

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0192.01 Christy Chase x2008

HOUSE BILL 12-1055

HOUSE SPONSORSHIP

Schafer S.,

SENATE SPONSORSHIP

White,

House Committees

Economic and Business Development

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT**
102 **OF REGULATORY AGENCIES, AND, IN CONNECTION THEREWITH,**
103 **RENAMING THE DIVISION AS THE DIVISION OF PROFESSIONS AND**
104 **OCCUPATIONS, AUTHORIZING THE EXECUTIVE DIRECTOR OF THE**
105 **DEPARTMENT TO ADOPT RULES PERTAINING TO THE**
106 **ADMINISTRATIVE DUTIES OF THE DIVISION, AND REQUIRING**
107 **PERIODIC REVIEW OF THE FUNCTIONS OF THE DIVISION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

http://www.leg.state.co.us/bills/summaries.)

Under current law, the division of registrations (division) in the department of regulatory agencies (department) is tasked with providing supervision and control of boards that examine and license professions and occupations. The division also provides management support to other autonomous licensing boards. The division is headed by a director of registrations, who is appointed by the executive director of the department.

Section 1 of the bill renames the division as the division of professions and occupations and directs the revisor of statutes to correct all references to the division within the next 3-year period. Section 1 also authorizes the executive director to adopt rules necessary to administer the functions of the division. Additionally, section 1 requires the department to conduct periodic reviews of the division and its functions in the same manner it conducts reviews of other governmental entities under the sunset process but does not subject the division to automatic termination under that process.

Section 2 renames the division of registrations cash fund as the division of professions and occupations cash fund and directs the revisor of statutes to correct all references to the cash fund within the next 3 years.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-102, **amend**
3 (1), (2), (3), (7), (8) (a), (8) (c), (9), (10), (12), and (13); and **add** (15),
4 (16), and (17) as follows:

5 **24-34-102. Division of professions and occupations - creation**
6 **- duties of division and department heads - license renewal,**
7 **reinstatement, and endorsement - definitions - rules - review of**
8 **functions - repeal.** (1) (a) AS USED IN THIS PART 1, UNLESS THE CONTEXT
9 OTHERWISE REQUIRES:

10 (I) "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY
11 AGENCIES.

12 (II) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
13 PROFESSIONS AND OCCUPATIONS OR THE DIRECTOR'S DESIGNEE.

1 (III) "DIVISION" MEANS THE DIVISION OF PROFESSIONS AND
2 OCCUPATIONS CREATED IN THE DEPARTMENT PURSUANT TO THIS SECTION.

3 (IV) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
4 THE DEPARTMENT.

5 (V) "LICENSE" HAS THE SAME MEANING AS SET FORTH IN SECTION
6 24-4-102.

7 (VI) "LICENSEE" MEANS A PERSON WHO HAS BEEN ISSUED A
8 LICENSE.

9 (b) There is hereby created a division of ~~registrations~~ PROFESSIONS
10 AND OCCUPATIONS in the department, ~~of regulatory agencies~~, the head of
11 which ~~shall be~~ IS the director of ~~registrations~~, ~~which office is hereby~~
12 ~~created~~ PROFESSIONS AND OCCUPATIONS. The executive director ~~of the~~
13 ~~department of regulatory agencies~~ shall appoint pursuant to section 13 of
14 ~~article XII of the state constitution~~, the director ~~of the division of~~
15 ~~registrations who~~ IN ACCORDANCE WITH SECTION 13 OF ARTICLE XII OF
16 THE STATE CONSTITUTION. EXCEPT AS PROVIDED IN PARAGRAPH (c) OF
17 THIS SUBSECTION (1), THE DIRECTOR shall appoint ~~such~~ other personnel as
18 ~~may be~~ necessary for the efficient operation of the division. ~~except that,~~

19 (c) Subject to available appropriations, ~~said~~ THE director shall give
20 good faith consideration to the recommendations of any **type 1** board or
21 commission relating to the employment of the primary administrator to
22 assist ~~such~~ THE board or commission, whether ~~such~~ THE person is
23 designated as an executive secretary, ~~or~~ a program administrator, or is
24 ~~designated otherwise~~ ANOTHER TITLE OR POSITION.

