

# HOUSE . . . . . No. 3512

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By Mr. Sannicandro of Ashland, for the committee on Higher Education, on House, Nos. 6 and 38, a Bill relative to oversight of private occupational schools (House, No. 3512). June 16, 2011.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act relative to oversight of private occupational schools.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 13 of the General Laws is hereby amended by inserting after section 8 the  
2 following section: -

3 Section 8A. There is hereby established an office of private occupational school education  
4 within the division of professional licensure, which shall be subject to the direction and  
5 supervision of the director of the division. The office of private occupational school education  
6 shall assist the director in carrying out the powers, duties and responsibilities set forth in sections  
7 259 through 275 of chapter 112. The director may appoint such employees as necessary to carry  
8 out the powers, duties and responsibilities set forth in sections 259 through 275 of chapter 112.  
9 The office of private occupational school education shall not be deemed a board serving in the  
10 division of professional licensure, within the meaning of this chapter.

11 SECTION 2. Sections 1 to 11 of chapter 75C of the General Laws are hereby repealed.

12 SECTION 3. Sections 1 to 14 of chapter 75D of the General Laws are hereby repealed.

13 SECTION 4. Sections 20A to 21G of chapter 93 of the General Laws are hereby repealed.

14 SECTION 5. Chapter 112 of the General Laws is hereby amended by inserting after section 258  
15 the following sections:-

16 Section 259. As used in this chapter, the following definitions shall apply:

17 Division – the division of professional licensure established pursuant to section eight of chapter  
18 thirteen acting by and through its director.

19 Private occupational school – a private educational organization, not specifically exempted by  
20 section 261 of this chapter, that engages for profit or by charging tuition in teaching, training,  
21 instructing, or preparing individuals in a course or courses of instruction or study for the purpose  
22 of training or preparing individuals for a field or endeavor in a business, trade, technical, or  
23 industrial occupation, as well as for any other vocational purpose.

24 For the purposes of this chapter, a private educational organization shall include any individual,  
25 firm, partnership, association, corporation, organization, trust, or other legal entity or  
26 combination of such entities that maintain a place of business within the commonwealth or  
27 solicits business within the commonwealth to provide classroom instruction as well as distance  
28 education. For purposes of this chapter, “private occupational school” shall include  
29 correspondence schools, private business schools, private trade schools, and such similar entities  
30 as shall be designated by the division.

31 Section 260. The division shall have the following powers and duties: (i) to administer and  
32 enforce the provisions of this chapter; (ii) to adopt and promulgate such rules and regulations  
33 governing the licensure and the operation of private occupational schools as may be necessary to

34 promote the public, health, welfare, and safety of citizens of the commonwealth including  
35 mandating liability insurance and other such requirements; (iii) to grant licenses to qualified  
36 applicants; (iv) to approve the curriculum, instructors, and staff of licensed schools; (v) to  
37 investigate complaints, conduct inspections, review billing and student records, and set and  
38 administer penalties as defined in sections 259 through 273 of this chapter for fraudulent,  
39 deceptive or professionally incompetent and unsafe practices and for violations of rules and  
40 regulations promulgated by the division, and (vi) to review, under subsection (b) of section 172  
41 of chapter 6, the criminal offender record information of principals, administrators, employees,  
42 and other individuals related to private occupational schools for purposes of licensure and  
43 reviewing complaints.

44 Section 261. All private occupational schools operating in the commonwealth shall be  
45 licensed by the division; provided, however, that the provisions of this chapter shall not apply to:

46 1. A school, college or other educational institution regularly chartered and authorized by the  
47 commonwealth to grant degrees; however, this exemption shall not apply to non-degree  
48 programs offered through such a school, college or other educational institution by a third party;

49 2. A school conducted by any persons or entities for the education and training of their own  
50 employees with no fee or tuition being charged to the employee;

51 3. A school exclusively engaged in training persons with disabilities;

52 4. A school providing distance learning/online/correspondence services having no place of  
53 business in the commonwealth;

- 54 5. Recreational programs conducted for the purpose of relaxation and enjoyment regarding  
55 instruction in non-occupational pastimes, exercise, or other such diversions;
- 56 6. Programs owned and operated by established religious institutions for the purpose of  
57 providing religious instruction;
- 58 7. Courses of instruction conducted by a public school district or combination of public school  
59 districts;
- 60 8. Private schools or programs conducted for the education of students in grades pre-kindergarten  
61 through twelve;
- 62 9. Incidental training associated with the purchase of a product from said vendor, if the training  
63 is to familiarize the purchaser with its use and the purchaser is not awarded any form of a  
64 certificate or diploma for having received the training; or
- 65 10. Such other programs as shall be designated by the division.

