

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 548

BY SENATOR MAYNARD

[Introduced January 20, 2020; referred
to the Committee on Government Organization; and
then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §30-1F-1, §30-1F-2, §30-1F-3, §30-1F-4, §30-1F-5, §30-1F-6, §30-1F-7, §30-
 3 1F-8, §30-1F-9, §30-1F-10, §30-1F-11, and §30-1F-12, all relating to occupational
 4 licensing or government certification; and requiring recognition for qualified applicants
 5 from other states.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1F. UNIVERSAL RECOGNITION OF OCCUPATIONAL LICENSES ACT.

§30-1F-1. Definitions.

1 The words defined in this section have the meanings given them for purposes of this article
 2 unless the context clearly requires otherwise.

3 (a) "Board" means a government agency, board, department or other government entity
 4 that regulates a lawful occupation and issues an occupational license or government certification
 5 to an individual.

6 (b) "Government certification" means a voluntary, government-granted and
 7 nontransferable recognition to an individual who meets personal qualifications related to a lawful
 8 occupation. Upon the government's initial and continuing approval, the individual may use
 9 "government certified" or "state certified" as a title. A noncertified individual also may perform the
 10 lawful occupation for compensation but may not use the title "government certified" or "state
 11 certified". In this article, the term "government certification" is not synonymous with "occupational
 12 license". It also is not intended to include credentials, such as those used for medical-board
 13 certification or held by a certified public accountant, that are prerequisites to working lawfully in
 14 an occupation.

15 (c) "Lawful occupation" means a course of conduct, pursuit or profession that includes the
 16 sale of goods or services that are not themselves illegal to sell irrespective of whether the
 17 individual selling them is subject to an occupational license.

18 (d) "Occupational license" is a nontransferable authorization in law for an individual to

19 perform exclusively a lawful occupation based on meeting personal qualifications established by
20 the Legislature. In an occupation for which a license is required, it is illegal for an individual who
21 does not possess a valid occupational license to perform the occupation.

22 (e) "Other state" or "another state" means any U.S. territory or state in the United States
23 other than this state.

24 (f) "Private certification" is a voluntary program in which a private organization grants
25 nontransferable recognition to an individual who meets personal qualifications and standards
26 relevant to performing the occupation as determined by the private organization. The individual
27 may use the designated title of "certified", as permitted by the private organization.

28 (g) "Scope of practice" means the procedures, actions, processes and work that a person
29 may perform under an occupational license or government certification issued in this state.

§30-1F-2. Occupational license or governmental certification.

1 (a) Notwithstanding any other law, the board shall issue an occupational license or
2 government certification to a person upon application, if all the following apply:

3 (1) The person holds a current and valid occupational license or government certification
4 in another state in a lawful occupation with a similar scope of practice, as determined by the board
5 in this state;

6 (2) The person has held the occupational license or government certification in the other
7 state for at least one year;

8 (3) The board in the other state required the person pass an examination, or to meet
9 education, training or experience standards;

10 (4) The board in the other state holds the person in good standing;

11 (5) The person does not have a disqualifying criminal record as determined by the board
12 in this state under state law;

13 (6) No board in another state revoked the person's occupational license or government
14 certification because of negligence or intentional misconduct related to the person's work in the

15 occupation;

16 (7) The person did not surrender an occupational license or government certification
17 because of negligence or intentional misconduct related to the person’s work in the occupation in
18 another state;

19 (8) The person does not have a complaint, allegation or investigation pending before a
20 board in another state which relates to unprofessional conduct or an alleged crime. If the person
21 has a complaint, allegation or investigation pending, the board in this state shall not issue or deny
22 an occupational license or government certification to the person until the complaint, allegation or
23 investigation is resolved or the person otherwise meets the criteria for an occupational license or
24 government certification in this state to the satisfaction of the board in this state; and

25 (9) The person pays all applicable fees in this state.

26 (b) If another state issued the person a government certification but this state requires an
27 occupational license to work, the board in this state shall issue an occupational license to the
28 person if the person otherwise satisfies subsection (a).

§30-1F-3. Work experience.

1 Notwithstanding any other law, the board shall issue an occupational license or
2 government certification to a person upon application based on work experience in another state,
3 if all the following apply:

4 (a) The person worked in a state that does not use an occupational license or government
5 certification to regulate a lawful occupation, but this state uses an occupational license or
6 government certification to regulate a lawful occupation with a similar scope of practice, as
7 determined by the board;

8 (b) The person worked for at least three years in the lawful occupation; and

9 (c) The person satisfies subdivisions (a)(5) through (9), §30-1F-2, of this article.

§30-1F-4. Private certification.

1 Notwithstanding any other law, the board shall issue an occupational license or

2 government certification to a person based on holding a private certification and work experience
3 in another state, if all the following apply:

4 (a) The person holds a private certification and worked in a state that does not use an
5 occupational license or government certification to regulate a lawful occupation, but this state
6 uses an occupational license or government certification to regulate a lawful occupation with a
7 similar scope of practice, as determined by the board;

8 (b) The person worked for at least two years in the lawful occupation;

9 (c) The person holds a current and valid private certification in the lawful occupation;

10 (d) The private certification organization holds the person in good standing; and

11 (e) The person satisfies subsection (a) (5)-(9) of section 30-1F-2.

§30-1F-5. State law examination.

1 A board may require a person to pass a jurisprudential examination specific to relevant
2 state laws that regulate the occupation if an occupational license or government certification in
3 this state requires a person to pass a jurisprudential examination specific to relevant state statutes
4 and administrative rules that regulate the occupation.

§30-1F-6. Decision.

1 The board will provide the person with a written decision regarding the application within
2 60 days after receiving a complete application.

§30-1f-7. Appeal.

1 (a) The person may appeal the board's decision to a court of general jurisdiction.

2 (b) The person may appeal the board's:

3 (1) Denial of an occupational license or government certification;

4 (2) Determination of the occupation;

5 (3) Determination of the similarity of the scope of practice of the occupational license or
6 government certification issued; or

7 (4) Other determinations under this article.

§30-1F-8. State laws and jurisdiction.

1 A person who obtains an occupational license or government certification pursuant to this
2 article is subject to:

3 (a) The laws regulating the occupation in this state; and

4 (b) The jurisdiction of the board in this state.

§30-1F-9. Exception.

1 This article does not apply to an occupation regulated by the state supreme court.

§30-1F-10. Limitations.

2 (a) An occupational license or government certification issued pursuant to this article is
3 valid only in this state. It does not make the person eligible to be work in another state under an
4 interstate compact or reciprocity agreement unless otherwise provided in law.

5 (b) Nothing in this article prevents this state from entering into a licensing compact or
6 reciprocity agreement with another state, foreign province or foreign country.

7 (c) Nothing in this article prevents this state from recognizing occupational credentials
8 issued by a private certification organization, foreign province, foreign country, international
9 organization or other entity.

10 (d) Nothing in this article requires a private certification organization to grant or deny
11 private certification to any individual.

§30-1F-11. Cost.

1 The board may charge a fee to the person to recoup its costs not to exceed \$100 for each
2 application.

§30-1F-12. Preemption.

1 This article preempts laws by township, municipal, county and other governments in the
2 state which regulate occupational licenses and government certification.

NOTE: The purpose of this bill is to provide for occupational licenses or government certification by recognition for qualified applicants from other states.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.