupation,  
22 business, industry or profession.

23 "Personal qualifications" means criteria related to an  
24 individual's personal background and characteristics.

25 "Personal qualifications" may include one or more of the

1 following: completion of an approved educational program,  
2 satisfactory performance on an examination, work experience,  
3 apprenticeship, other evidence of attainment of requisite  
4 knowledge and skills, passing a review of the individual's  
5 criminal record, and completion of continuing education.

6 "Program" means a system to license or otherwise regulate  
7 the initial entry into a profession, occupation, business,  
8 industry, or trade by a periodic review and termination,  
9 modification, or continuation of the profession, occupation,  
10 business, industry, or trade.

11 "Scope of practice" means the procedures, actions,  
12 processes, and work that an individual may perform under an  
13 occupational regulation.

14 (Source: P.A. 90-580, eff. 5-21-98.)

15 (5 ILCS 80/5) (from Ch. 127, par. 1905)

16 Sec. 5. Study and report. The Governor's Office of  
17 Management and Budget shall study the performance of each  
18 regulatory agency and program scheduled for termination under  
19 this Act and report annually to the Governor the results of  
20 such study, including in the report an analysis of whether the  
21 agency or program restricts a profession, occupation,  
22 business, industry, or trade any more than is necessary to  
23 protect the public health, safety, or welfare from significant  
24 and discernible harm or damage, and recommendations with  
25 respect to those agencies and programs the Governor's Office

1 of Management and Budget determines should be terminated,  
2 modified, or continued by the State. The Governor shall review  
3 the report of the Governor's Office of Management and Budget  
4 and in each even-numbered year make recommendations to the  
5 General Assembly on the termination, modification, or  
6 continuation of regulatory agencies and programs.

7 (Source: P.A. 94-793, eff. 5-19-06.)

8 (5 ILCS 80/6) (from Ch. 127, par. 1906)

9 Sec. 6. Factors to be studied. In conducting the study  
10 required under Section 5, the Governor's Office of Management  
11 and Budget shall consider, but is not limited to consideration  
12 of, the following factors in determining whether an agency or  
13 program should be recommended for termination, modification,  
14 or continuation:

15 (1) the full range and variety of practices and  
16 activities included in the scope of practice covered by  
17 ~~extent to which the agency or program, including modes of~~  
18 ~~practice or subspecialties that have developed since the~~  
19 ~~last review has permitted qualified applicants to serve~~  
20 ~~the public;~~

21 (2) (blank); ~~the extent to which the trade, business,~~  
22 ~~profession, occupation or industry being regulated is~~  
23 ~~being administered in a nondiscriminatory manner both in~~  
24 ~~terms of employment and the rendering of services;~~

25 (3) the extent to which the regulatory agency or

1 program has operated in the public interest, and the  
2 extent to which its operation has been impeded or enhanced  
3 by existing statutes, procedures, and practices of any  
4 other department of State government, and any other  
5 circumstances, including budgetary, resource, and  
6 personnel matters;

7 (4) the extent to which the agency running the program  
8 has recommended statutory changes to the General Assembly  
9 that would benefit the public as opposed to the persons it  
10 regulates;

11 (5) the extent to which the agency or program has  
12 required the persons it regulates to report to it  
13 concerning the impact of rules and decisions of the agency  
14 or the impact of the program on the public regarding  
15 improved service, economy of service, and availability of  
16 service;

17 (6) the extent to which persons regulated by the  
18 agency or under the program have been required to assess  
19 problems in their industry that affect the public;

20 (7) the extent to which the agency or program has  
21 encouraged participation by the public in making its rules  
22 and decisions as opposed to participation solely by the  
23 persons it regulates and the extent to which such rules  
24 and decisions are consistent with statutory authority;

25 (8) the efficiency with which formal public complaints  
26 filed with the regulatory agency or under the program

1 concerning persons subject to regulation have been  
2 processed to completion, by the executive director of the  
3 regulatory agencies or programs, by the Attorney General  
4 and by any other applicable department of State  
5 government; ~~and~~

6 (9) the extent to which changes are necessary in the  
7 enabling laws of the agency or program to adequately  
8 comply with the factors listed in this Section; ~~-~~

9 (10) the extent to which there is evidence of  
10 significant and discernible harm arising from the full  
11 range and variety of practices and activities included in  
12 the scope of practice;

13 (11) the substance, content, and relevance of the  
14 personal qualifications required for entry into the trade,  
15 business, profession, occupation, or industry being  
16 regulated, including, but not limited to, as required  
17 hours of training, required curricula during the required  
18 hours, knowledge areas tested in examinations, and any  
19 updates that have been made since the last review to  
20 address changes in technology or modes of practice;