66 Section 262. Any person or entity desiring to operate a private occupational school within the  
67 commonwealth shall submit to the state auditor, in the manner prescribed by the auditor, such  
68 financial information as may be required, including but not limited to ownership and  
69 organization of the school, the financial condition of the school, and the form and content of the  
70 student enrollment agreement to be used by the school. In carrying out the provisions of this  
71 section, the auditor is authorized to review the full records of the school and may carry out on-  
72 site reviews of the school.

73 If, after investigation, the state auditor finds the applicant is financially qualified to operate a  
74 private occupational school, the division shall be notified of the applicant's eligibility to apply

75 for a license to operate a private occupational school. The state auditor shall thereafter re-  
76 establish the eligibility of licensees as requested by the division as well as when the state auditor  
77 deems, in his or her discretion, that such an evaluation is appropriate; provided, however, that  
78 each licensee shall be reviewed by the auditor at least once every 3 years. License renewal shall  
79 be granted only after such an investigation has been conducted and certification of the financial  
80 eligibility of the applicant for renewal has been made by the state auditor. The state auditor's  
81 finding of eligibility shall not be construed as the granting of a license by the division.

82 If the state auditor finds that an applicant or licensee is not financially responsible and qualified  
83 to operate a private occupational school, certification of financial eligibility shall be denied and  
84 the auditor shall state the reasons for denial in writing.

85 Notwithstanding the provisions of section 12 of chapter 11 pertaining to maintenance of the  
86 records in the department of the state auditor, such financial information submitted to the state  
87 auditor shall be retained in the office of the state auditor and shall not be classified as public  
88 records.

89 The state auditor may adopt rules and regulations, issue guidelines and prescribe forms to carry  
90 out the provisions of this section and section 264.

91 Section 263. Any person or entity desiring to operate a private occupational school within the  
92 commonwealth whose application has been granted initial approval by the state auditor pursuant  
93 to section 262 shall submit to the division, on a form supplied by the division, such information  
94 as the division may require, including but not limited to:

95 (a) the training and experience of the instructors employed or to be employed by the school;

96 (b) the building facilities and equipment available or to be available for the instruction to be  
97 offered by the school;

98 (c) the form and content of the courses to be offered by the school;

99 (d) the particular field of instruction to be offered by the school; and

100 (e) the form of any contract or agreement to be executed by a prospective student.

101 If, after investigation, the division finds that the applicant is qualified to operate a private  
102 occupational school, the division shall issue a license to such person or entity authorizing the  
103 operation of such school.

104 If the division finds that the applicant is not qualified to operate a private occupational school,  
105 the division shall refuse to issue a license, and shall state the reasons therefor in writing.

106 The division shall determine the license term, renewal cycle, and renewal period for licenses  
107 issued by the division. Each licensee shall apply to the division for license renewal on or before  
108 the expiration date, as determined by the division, unless such license was revoked, suspended,  
109 or canceled earlier by the division as a result of a disciplinary proceeding instituted pursuant to  
110 this chapter. Applications for initial licenses and renewal shall be in the manner approved by the  
111 division and accompanied by payment of a fee, as prescribed by the executive office of  
112 administration and finance pursuant to section 3B of chapter 7. Licenses shall be non-  
113 transferrable. A change in ownership or location shall require a new application. Upon closure  
114 of a private occupational school, all student records shall be conveyed to the division and a fee  
115 determined by the secretary of administration and finance under the provision of section 3B of  
116 chapter 7 paid by the school to cover any costs associated with the maintenance of such records.

117 No application for licensure shall be approved unless all principals and employees of said school  
118 are of good moral character.

119 Section 264. No license shall issue under the provisions of this chapter until the prospective  
120 licensee, or two or more prospective licensees who intend to secure a joint indemnification, shall  
121 furnish either a bond with surety or a form of indemnification acceptable to the division in the  
122 amount determined by the state auditor in a sum not less than \$5,000 in the case of a school's  
123 license, and in the amount of at least \$1,000 in the case of a license for a representative of a  
124 private business school; provided, however, that the liability of the person providing  
125 indemnification shall be limited to indemnifying the claimant only for his actual damages.

