

House Bill 952 (COMMITTEE SUBSTITUTE)

By: Representatives Nimmer of the 178th, Dickey of the 140th, Rogers of the 10th, Coomer of the 14th, and Carter of the 175th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating professions and
2 businesses, so as to enact the "Georgia Professional Regulation Reform Act"; to provide for
3 state oversight of licensing boards; to establish state policy for the regulation of certain
4 professions and businesses; to provide for legislative findings; to provide for definitions; to
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
9 is amended by adding a new chapter to read as follows:

10 "CHAPTER 1C

11 43-1C-1.

12 This chapter shall be known and may be cited as the 'Georgia Professional Regulation
13 Reform Act.'

14 43-1C-2.

15 The General Assembly finds, determines, and declares that:

16 (1) In *N.C. State Bd. of Dental Exam'rs v. FTC*, 135 S. Ct. 1101 (2015), the Supreme
17 Court of the United States established a new standard for determining whether state
18 professional licensing boards and board members are entitled to immunity for federal
19 antitrust violations. Pursuant to *N.C. State Bd. of Dental Exam'rs*, state professional
20 licensing boards and board members are entitled to antitrust immunity only if:

21 (A) Their anticompetitive conduct is consistent with "clearly articulated" state policy;

22 and

23 (B) The state provides "active supervision" of their conduct.

24 (2) It is the policy of the State of Georgia to increase economic opportunities for all of
 25 its citizens by promoting competition and thereby encouraging innovation and job
 26 growth. It is therefore also the policy of the State of Georgia to displace competition only
 27 when necessary to protect consumers from present, significant, and substantiated harms
 28 that threaten public health and safety.

29 (3) By establishing the policies and procedures of this chapter, the General Assembly
 30 intends to ensure that the state's professional licensing boards and board members are
 31 entitled to antitrust immunity and that state laws relating to professions and businesses
 32 are interpreted and enforced in a manner consistent with clearly articulated state policy.

33 43-1C-3.

34 As used in this chapter, the term:

35 (1) 'Professional licensing board' means any board, commission, or other agency of the
 36 executive branch of state government which is created for the purpose of licensing or
 37 otherwise regulating or controlling any profession, business, or trade, including all
 38 boards, commissions, or other agencies established pursuant to this title or Chapter 4 of
 39 Title 26; provided, however, that such term shall not include the State Bar of Georgia.

40 (2) 'Rule' means a regulation, standard, or statement of general applicability, whether
 41 formal or informal, that implements, interprets, or prescribes law or policy or describes
 42 the organization, procedure, or practice requirements of any professional licensing board.
 43 Such term shall include the amendment or repeal of a prior rule but shall not include
 44 statements of policy or interpretation made as part of a decision in a contested case.

45 43-1C-4.

46 (a) The Secretary of State shall have the authority and duty to actively supervise the
 47 professional licensing boards of this state to ensure that their actions are consistent with
 48 clearly articulated state policy and shall therefore have the authority and duty to:

49 (1) Review and, in writing, approve or veto any rule before it is filed in the office of the
 50 Secretary of State if such rule is required to be filed in the office of the Secretary of State
 51 by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' or before such
 52 rule becomes effective, if filing is not required;

53 (2) Review and, in writing, approve or veto any rule that is:

54 (A) Challenged via an appeal to the Secretary of State after the denial of a petition filed
 55 pursuant to Code Section 50-13-9; or

56 (B) Submitted by a professional licensing board for review by the Secretary of State;

57 (3) Review and, in writing, approve, remand, modify, or reverse any action by a
 58 professional licensing board that is:

- 59 (A) Challenged via an appeal to the Secretary of State; or
60 (B) Submitted by a professional licensing board for review by the Secretary of State;
61 and
62 (4) Promulgate any regulations necessary to effectuate the provisions of this chapter,
63 including regulations relating to the process, procedures, and timelines that will govern
64 any appeal or submission filed in accordance with this Code section.
65 (b) Any review undertaken by the Secretary of State pursuant to subsection (a) of this
66 Code section shall be fully completed within 90 days.
67 (c) Nothing in this Code section shall be interpreted to subject the Secretary of State to any
68 of the administrative procedures of Chapter 13 of Title 50, the 'Georgia Administrative
69 Procedure Act.'"

70

SECTION 2.

71 All laws and parts of laws in conflict with this Act are repealed.