25 (2) The division ~~of registrations shall have~~ HAS supervision and
26 control of the **type 2** examining and licensing boards and agencies ~~and~~
27 ~~the registration of licenses thereof~~ transferred to the department of

1 ~~regulatory agencies~~ by the "Administrative Organization Act of 1968".
2 For **type 1** boards or commissions, the division shall provide necessary
3 management support.

4 (3) The supervision and control of, and the management support
5 for, ~~said~~ examining and licensing boards and agencies by the department
6 ~~of regulatory agencies~~ and the division ~~of registrations thereof~~ shall also
7 ~~include~~ INCLUDES the approval or disapproval of ~~such~~ rules and
8 ~~regulations~~ of ~~said~~ THE boards and agencies ~~as relate~~ RELATING to the
9 examination AND LICENSURE of applicants ~~and registration of licenses to~~
10 ~~the end~~ ENSURE that ~~such examinations and registrations shall be~~ THE
11 RULES ARE fair and impartial. ~~No licensee of any of said boards and~~
12 ~~agencies shall be registered by the division of registrations~~ THE DIVISION
13 SHALL NOT LICENSE A PERSON WHO HAS APPLIED TO, AND OTHERWISE
14 SATISFIED THE REQUIREMENTS FOR, LICENSURE BY A BOARD OR AGENCY
15 until THE APPLICANT HAS PAID AND THE DIVISION HAS RECEIVED all
16 APPLICABLE fees. ~~for examination or license or both have been paid by the~~
17 ~~licensee and receipt therefor delivered to the division of registrations.~~

18 (7) NOTWITHSTANDING any provision of the law to the contrary,
19 ~~notwithstanding~~ UPON THE APPROVAL AND RECOMMENDATION OF ANY
20 EXAMINING OR LICENSING BOARD OR COMMISSION IN THE DIVISION, the
21 executive director ~~of the department of regulatory agencies, upon the~~
22 ~~approval and recommendation of any examining or licensing board or~~
23 ~~commission in the division of registrations,~~ may change the period of the
24 validity of any license ~~or certificate~~ issued by ~~such~~ THE board or
25 commission for a period not to exceed three years. If the EXECUTIVE
26 DIRECTOR CHANGES THE period of validity of ~~any such~~ A license ~~or~~
27 ~~certificate is changed pursuant to the provisions of this subsection (7), the~~

1 DIRECTOR SHALL PROPORTIONATELY INCREASE OR DECREASE THE fee for
2 such THE license, ~~or certificate shall be proportionately increased or~~
3 ~~decreased~~, as the case may be, but ~~no increases~~ THE DIRECTOR shall be
4 ~~made which~~ NOT IMPOSE A FEE INCREASE THAT would result in hardship
5 to the licensee.

6 (8) (a) **Renewal.** Notwithstanding any provision of the law to the
7 contrary, the director ~~of the division of registrations within the~~
8 ~~department of regulatory agencies, hereinafter referred to as the~~
9 ~~"director"~~, may change the renewal date of any license ~~registration, or~~
10 ~~certificate~~ issued by such A licensing board or commission ~~to the end~~ SO
11 that approximately the same number of ~~certificates, registrations, or~~
12 licenses are scheduled for renewal in each month of the year. Where any
13 renewal date is so changed, the fee for the license ~~or certificate shall be~~
14 IS proportionately increased or decreased, as the case may be. ~~Any~~
15 ~~certificate~~, A license ~~or registration shall be~~ IS valid for a period of no less
16 than one year and no longer than three years, as determined by the
17 director in consultation with the licensing board or commission within the
18 division. ~~of registrations~~. A LICENSEE SHALL SUBMIT an application for
19 renewal ~~shall be submitted~~ to the licensing board or commission on forms
20 and in the manner prescribed by the director. ~~of the division of~~
21 ~~registrations~~.