126 The state auditor shall require additional security in those cases where he is of the opinion that  
127 the cash resources of the licensee may not be sufficient to make tuition refunds to students as  
128 required under section 13K of chapter 255; and provided further, that the amount of the  
129 indemnification in the case of the school shall not exceed the anticipated maximum unearned  
130 tuitions. For the purposes of this section the forms of indemnification other than a surety bond  
131 which shall be furnished to the division for licensure are the following:

132 1. An irrevocable letter of credit, maintained for a period of 1 year, issued by a financial  
133 institution as defined in section 1 of chapter 140E in an amount determined annually by the state  
134 auditor and approved by the division payable to the commonwealth in which the commonwealth  
135 is designated as the beneficiary.

136 2. A term deposit account held in a financial institution as defined in section 1 of chapter 140E,  
137 payable to the commonwealth, shall be held in trust for the benefit of students entitled thereto  
138 under section 13K of chapter 255 or subject to refund provisions and policies approved by the

139 division. Said account shall be maintained for a period of 1 year, the amount to be determined  
140 annually by the state auditor and acceptable to the division. All interest shall be paid annually to  
141 the appropriate school, unless the term deposit account is activated due to a school closing.  
142 Should the licensee for any reason, while not in default, discontinue operation, all monies on  
143 deposit, including interest, shall be released to the appropriate school subject to the approval of  
144 the division.

145 A joint indemnification shall be defined as an indemnification issued to cover all prospective  
146 licensees to be insured under the indemnification in an amount sufficient to cover the tuition  
147 refunds of the participating schools.

148 Each such indemnification shall be conditioned to provide that the obligor shall satisfy all valid  
149 claims, as determined by the division, to recover damages sustained by students resulting from a  
150 breach of contract; provided, however, that the aggregate liability of the person providing  
151 indemnification for all breaches of the conditions of the indemnification shall not, under any  
152 circumstances, exceed the sum of such indemnification. Such indemnification shall not limit or  
153 impair any right of recovery otherwise available pursuant to law nor shall the amount of the  
154 indemnification be relevant in determining the amount of damages or other relief to which any  
155 plaintiff may be entitled. The surety on any bond may cancel the bond upon giving 60 days'  
156 notice in writing to the division and thereafter shall be relieved of the liability for any breach of  
157 condition occurring after the effective date of said cancellation.

158 The indemnification shall be procured only from companies or institutions legally authorized to  
159 do business in the commonwealth.

160 Section 265. The division shall conduct routine inspections and investigate all complaints  
161 filed relating to the operations of a private occupational school, and any violation of sections 259  
162 through 273 of this chapter or any rule or regulation of said division. Such complaints may be  
163 brought by any person, or the division. The division shall have the power to issue subpoenas  
164 requiring the attendance and testimony of witnesses and the production of any evidence,  
165 including books, records, correspondence or documents, relating to any matter in question in the  
166 investigation. The division may administer oaths and affirmations, examine witnesses, and  
167 receive evidence. The power to issue subpoenas may be exercised by any person or persons  
168 designated by the division for such purpose. Any witness summoned may petition the division to  
169 vacate or modify a subpoena issued.

170 After such investigation as deemed appropriate, the division may grant the petition in whole or  
171 part upon a finding that the testimony, or the evidence whose production is required, does not  
172 relate with reasonable directness to any matter in question, or that the subpoena for the  
173 attendance of a witness or the production of evidence is unreasonable or oppressive, or has not  
174 been issued a reasonable period in advance of the time when the evidence is requested. Upon the  
175 failure of any person to comply with a subpoena issued by the division, any justice of the  
176 superior court, upon application by the division, may in his or her discretion issue an order  
177 requiring the attendance of such person before the agency and the giving of testimony or  
178 production of evidence. Any person failing to obey the court's order may be punished by the  
179 court for contempt.

180 Section 266. For the purposes of this chapter, conduct which places into question the school's  
181 fitness to conduct educational operations shall include, but not be limited to the school or the  
182 school's principals, employees, or other representatives: (1) committing fraud or

