

House Bill 952 (AS PASSED HOUSE AND SENATE)

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 executive oversight of licensing boards; to establish state policy for the regulation of certain
4 professions and businesses; to provide for legislative intent; 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 The General Assembly finds, determines, and declares that:

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

14 (A) Their anticompetitive conduct is consistent with "clearly articulated" state policy;
15 and

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

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

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

26 **SECTION 2.**

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

29 "CHAPTER 1C30 43-1C-1.

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

33 43-1C-2.

34 As used in this chapter, the term:

35 (1) 'Governor' means the Governor of the State of Georgia or his or her designee.

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

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

47 43-1C-3.

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

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

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

56 (A) Challenged via an appeal to the Governor after the denial of a petition filed
 57 pursuant to Code Section 50-13-9; or

58 (B) Submitted by a professional licensing board for review by the Governor;

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

61 (A) Challenged via an appeal to the Governor; or

62 (B) Submitted by a professional licensing board for review by the Governor; and

63 (4) Promulgate any regulations or executive orders necessary to effectuate the provisions
64 of this chapter, including regulations or orders relating to the process, procedures, and
65 timelines that will govern any appeal or submission filed in accordance with this Code
66 section.

67 (b) Any review undertaken by the Governor pursuant to subsection (a) of this Code section
68 shall be fully completed within 90 days.

69 (c) Nothing in this Code section shall be interpreted to subject the Governor to any of the
70 administrative procedures of Chapter 13 of Title 50, the 'Georgia Administrative Procedure
71 Act.'

72 **SECTION 3.**

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