

116TH CONGRESS  
2D SESSION

# H. R. 8680

To provide immunity from liability under section 4 of the Clayton Act for damages in cases against occupational licensing boards that meet appropriate standards, to provide for the establishment of those standards, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 2020

Mr. RASKIN (for himself, Mr. CICILLINE, and Mr. CONAWAY) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide immunity from liability under section 4 of the Clayton Act for damages in cases against occupational licensing boards that meet appropriate standards, to provide for the establishment of those standards, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Occupational Licensing  
5       Board Antitrust Damages Relief Act of 2020”.

1 **SEC. 2. IMMUNITY FROM LIABILITY FOR DAMAGES.**

2 (a) IMMUNITY.—No person may recover damages  
3 under section 4 of the Clayton Act (15 U.S.C. 15) from  
4 an occupational licensing board, or from any member, offi-  
5 cer, employee, or agent of such board, for an action taken  
6 in the official capacity of such board or the individual in-  
7 volved, if the requirements specified in section 3 are satis-  
8 fied with respect to such board.

9 (b) APPLICATION TO CASES.—Subsection (a) shall  
10 not apply to a case commenced before the date of enact-  
11 ment of this Act unless it would be inequitable not to apply  
12 such subsection to such case.

13 **SEC. 3. STATE BOARD OVERSIGHT PROVISIONS REQUIRED**  
14 **FOR IMMUNITY UNDER THIS ACT.**

15 For purposes of receiving immunity from liability for  
16 damages specified in section 2, an occupational licensing  
17 board referred to in such section shall be established in  
18 a State that requires that—

19 (1) such State have in effect a law that—

20 (A) requires an occupational license to en-  
21 gage in or practice the occupation regulated by  
22 the such board,

23 (B) specifies the qualifications required to  
24 be met to obtain such license, and

25 (C) requires that the licensee adhere to the  
26 applicable standards of practice and ethical

1 standards to engage in or practice such occupa-  
2 tion,

3 (2) all members of such board be appointed or  
4 assigned by the chief executive officer, the legisla-  
5 ture, or other elected officer of such State,

6 (3) the such board include public representa-  
7 tion, and

8 (4) such State or such board has in effect a  
9 mechanism under which a person aggrieved by an  
10 action of such board has the right—

11 (A) to contest such action at a hearing be-  
12 fore such board at which such person may pro-  
13 vide evidence, argument, and analysis,

14 (B) to review, at a reasonable time before  
15 the hearing, all evidence that such board gath-  
16 ers relating to such action,

17 (C) to receive a final reasoned decision in  
18 writing from such board within a reasonable pe-  
19 riod after the hearing, and

20 (D) to appeal an adverse decision of such  
21 board to an independent adjudicator, including  
22 a court.

23 **SEC. 4. DEFINITIONS.**

24 In this Act:

1           (1) OCCUPATIONAL LICENSE.—The term “occu-  
2           pational license” means a nontransferable State-  
3           issued authorization to perform an occupation.

4           (2) OCCUPATIONAL LICENSING BOARD.—The  
5           term “occupational licensing board” means an entity  
6           established under State law—

7                   (A) for the express purpose of regulating  
8                   the qualifications required for a person to en-  
9                   gage in or practice an occupation in such State,  
10                  and

11                   (B) that has authority conferred by such  
12                   law to interpret or enforce the laws and regula-  
13                   tions of such State applicable to regulating such  
14                   qualifications.

15           (3) PERSON.—The term “person” has the  
16           meaning given such term in subsection (a) of the 1st  
17           section of the Clayton Act (15 U.S.C. 12(a)).

18           (4) STATE.—The term “State” means any of  
19           the several States, the District of Columbia, or a  
20           territory or possession of the United States.

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