22 (c) The director shall allow for a grace period for licenses
23 ~~certificates, and registrations~~ from licensing boards or commissions
24 within the division. ~~of registrations~~. A licensee ~~registrant, or certificate~~
25 ~~holder shall have~~ HAS a sixty-day grace period after the expiration of his
26 or her license ~~registration, or certificate~~ to renew such THE license
27 ~~registration, or certificate~~ without the imposition of a disciplinary

1 sanction for practicing on an expired license, registration, or certificate
2 by the director, licensing board, or commission for such profession FOR
3 PRACTICING ON AN EXPIRED LICENSE. The licensee ~~registrant, or certificate~~
4 holder shall satisfy all renewal requirements pursuant to the applicable
5 practice act and shall pay a delinquency fee in an amount determined
6 pursuant to sections 24-34-105 and 24-79.5-102.

7 (9) The executive director ~~of the department of regulatory~~
8 agencies is charged with the responsibility of receipt RESPONSIBLE FOR
9 RECEIVING and monitoring the disposition of complaints. ~~and may cause~~
10 THE EXECUTIVE DIRECTOR MAY REQUIRE an investigation to be made of
11 any A complaint presented to him concerning a person licensed by any
12 board or agency in the division of registrations. Such investigations shall
13 be subject to the provisions of CONCERNING A PERSON REGULATED BY A
14 BOARD OR AGENCY IN THE DIVISION IN ACCORDANCE WITH section
15 24-34-103.


16 (10) The EXECUTIVE DIRECTOR, AFTER CONSULTATION WITH THE
17 EXAMINING OR LICENSING BOARD OR COMMISSION CONCERNED, SHALL
18 DETERMINE THE form and content of any license ~~certificate, permit, or~~
19 similar indicia of authority issued by any examining or licensing board or
20 commission in the division, ~~of registrations,~~ including any document
21 evidencing renewal of a license. ~~certificate, permit, or similar indicia of~~
22 authority shall be determined by the executive director of the department
23 of regulatory agencies after consultation with the examining or licensing
24 board or commission concerned.

25 (12) Notwithstanding any **type 1** transfer as such transfer is
26 defined by the "Administrative Organization Act of 1968", article 1 of
27 this title, the executive director ~~of the department of regulatory agencies~~

1 ~~shall have the power to~~ MAY employ an administrative law judge, and to
2 MAY require any board in the division of ~~registrations~~ to use an
3 administrative law judge in lieu of a hearing by the board, to conduct
4 hearings on any matter within the jurisdiction of the examining and
5 licensing boards and agencies in the division, ~~of registrations~~, subject to
6 appropriations made to the department of personnel. Administrative law
7 judges ~~shall be~~ ARE appointed pursuant to part 10 of article 30 of this title.
8 ~~Any hearing conducted by~~ An administrative law judge employed
9 pursuant to this subsection (12) shall ~~be conducted~~ CONDUCT HEARINGS
10 in accordance with ~~the provisions of~~ section 24-4-105, and the
11 administrative law judge ~~shall have~~ HAS the authority specified ~~therein~~ IN
12 SECTION 24-4-105.

13 (13) ~~All laws~~ NOTWITHSTANDING ANY LAW to the contrary,
14 ~~notwithstanding~~, each member of a board or commission within the
15 division of ~~registrations~~ shall IS ENTITLED TO receive a per diem
16 allowance of fifty dollars for each day spent in attendance at board
17 meetings, hearings, or examinations and ~~shall~~ TO be reimbursed for actual
18 and necessary expenses incurred in the discharge of such official duties.
19 ~~except that such~~ THE per diem compensation shall FOR BOARD OR
20 COMMISSION MEMBERS MUST not exceed that sum in any fiscal year ~~which~~
21 ~~may be approved by~~ THAT the state personnel board APPROVES for
22 employees not under the state personnel system. THE GENERAL ASSEMBLY
23 SHALL ANNUALLY APPROPRIATE MONEYS FROM THE DIVISION OF
24 PROFESSIONS AND OCCUPATIONS CASH FUND FOR THE payment for all such
25 OF per diem compensation and expenses. ~~shall be made out of annual~~
26 ~~appropriations from the division of registrations cash fund by the general~~
27 ~~assembly.~~ A STATE EMPLOYEE SHALL NOT RECEIVE per diem

