

1 SB120
2 138670-3
3 By Senator Bussman
4 RFD: Governmental Affairs
5 First Read: 07-FEB-12
6 PFD: 01/30/2012

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Alabama Sunset Law; to continue the
12 existence and functioning of the Alabama Board of Examiners in
13 Counseling until October 1, 2016, with certain modifications;
14 to amend Sections 34-8A-4 and 34-8A-6, Code of Alabama 1975,
15 so as to require that members of the board reside in different
16 congressional districts and to provide further for the
17 reinstatement of a license.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Pursuant to the Alabama Sunset Law, the
20 Sunset Committee recommends the continuance of the Alabama
21 Board of Examiners in Counseling until October 1, 2016, with
22 the additional recommendations for statutory change as set out
23 in Section 3.

24 Section 2. The existence and functioning of the
25 Alabama Board of Examiners in Counseling, created and
26 functioning pursuant to Sections 34-8A-1 to 34-8A-24,

1 inclusive, Code of Alabama 1975, is continued until October 1,
2 2016, and those code sections are expressly preserved.

3 Section 3. Sections 34-8A-4 and 34-8A-6, Code of
4 Alabama 1975, are amended to read as follows:

5 "§34-8A-4.

6 "(a) There is created an Alabama Board of Examiners
7 in Counseling, to consist of seven members who shall be
8 citizens of this state and appointed by the Governor pursuant
9 to the requirements of this section.

10 "(b) Within 30 days from July 18, 1979, the
11 Executive Committee of the Alabama Counseling Association, or
12 its successor organization, shall submit to the Governor a
13 list of qualified candidates for the board. The list shall
14 contain names of at least four citizens from the general
15 public, four qualified counselor educators, and six qualified
16 practicing counselors from which the Governor, within 60 days,
17 shall select the board. The board shall consist of two
18 citizens from the general public, two counselor educators, and
19 three counselors in private practice.

20 "(c) The initial appointments to the board shall be
21 for the following terms: The term of two members is one year,
22 the term of two members is two years, the term of three
23 members is three years.

24 "(d) The professional membership of the board
25 authorized under this section shall be licensed under this
26 chapter, except that the initial professional members shall be
27 members who have been rendering the private practice of

1 counseling services for at least one year, or who have been
2 giving instruction in counseling in a regionally accredited
3 institution of higher learning for at least three years.

4 "(e) The board shall perform those duties and
5 exercise those powers as this chapter prescribes and confers
6 upon it. No member of the board shall be liable to civil
7 action for any act performed in good faith for the performance
8 of his or her duty pursuant to this chapter.

9 "(f) Board members shall be ineligible for
10 reappointment for a period of three years following completion
11 of their terms. Subsequent appointments to the board shall be
12 made by the Governor in the following manner: Not later than
13 October 1, of each year the Executive Committee of the Alabama
14 Counseling Association, or its successor organization, shall
15 submit to the Governor the names of two qualified candidates
16 for the position on the board to be vacated by reason of
17 expiration of term of office. From the two candidates the
18 Governor shall appoint one member not later than January 1, to
19 serve on the board for a term of five years. Every reasonable
20 effort shall be made to insure that one member of the board be
21 a member of a cultural minority. Each board member shall hold
22 office until his or her successor is appointed and assumes
23 office. If the Governor fails to make an appointment by
24 January 1 for a successor to a member whose term has expired,
25 the Executive Committee of the Alabama Counseling Association,
26 or its successor organization, shall select a successor member
27 from among the two qualified candidates nominated to fill the

1 vacancy. Other vacancies occurring in the board shall be
2 filled for the unexpired term by appointment of the Governor
3 from two candidates for each vacancy submitted within 30 days
4 after the vacancy occurs by the Executive Committee of the
5 Alabama Counseling Association, or its successor organization.
6 The appointments shall be made within 45 days after the names
7 of the candidates have been submitted. If the Governor fails
8 to make the appointment within the 45-day period, the
9 Executive Committee of the Alabama Counseling Association, or
10 its successor organization, shall select a replacement member
11 from among the two qualified candidates nominated to fill the
12 unexpired term of a board member. Any board members may be
13 removed by the Governor, after notice and hearing, for
14 incompetence, neglect of duty, malfeasance in office, or moral
15 turpitude. Composition of the board shall always consist of
16 two citizens, two counselor educators, and three counselors in
17 private practice. The membership of the board shall be
18 inclusive and reflect the racial, gender, geographic,
19 urban/rural, and economic diversity of the state. After the
20 effective date of the act amending this subsection,
21 appointments shall be made so that not more than one board
22 member from any congressional district may be appointed to
23 serve at the same time. A college or university shall have
24 only one counselor educator representative as a member of the
25 board at any one time. In addition, no more than one
26 practitioner from the same practice setting or corporation
27 shall be members of the board at any one time.