21 (12) the extent to which all the personal  
22 qualifications that the agency or program requires for  
23 individuals to enter the trade, business, profession,  
24 occupation, or industry being regulated are necessary to  
25 protect the public from significant and discernible harm,  
26 for all activities covered by the scope of practice;

1           (13) equity concerns arising from the personal  
2           qualifications, including:

3           (A) financial impact on aspiring licensees,  
4           including, but not limited to, (i) itemization of  
5           average costs of achieving personal qualifications;  
6           (ii) an assessment of average incomes of licensees;  
7           and (iii) numbers, monetary loss, and demographics of  
8           individuals who start but do not achieve personal  
9           qualifications or complete the application process;

10           (B) challenges for individuals from historically  
11           disadvantaged backgrounds in acquiring personal  
12           qualifications;

13           (C) barriers for individuals with records of  
14           interactions with the criminal justice system;

15           (D) evidence of challenges for individuals who do  
16           not speak English as their primary language; and

17           (E) geographic distribution of training sites and  
18           test sites; and

19           (14) the extent to which enforcement actions under the  
20           agency or program have addressed significant and  
21           discernible harms to the public as opposed to technical  
22           noncompliance with the requirements of the agency or  
23           program.

24           (Source: P.A. 94-793, eff. 5-19-06.)

25           (5 ILCS 80/7) (from Ch. 127, par. 1907)

1           Sec. 7. Additional criteria.

2           (a) In determining whether to recommend to the General  
3 Assembly under Section 5 the continuation of a regulatory  
4 agency or program or any function thereof, the Governor shall  
5 also consider the following criteria:

6                   (1) whether the absence or modification of regulation  
7 would significantly harm or endanger the public health,  
8 safety or welfare;

9                   (2) whether there is a reasonable relationship between  
10 the exercise of the State's police power and the  
11 protection of the public health, safety or welfare;

12                   (3) whether there is another less restrictive method  
13 of regulation available which could adequately protect the  
14 public;

15                   (4) whether the regulation has the effect of directly  
16 or indirectly increasing the costs of any goods or  
17 services involved, and if so, to what degree;

18                   (5) whether the increase in cost is more harmful to  
19 the public than the harm which could result from the  
20 absence of regulation; and

21                   (6) whether all facets of the regulatory process are  
22 designed solely for the purpose of, and have as their  
23 primary effect, the protection of the public.

24           (b) In making an evaluation or recommendation with respect  
25 to paragraph (3) of subsection (a), the Governor shall follow  
26 the following guidelines to address the following:



1           (1) Contractual disputes, including pricing disputes.  
2           The Governor may recommend enacting a specific civil cause  
3           of action in small-claims court or district court to  
4           remedy consumer harm. This cause of action may provide for  
5           reimbursement of the attorney's fees or court costs, if a  
6           consumer's claim is successful.

7           (2) Fraud. The Governor may recommend strengthening  
8           powers under the State's deceptive trade practices acts or  
9           requiring disclosures that will reduce misleading  
10          attributes of the specific good or service.

11          (3) General health and safety risks. The Governor may  
12          recommend enacting a regulation on the related process or  
13          requiring a facility license.

14          (4) Unclean facilities. The Governor may recommend  
15          requiring periodic facility inspections.

16          (5) A provider's failure to complete a contract fully  
17          or to standards. The Governor may recommend requiring the  
18          provider to be bonded.

19          (6) A lack of protection for a person who is not a  
20          party to a contract between providers and consumers. The  
21          Governor may recommend requiring that the provider have  
22          insurance.

23          (7) Transactions with transient, out-of-state, or  
24          fly-by-night providers. The Governor may recommend  
25          requiring the provider register its business with the  
26          Secretary of State.

1           (8) A shortfall or imbalance in the consumer's  
2           knowledge about the good or service relative to the  
3           provider's knowledge (asymmetrical information). The  
4           Governor may recommend enacting government certification.

5           (9) An inability to qualify providers of new or highly  
6           specialized medical services for reimbursement by the  
7           State. The Governor may recommend enacting a specialty  
8           certification solely for medical reimbursement.

9           (10) A systematic information shortfall in which a  
10           reasonable consumer of the service is permanently unable  
11           to distinguish between the quality of providers and there  
12           is an absence of institutions that provide guidance to  
13           consumers. The Governor may recommend enacting an  
14           occupational license.

15           (11) The need to address multiple types of harm. The  
16           Governor may recommend a combination of regulations. This  
17           may include a government regulation combined with a  
18           private remedy, including third-party or consumer-created  
19           ratings and reviews or private certification.

20           (Source: P.A. 97-813, eff. 7-13-12.)