



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5222

Introduced 2/3/2010, by Rep. Dan Reitz

SYNOPSIS AS INTRODUCED:

20 ILCS 2105/2105-15

Amends the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Provides that the Department of Financial and Professional Regulation shall have the power to expunge any disciplinary offense of a licensee disciplined under any licensing Act that is administered by the Department if the offense is either administrative in nature or, for health care professionals, unrelated to patient care, including, but not limited to, the following: (A) failure to complete continuing education requirements, (B) failure to have any additional required license or certification, (C) failure to renew a license on time, (D) failure to report a practice location, or (E) other offenses prescribed by rule. Provides that a licensee may apply to the Department to have an offense expunged from his or her disciplinary record. Provides that an application for expungement shall only be considered by the Department if the application is submitted more than 3 years after the disciplinary offense was adjudicated and the licensee has not been previously or subsequently disciplined for a similar or more serious offense under the same Act. Provides that requests for expungement shall be submitted to and considered by the appropriate Board in accordance with the requirements that the Department shall set by rule.

LRB096 18343 ASK 33720 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Department of Professional Regulation Law of
5 the Civil Administrative Code of Illinois is amended by
6 changing Section 2105-15 as follows:

7 (20 ILCS 2105/2105-15)

8 Sec. 2105-15. General powers and duties.

9 (a) The Department has, subject to the provisions of the
10 Civil Administrative Code of Illinois, the following powers and
11 duties:

12 (1) To authorize examinations in English to ascertain
13 the qualifications and fitness of applicants to exercise
14 the profession, trade, or occupation for which the
15 examination is held.

16 (2) To prescribe rules and regulations for a fair and
17 wholly impartial method of examination of candidates to
18 exercise the respective professions, trades, or
19 occupations.

20 (3) To pass upon the qualifications of applicants for
21 licenses, certificates, and authorities, whether by
22 examination, by reciprocity, or by endorsement.

23 (4) To prescribe rules and regulations defining, for

1 the respective professions, trades, and occupations, what
2 shall constitute a school, college, or university, or
3 department of a university, or other institution,
4 reputable and in good standing, and to determine the
5 reputability and good standing of a school, college, or
6 university, or department of a university, or other
7 institution, reputable and in good standing, by reference
8 to a compliance with those rules and regulations; provided,
9 that no school, college, or university, or department of a
10 university, or other institution that refuses admittance
11 to applicants solely on account of race, color, creed, sex,
12 or national origin shall be considered reputable and in
13 good standing.

14 (5) To conduct hearings on proceedings to revoke,
15 suspend, refuse to renew, place on probationary status, or
16 take other disciplinary action as authorized in any
17 licensing Act administered by the Department with regard to
18 licenses, certificates, or authorities of persons
19 exercising the respective professions, trades, or
20 occupations and to revoke, suspend, refuse to renew, place
21 on probationary status, or take other disciplinary action
22 as authorized in any licensing Act administered by the
23 Department with regard to those licenses, certificates, or
24 authorities. The Department shall issue a monthly
25 disciplinary report. The Department shall deny any license
26 or renewal authorized by the Civil Administrative Code of

1 Illinois to any person who has defaulted on an educational
2 loan or scholarship provided by or guaranteed by the
3 Illinois Student Assistance Commission or any governmental
4 agency of this State; however, the Department may issue a
5 license or renewal if the aforementioned persons have
6 established a satisfactory repayment record as determined
7 by the Illinois Student Assistance Commission or other
8 appropriate governmental agency of this State.
9 Additionally, beginning June 1, 1996, any license issued by
10 the Department may be suspended or revoked if the
11 Department, after the opportunity for a hearing under the
12 appropriate licensing Act, finds that the licensee has
13 failed to make satisfactory repayment to the Illinois
14 Student Assistance Commission for a delinquent or
15 defaulted loan. For the purposes of this Section,
16 "satisfactory repayment record" shall be defined by rule.
17 The Department shall refuse to issue or renew a license to,
18 or shall suspend or revoke a license of, any person who,
19 after receiving notice, fails to comply with a subpoena or
20 warrant relating to a paternity or child support
21 proceeding. However, the Department may issue a license or
22 renewal upon compliance with the subpoena or warrant.