1 compensation shall not be paid to a state employee for services performed
2 during normal working hours, when on paid administrative leave, or when
3 otherwise prohibited by fiscal rules adopted by the state controller.

4 
5 **(15) Periodic evaluation of division functions.** THE
6 DEPARTMENT SHALL CONDUCT AN ANALYSIS AND EVALUATION OF THE
7 DIVISION AND ITS FUNCTIONS AS SET FORTH IN THIS PART 1 AND IN TITLE
8 12, C.R.S. THE DEPARTMENT SHALL CONDUCT THE ANALYSIS AND
9 EVALUATION IN ACCORDANCE WITH SECTION 24-34-104 (8) AND SHALL
10 SUBMIT ITS REPORT AND RECOMMENDATIONS FOR LEGISLATION, IF ANY, IN
11 ACCORDANCE WITH THAT SECTION. THE DEPARTMENT SHALL CONDUCT ITS
12 INITIAL ANALYSIS AND EVALUATION OF THE DIVISION AND SUBMIT ITS
13 REPORT BY OCTOBER 15, 2015, AND SHALL CONDUCT AN ANALYSIS AND
14 EVALUATION OF THE DIVISION EVERY TEN YEARS THEREAFTER. NOTHING
15 IN THIS SECTION REQUIRES THE TERMINATION OF THE DIVISION OR ITS
16 FUNCTIONS AS SPECIFIED IN THIS PART 1 AND IN TITLE 12, C.R.S.

17 **(16) Change of name - direction to revisor - repeal.**
18 (a) WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS
19 SUBSECTION **(16)**, THE REVISOR OF STATUTES SHALL CHANGE ALL
20 REFERENCES TO THE DIVISION OF REGISTRATIONS AND THE DIRECTOR OF
21 REGISTRATIONS IN THIS PART 1 AND EVERYWHERE ELSE A REFERENCE IS
22 CONTAINED IN THE COLORADO REVISED STATUTES TO THE DIVISION OF
23 PROFESSIONS AND OCCUPATIONS AND THE DIRECTOR OF PROFESSIONS AND
24 OCCUPATIONS.

25 (b) THIS SUBSECTION **(16)** IS REPEALED, EFFECTIVE JANUARY 1,
26 2016.

27 **SECTION 2.** In Colorado Revised Statutes, 24-34-105, **amend**

1 (1), (2) (a), (2) (b) (I), and (2) (b) (II); **repeal** (2) (b) (III) and (2) (b) (IV);
2 and **add** (3) as follows:

3 **24-34-105. Fee adjustments - division of professions and**
4 **occupations cash fund created - legal defense account - repeal.**

5 (1) This section ~~shall apply~~ APPLIES to all activities of the boards and
6 commissions in the division ~~of registrations~~ in the department. ~~of~~
7 ~~regulatory agencies.~~

8 (2) (a) Each board and commission in the division ~~of registrations~~
9 shall propose, as part of its annual budget request, an adjustment in the
10 amount of each fee that ~~such~~ THE board or commission is authorized by
11 law to collect. The budget request and the adjusted fees for each board or
12 commission ~~shall~~ MUST reflect direct and indirect costs that are
13 appropriated in the annual general appropriation act.