1 "(g) Immediately and before entering public duties
2 of the office, the members of the board shall take the
3 constitutional oath of office and shall file the oath of
4 office in the office of the Governor, who upon receiving the
5 oath of office shall issue to each member a certificate of
6 appointment. The board shall have available for the Governor
7 or his or her representative detailed reports on proceedings
8 and shall make annual reports in the form as required by the
9 Governor.

10 "(h) The Alabama Board of Examiners in Counseling is
11 subject to the provisions of the Alabama Sunset Law of 1981,
12 and is classified as an enumerated agency pursuant to Section
13 41-20-3. The board shall automatically terminate on October 1,
14 2000, and every four years thereafter, unless a bill is passed
15 that it be continued, modified, or reestablished.

16 "§34-8A-6.

17 "(a) A licensee may request that the board designate
18 his or her license with inactive status at any point prior to
19 the date of renewal. Granting inactive status to a licensee
20 revokes all privileges associated with this chapter until
21 reactivation is requested by the licensee. Procedures for
22 reactivating a license for practice status will be established
23 by the board.

24 "(b) All fees from applicants seeking licensing or
25 certification for private practice under this chapter, and all
26 license, certificate, or renewal fees received under this
27 chapter shall be paid to the board. No part of any fee shall

1 be returnable under any conditions. All fees collected in this
2 manner plus renewal fees and all gifts or grants shall be
3 deposited in the State Treasury to the credit of the board.
4 There is appropriated from the Treasury funds to the credit of
5 the board to be used for printing, travel expenses of the
6 board, and for other necessary expenses as are necessary to
7 carry out the provisions of this chapter. Expenses shall be
8 paid under the written direction of the chair of the board, or
9 designee of the chair of the board, in accordance with normal
10 state procedure.

11 "(c) The board is required to charge an application
12 fee to be determined by the board. In addition to the
13 application fee, the board may establish by rule a reasonable
14 application package fee, supervising counselor approval
15 processing fee, examination fee, provisional licensure fee,
16 licensure reactivation fee, and fee for written verification
17 of licensee status to a third party. The board shall determine
18 and collect additional reasonable fees in amounts determined
19 by the board.

20 "(d) Every licensed professional counselor engaging
21 in private practice in this state is required to pay
22 biennially to the board by August 1 a renewal fee to be
23 determined by the board. The chair thereupon shall issue a
24 document renewing his or her license for a term of two years.
25 The license of any licensed professional counselor who fails
26 to have his or her license renewed biennially by August 1
27 shall lapse. Failure to renew a license, however, shall not

1 deprive the licensed professional counselor of the right of
2 renewal thereafter. A lapsed license may be renewed within a
3 period of two years after lapse upon payment of fees in
4 arrears, or thereafter, upon payment of a renewal fee as
5 determined by the board. Any licensed professional counselor
6 whose license has lapsed beyond six years must reapply under
7 the current regulations for initial licensure.

8 "(e) An associate licensed counselor engaging in
9 private practice under the supervision of a supervising
10 counselor in this state is required to pay annually to the
11 board by the anniversary of his or her initial license
12 issuance date a renewal fee to be determined by the board. The
13 chair thereupon shall issue a document renewing the license
14 for a term of one year. The license of any associate licensed
15 counselor who fails to have his or her license renewed
16 annually by the anniversary of the initial license issuance
17 date shall lapse. Failure to renew a license, however, shall
18 not deprive the associate licensed counselor of the right of
19 renewal thereafter. A lapsed license may be renewed within a
20 period of one year after lapse upon payment of fees in arrears
21 or thereafter, upon payment of a renewal fee as determined by
22 the board. Any associate licensed counselor whose license has
23 lapsed beyond six years must reapply under the current
24 regulations for initial licensure.

25 "(f) Any provision of law to the contrary
26 notwithstanding, the license of any person licensed as a
27 professional counselor who has allowed their license to lapse

1 for 15 years or less, and who has been in a profession for at
2 least eight years where counseling is a part of the daily
3 routine of the profession including, but not limited to,
4 service as a school principal, school vice principal, school
5 psychometrist, or school psychologist, shall be reinstated
6 upon the payment of a fee of five hundred dollars (\$500) and
7 the completion of 40 hours of continuing education."

8 Section 4. The Legislature concurs in the
9 recommendations of the Sunset Committee as provided in
10 Sections 1, 2, and 3.

11 Section 5. This act shall become effective
12 immediately upon its passage and approval by the Governor, or
13 its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 07-FEB-12

Read for the second time and placed on the calen-
dar..... 28-FEB-12

Read for the third time and passed as amended 15-MAR-12

Yeas 35
Nays 0

Patrick Harris
Secretary