23 The Department, without further process or hearings,
24 shall revoke, suspend, or deny any license or renewal
25 authorized by the Civil Administrative Code of Illinois to
26 a person who is certified by the Department of Healthcare

1 and Family Services (formerly Illinois Department of
2 Public Aid) as being more than 30 days delinquent in
3 complying with a child support order or who is certified by
4 a court as being in violation of the Non-Support Punishment
5 Act for more than 60 days. The Department may, however,
6 issue a license or renewal if the person has established a
7 satisfactory repayment record as determined by the
8 Department of Healthcare and Family Services (formerly
9 Illinois Department of Public Aid) or if the person is
10 determined by the court to be in compliance with the
11 Non-Support Punishment Act. The Department may implement
12 this paragraph as added by Public Act 89-6 through the use
13 of emergency rules in accordance with Section 5-45 of the
14 Illinois Administrative Procedure Act. For purposes of the
15 Illinois Administrative Procedure Act, the adoption of
16 rules to implement this paragraph shall be considered an
17 emergency and necessary for the public interest, safety,
18 and welfare.

19 (5.5) To expunge any disciplinary offense of a licensee
20 disciplined under any licensing Act that is administered by
21 the Department if the offense is either administrative in
22 nature or, for health care professionals, unrelated to
23 patient care, including, but not limited to, the following:
24 (A) failure to complete continuing education requirements,
25 (B) failure to have any additional required license or
26 certification, (C) failure to renew a license on time, (D)

1 failure to report a practice location, or (E) other
2 offenses prescribed by rule.

3 A licensee may apply to the Department to have an
4 offense expunged from his or her disciplinary record. An
5 application for expungement shall only be considered by the
6 Department if the application is submitted more than 3
7 years after the disciplinary offense was adjudicated and
8 the licensee has not been previously or subsequently
9 disciplined for a similar or more serious offense under the
10 same Act. Requests for expungement shall be submitted to
11 and considered by the appropriate Board in accordance with
12 the requirements that the Department shall set by rule.

13 (6) To transfer jurisdiction of any realty under the
14 control of the Department to any other department of the
15 State Government or to acquire or accept federal lands when
16 the transfer, acquisition, or acceptance is advantageous
17 to the State and is approved in writing by the Governor.

18 (7) To formulate rules and regulations necessary for
19 the enforcement of any Act administered by the Department.

20 (8) To exchange with the Department of Healthcare and
21 Family Services information that may be necessary for the
22 enforcement of child support orders entered pursuant to the
23 Illinois Public Aid Code, the Illinois Marriage and
24 Dissolution of Marriage Act, the Non-Support of Spouse and
25 Children Act, the Non-Support Punishment Act, the Revised
26 Uniform Reciprocal Enforcement of Support Act, the Uniform

1 Interstate Family Support Act, or the Illinois Parentage
2 Act of 1984. Notwithstanding any provisions in this Code to
3 the contrary, the Department of Professional Regulation
4 shall not be liable under any federal or State law to any
5 person for any disclosure of information to the Department
6 of Healthcare and Family Services (formerly Illinois
7 Department of Public Aid) under this paragraph (8) or for
8 any other action taken in good faith to comply with the
9 requirements of this paragraph (8).

10 (9) To perform other duties prescribed by law.

11 (a-5) Except in cases involving default on an educational
12 loan or scholarship provided by or guaranteed by the Illinois
13 Student Assistance Commission or any governmental agency of
14 this State or in cases involving delinquency in complying with
15 a child support order or violation of the Non-Support
16 Punishment Act, no person or entity whose license, certificate,
17 or authority has been revoked as authorized in any licensing
18 Act administered by the Department may apply for restoration of
19 that license, certification, or authority until 3 years after
20 the effective date of the revocation.

21 (b) The Department may, when a fee is payable to the
22 Department for a wall certificate of registration provided by
23 the Department of Central Management Services, require that
24 portion of the payment for printing and distribution costs be
25 made directly or through the Department to the Department of
26 Central Management Services for deposit into the Paper and

1 Printing Revolving Fund. The remainder shall be deposited into
2 the General Revenue Fund.

3 (c) For the purpose of securing and preparing evidence, and
4 for the purchase of controlled substances, professional
5 services, and equipment necessary for enforcement activities,
6 recoupment of investigative costs, and other activities
7 directed at suppressing the misuse and abuse of controlled
8 substances, including those activities set forth in Sections
9 504 and 508 of the Illinois Controlled Substances Act, the
10 Director and agents appointed and authorized by the Director
11 may expend sums from the Professional Regulation Evidence Fund
12 that the Director deems necessary from the amounts appropriated
13 for that purpose. Those sums may be advanced to the agent when
14 the Director deems that procedure to be in the public interest.
15 Sums for the purchase of controlled substances, professional
16 services, and equipment necessary for enforcement activities
17 and other activities as set forth in this Section shall be
18 advanced to the agent who is to make the purchase from the
19 Professional Regulation Evidence Fund on vouchers signed by the
20 Director. The Director and those agents are authorized to
21 maintain one or more commercial checking accounts with any
22 State banking corporation or corporations organized under or
23 subject to the Illinois Banking Act for the deposit and
24 withdrawal of moneys to be used for the purposes set forth in
25 this Section; provided, that no check may be written nor any
26 withdrawal made from any such account except upon the written

1 signatures of 2 persons designated by the Director to write
2 those checks and make those withdrawals. Vouchers for those
3 expenditures must be signed by the Director. All such
4 expenditures shall be audited by the Director, and the audit
5 shall be submitted to the Department of Central Management
6 Services for approval.