14 (b) (I) Based upon the appropriation made and subject to the
15 approval of the executive director, ~~of the department of regulatory~~
16 ~~agencies~~, each board or commission shall adjust its fees so that the
17 revenue generated from ~~said~~ THE fees approximates its direct and indirect
18 costs; except that the costs of the state board of psychologist examiners,
19 the state board of marriage and family therapist examiners, the state board
20 of licensed professional counselor examiners, the state board of social
21 work examiners, the state board of registered psychotherapists, and the
22 state board of addiction counselor examiners shall be considered
23 collectively in the renewal fee-setting process. Subsequent revenue
24 generated by the fees set by ~~such~~ THE boards plus revenues generated
25 pursuant to section 12-43-702.5, C.R.S., shall be compared to those
26 collective costs to determine recovery of direct and indirect costs. ~~Such~~
27 THE fees ~~shall~~ remain in effect for the fiscal year for which the budget

1 request applies. All fees collected by each board and commission, not
2 including any fees retained by contractors as established pursuant to ~~the~~
3 ~~provisions of~~ section 24-34-101 (10), shall be transmitted to the state
4 treasurer, who shall credit the same to the division of ~~registrations~~
5 PROFESSIONS AND OCCUPATIONS cash fund, which fund is hereby created.
6 All moneys credited to the division of ~~registrations~~ PROFESSIONS AND
7 OCCUPATIONS cash fund shall be used as provided in this section and shall
8 not be deposited in or transferred to the general fund of this state or any
9 other fund.

10 (II) The excise tax collected pursuant to section 24-34-104.4 shall
11 be credited to the legal defense account, which account is hereby created
12 within the division of ~~registrations~~ PROFESSIONS AND OCCUPATIONS cash
13 fund. The excise tax ~~shall be~~ IS the sole source of funding for the account,
14 and no other fee, or any portion thereof, collected by a board or
15 commission and credited to the division of ~~registrations~~ PROFESSIONS AND
16 OCCUPATIONS cash fund shall be deposited in or transferred to the
17 account. The account shall be used to supplement revenues received by
18 a board or commission but shall only be used for the purpose of paying
19 legal expenses incurred by said board or commission. Upon a
20 determination of the need of a board or commission for additional
21 revenues for the payment of legal expenses, the director ~~of the division~~
22 ~~of registrations~~ may authorize the transfer of revenues from the legal
23 defense account to the account of such board or commission in the
24 division of ~~registrations~~ PROFESSIONS AND OCCUPATIONS cash fund. For
25 purposes of this subparagraph (II), "legal expenses" includes ~~but is not~~
26 ~~limited to~~, costs relating to the holding of administrative hearings and
27 charges for legal services provided by the department of law,

1 administrative law judge services, investigative services, expert
2 witnesses, and consultants.

3 (III) ~~Notwithstanding any provision of this paragraph (b) to the~~
4 ~~contrary, on July 1, 1998, the state treasurer shall deduct one million~~
5 ~~dollars from the division of registrations cash fund and transfer such sum~~
6 ~~to the Colorado economic development fund created in section~~
7 ~~24-46-105.~~

8 (IV) ~~Notwithstanding any provision of this paragraph (b) to the~~
9 ~~contrary, on July 1, 1998, the state treasurer shall deduct two hundred~~
10 ~~sixty-seven thousand seven hundred fifty-six dollars from the division of~~
11 ~~registrations cash fund and transfer such sum to the retail electricity~~
12 ~~policy development fund created in section 40-4-114, C.R.S.~~

13 (3) **Change of name - direction to revisor - repeal.** (a) WITHIN
14 THREE YEARS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3), THE
15 REVISOR OF STATUTES SHALL CHANGE ALL REFERENCES TO THE DIVISION
16 OF REGISTRATIONS CASH FUND IN THIS PART 1 AND EVERYWHERE ELSE A
17 REFERENCE IS CONTAINED IN THE COLORADO REVISED STATUTES TO THE
18 DIVISION OF PROFESSIONS AND OCCUPATIONS CASH FUND.

19 (b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JANUARY 1,
20 2016.

21 **SECTION 3. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2012 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.