183 misrepresentation in obtaining a license; (2) engaging in criminal conduct which the division  
184 determines to be of such a nature as to render such a school or its principals as unfit to operate as  
185 a licensed educational facility, as evidenced by criminal proceedings which resulted in a  
186 conviction, guilty plea or plea of nolo contendere or an admission of sufficient facts; (3)  
187 engaging in conduct which places into question the holder's competence to operate a private  
188 occupational school including, but is not limited to, gross misconduct or misconduct in the  
189 practice of the education activities, dishonesty, fraud or deceit, operating beyond the authorized  
190 scope, or operating the school with negligence; (4) allowing instructors, staff, or other associated  
191 personnel to function when such personnel are not able to perform the essential functions of their  
192 positions while impaired by alcohol, drugs or other such cause; (5) aiding or abetting an  
193 unqualified person to perform activities requiring a qualified instructor; (6) holding a license,  
194 certificate, registration, or authority issued by another state or territory of the United States, the  
195 District of Columbia, or foreign state or nation with authority to issue such a license, certificate,  
196 registration, and that is or has been revoked, canceled or suspended, not renewed or otherwise  
197 acted against, or the holder has been disciplined, if the basis for the action would constitute a  
198 basis for disciplinary action in the commonwealth; (7) violating any rule or regulation of the  
199 division; (8) failing to cooperate with the division or its agents in the conduct of an inspection or  
200 investigation; (9) violating any ethical standard which the division determines to be of such a  
201 nature as to render such a school unfit, such as:

- 202 1. Failing to establish and maintain minimum standards concerning quality of education,  
203 ethical and business practices, health and safety, and fiscal responsibility;
- 204 2. Failing to protect students against substandard, transient, unethical, deceptive, or fraudulent  
205 practices;

206 3. Granting of false educational credentials;

207 4. Authorizing or otherwise failing to protect the public from misleading literature,  
208 advertising, solicitation, or representation by the school or its agents;

209 5. Failing to preserve essential records.

210 Section 267. (a) Except as otherwise provided by law, the division may, upon determination  
211 made after a hearing finding the holder of a license issued responsible for any of the offenses  
212 enumerated in this chapter, undertake the following actions:

213 1. suspend, revoke, cancel or place on probation such license;

214 2. reprimand or censure a holder;

215 3. assess upon such holder a civil administrative penalty not to exceed \$5,000 for each violation;

216 4. require such holder or staff of such holder to complete additional education and training as a  
217 condition of retention or future consideration or reinstatement of said license;

218 5. require such holder to practice under appropriate supervision for a period of time as  
219 determined by the division as a condition of retention or future consideration of reinstatement of  
220 said license;

221 6. require restitution of student fees and tuition, where appropriate; and/or

222 7. issue orders to licensees directing them to cease and desist from unethical or unprofessional  
223 conduct.

224 (b) Nothing in this section shall be deemed a limitation on the division's authority to impose  
225 such sanctions by consent agreement as are deemed reasonable and appropriate by the division.  
226 Any person aggrieved by any disciplinary action taken by the division pursuant to this chapter  
227 may, pursuant to section 14 of chapter 30A, file a petition for judicial review with the Supreme  
228 Judicial Court.

229 (c) The division shall not be required to defer action upon any charge because of pending  
230 criminal charges against a person or school accused, nor shall the pendency of any charge before  
231 the division act as a continuance or ground for delay in a criminal action.

232 Section 268. Upon determination that a school's continued operation poses an immediate and  
233 serious threat to the public health, safety, or welfare, the division may suspend or refuse to renew  
234 the holder's license, pending a hearing on the merits of the allegation against the holder;  
235 provided that the division shall hold a hearing pursuant to chapter 30A on the necessity for the  
236 emergency action within 10 days of the action. The division shall issue to the licensee a written  
237 order of summary suspension which specifies the findings of the division and the reasons for its  
238 summary suspension and which also includes notice of the date, time and place of the  
239 aforementioned ten-day hearing. At the request of a licensee the division may reschedule this  
240 hearing to a date and time mutually agreeable to the division and licensee. Any such  
241 rescheduling of the hearing granted at the licensee's request shall not operate to lift or stay the  
242 summary suspension order. If such hearing is not held within 10 days of the division's  
243 emergency action, the license against which action was taken shall be deemed reinstated.

244 At the adjudicatory hearing on the necessity for summary suspension, the division shall receive  
245 evidence limited to determining whether the summary suspension order shall continue in effect

246 pending the final disposition of the complaint. Following such hearing, any continuing  
247 suspension imposed by the division shall remain in effect until the conclusion of any formal  
248 proceeding on the merits of the allegations against the holder, including judicial review thereof,  
249 or withdrawn by such division. The division shall adopt rules and regulations governing the  
250 emergency suspension procedure authorized by this section.

251 Section 269. Notwithstanding any general or special law to the contrary, the division may,  
252 after a consent agreement between the parties or after an opportunity for an adjudicatory  
253 proceeding held pursuant to chapter 30A, assess and collect a civil administrative penalty not to  
254 exceed \$10,000 for the first violation and a civil administrative penalty not to exceed \$25,000 for  
255 a second or subsequent violation upon a person or entity who, without holding the required  
256 license, operates a private occupational school. The division may also order the individual or  
257 entity to cease and desist from continued practice without a license. Nothing in this section shall  
258 affect, restrict, diminish or limit any other penalty or remedy provided by law. The division may  
259 apply to the appropriate court for an order enjoining the unlicensed practice of a trade or  
260 profession, to enforce an order issued after a hearing conducted per this section, and/or for such  
261 other relief as may be appropriate to enforce this section.