7 (d) Whenever the Department is authorized or required by
8 law to consider some aspect of criminal history record
9 information for the purpose of carrying out its statutory
10 powers and responsibilities, then, upon request and payment of
11 fees in conformance with the requirements of Section 2605-400
12 of the Department of State Police Law (20 ILCS 2605/2605-400),
13 the Department of State Police is authorized to furnish,
14 pursuant to positive identification, the information contained
15 in State files that is necessary to fulfill the request.

16 (e) The provisions of this Section do not apply to private
17 business and vocational schools as defined by Section 1 of the
18 Private Business and Vocational Schools Act.

19 (f) Beginning July 1, 1995, this Section does not apply to
20 those professions, trades, and occupations licensed under the
21 Real Estate License Act of 2000, nor does it apply to any
22 permits, certificates, or other authorizations to do business
23 provided for in the Land Sales Registration Act of 1989 or the
24 Illinois Real Estate Time-Share Act.

25 (g) Notwithstanding anything that may appear in any
26 individual licensing statute or administrative rule, the

1 Department shall deny any license application or renewal
2 authorized under any licensing Act administered by the
3 Department to any person who has failed to file a return, or to
4 pay the tax, penalty, or interest shown in a filed return, or
5 to pay any final assessment of tax, penalty, or interest, as
6 required by any tax Act administered by the Illinois Department
7 of Revenue, until such time as the requirement of any such tax
8 Act are satisfied; however, the Department may issue a license
9 or renewal if the person has established a satisfactory
10 repayment record as determined by the Illinois Department of
11 Revenue. For the purpose of this Section, "satisfactory
12 repayment record" shall be defined by rule.

13 In addition, a complaint filed with the Department by the
14 Illinois Department of Revenue that includes a certification,
15 signed by its Director or designee, attesting to the amount of
16 the unpaid tax liability or the years for which a return was
17 not filed, or both, is prima facia evidence of the licensee's
18 failure to comply with the tax laws administered by the
19 Illinois Department of Revenue. Upon receipt of that
20 certification, the Department shall, without a hearing,
21 immediately suspend all licenses held by the licensee.
22 Enforcement of the Department's order shall be stayed for 60
23 days. The Department shall provide notice of the suspension to
24 the licensee by mailing a copy of the Department's order by
25 certified and regular mail to the licensee's last known address
26 as registered with the Department. The notice shall advise the

1 licensee that the suspension shall be effective 60 days after
2 the issuance of the Department's order unless the Department
3 receives, from the licensee, a request for a hearing before the
4 Department to dispute the matters contained in the order.

5 Any suspension imposed under this subsection (g) shall be
6 terminated by the Department upon notification from the
7 Illinois Department of Revenue that the licensee is in
8 compliance with all tax laws administered by the Illinois
9 Department of Revenue.

10 The Department shall promulgate rules for the
11 administration of this subsection (g).

12 (h) The Department may grant the title "Retired", to be
13 used immediately adjacent to the title of a profession
14 regulated by the Department, to eligible retirees. The use of
15 the title "Retired" shall not constitute representation of
16 current licensure, registration, or certification. Any person
17 without an active license, registration, or certificate in a
18 profession that requires licensure, registration, or
19 certification shall not be permitted to practice that
20 profession.

21 (i) Within 180 days after December 23, 2009 (the effective
22 date of Public Act 96-852) ~~this amendatory Act of the 96th~~
23 ~~General Assembly~~, the Department shall promulgate rules which
24 permit a person with a criminal record, who seeks a license or
25 certificate in an occupation for which a criminal record is not
26 expressly a per se bar, to apply to the Department for a

1 non-binding, advisory opinion to be provided by the Board or
2 body with the authority to issue the license or certificate as
3 to whether his or her criminal record would bar the individual
4 from the licensure or certification sought, should the
5 individual meet all other licensure requirements including,
6 but not limited to, the successful completion of the relevant
7 examinations.

8 (Source: P.A. 95-331, eff. 8-21-07; 96-459, eff. 8-14-09;
9 96-852, eff. 12-23-09; revised 1-4-10.)