

**ALLOW JOINDER OF PARTIES IN
ADMINISTRATIVE ACTIONS**

House Bill 6556

Sponsor: Rep. Bruce Patterson

Committee: Regulatory Reform

Complete to 12-6-02

A SUMMARY OF HOUSE BILL 6556 AS INTRODUCED 12-3-02

The Department of Consumer and Industry Services regulates various professionals under the Occupational Code, generally through licensure or registration. Among the occupations regulated under the code are accountants, collection agents, barbers, cosmetologists, employment agents, hearing aid dealers, funeral directors, architects, engineers, surveyors, foresters, landscape architects, community planners, residential builders, real estate brokers, real estate appraisers, and ocularists.

Under the Occupational Code, any person may file a complaint with the Department of Consumer and Industry Services alleging that a person has violated the code (or a rule or order issued under the code). The department is required to investigate each complaint and after investigation may either close the complaint, if no evidence of a violation is found, or take other appropriate action, including preparing a formal complaint. The department is required to serve the formal complaint on the respondent (the person against whom the complaint is filed) and the complainant.

House Bill 6556 would amend the code to allow a respondent to “join” (or add) another licensee or registrant to the complaint as a respondent, either by so indicating in writing to the department, or as part of a written response to a complaint. In such a case, the department would have to appropriately notify the co-respondent and serve all respondents with a notice describing the compliance conference and hearing process. All respondents would then have all of the options outlined in the code concerning resolving a complaint (i.e., negotiating a settlement, demonstration of compliance, or a contested case hearing). In addition, the bill would require that a copy of a hearing report be submitted to any person who had been joined as a respondent in a case.

If a hearing occurred, the bill would require the administrative law hearing examiner to make a determination of fault regarding a respondent, and among one or more respondents. If more than one respondent was determined to be at fault, the hearing examiner would make a determination of the percentage of total fault attributable to each respondent. Fault would be considered “several” (separately or individually) and not “joint” (shared).

After a hearing, an administrative law hearing examiner is required to submit a determination of findings of fact and conclusions of law to the department, the attorney general, and the appropriate licensing board. The bill would require that, in the case of findings involving licensees of different occupations licensed under the code, the hearing report would be submitted to the board governing the original respondent. And, if a case resulted in a determination of

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findings of fact and conclusions of law that involved respondents licensed or registered in different occupations, the board governing the original respondent would make the determinations of penalties, remedies, and sanctions.

Within 60 days after receipt of an administrative hearing examiner's hearing report, a licensing board is required to meet and determine the penalties to be assessed in a case. The bill would require a board to follow the allocation of the percentage of fault only under circumstances where restitution was ordered. A board would be specifically prohibited from awarding property or personal injury damages under the Occupational Code.

MCL 339.508 et al.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.