262 Any court review of an order of the division issued after a hearing shall be conducted in  
263 accordance with the standards of review provided in paragraphs (3) to (7), inclusive, of section  
264 14 of chapter 30A. An assessment of a civil administrative penalty under this section shall bar a  
265 subsequent imposition of a criminal penalty for the same violation.

266 Section 270. Whoever operates or acts as a representative of an unlicensed private  
267 occupational school, or operates or acts as a representative during the suspension or after the

268 revocation of a license issued pursuant to this chapter, shall be punished by imprisonment for not  
269 more than 6 months or by a criminal fine of not more than \$10,000, or both. An imposition of a  
270 criminal penalty under this section shall bar a subsequent assessment of a civil administrative  
271 penalty for the same violation.

272 The division shall not defer action upon any charge before it until the conviction of the person  
273 accused, nor shall the pendency of any charge before the division act as a continuance or ground  
274 for delay in a criminal action.

275 Section 271. Any pupil of a private occupational school, who is misled by an officer or  
276 representative of said school, or by any advertisement or circular issued by said school, which  
277 representation is false, deceptive or misleading, may recover treble damages, or \$10,000,  
278 whichever is greater, and court costs and reasonable attorney's fees.

279 Section 272. Any complaint, report, record or other information received or kept by the  
280 division in connection with an investigation shall be considered a public record only following  
281 the final action by the division, provided however, that the identity of the person filing a  
282 complaint shall be exempt from disclosure as a public record at all times. These provisions shall  
283 not be deemed to prohibit the division from providing a licensee with such information for  
284 purposes of preparing a defense in a formal adjudicatory hearing nor shall it prevent the division  
285 from providing records in response to requests from other state or federal agencies, divisions or  
286 institutions as determined by the division.

287 Section 273. No private occupational school shall represent that it is an accredited school  
288 unless it has been accredited by a national or regional accrediting agency recognized by the  
289 United States Department of Education. All schools that obtain such an accreditation shall notify

290 the division in writing. In addition, schools must notify the division in writing of any changes to  
291 such accreditation.

292 Section 274. Subject to appropriation, the division may retain all licensure fees, renewal fees,  
293 late fees, civil administrative penalties, and other such revenue collected pursuant to this chapter  
294 for the licensure and oversight of private occupational schools under sections 259 to 275,  
295 inclusive.

296 Section 275. There shall be within the division an advisory council on private occupational  
297 schools which shall be comprised of 11 members as follows: the state auditor, ex officio, or a  
298 designee, the secretary of education, ex officio, or a designee, the secretary of labor and  
299 workforce development, ex officio, or a designee, and the undersecretary of the office of  
300 consumer affairs and business regulation, ex officio, or a designee; and 7 members to be  
301 appointed by the director of the division who shall be a cross-section of individuals with  
302 knowledge and understanding of the fiscal, educational, workforce development, and consumer  
303 protection issues relating to post-secondary education.

304 Members appointed by the division shall be appointed for a term of 3 years and serve at the  
305 pleasure of the division. Members whose appointments have expired may continue to serve until  
306 a replacement is appointed. Members appointed by the division shall be subject to the provisions  
307 of chapter 268A and the division may remove any member so appointed for neglect of duty,  
308 misconduct, malfeasance or misfeasance in office, or for failure, as a representative or associate  
309 of an individual licensee, to follow the rules and regulations of the division. Members appointed  
310 by the division shall be considered public employees for the purposes of chapter 258 for all acts  
311 or omissions within the scope of their duties as division members. Members appointed by the

312 division shall be immune from liability for actions taken in good faith in the discharge of their  
313 responsibilities. Members appointed by the division acting in good faith in the discharge of their  
314 duties shall be defended by the attorney general and shall be eligible for indemnification of all  
315 costs and damages arising from claims and suits against them.

316 The division shall appoint a chair of the advisory council who shall serve at the pleasure of the  
317 division. The advisory council may designate additional roles for its members as necessary for  
318 the conduct of its business. Members appointed by the division shall serve without  
319 compensation, but shall be reimbursed for actual and reasonable expenses incurred in the  
320 performance of their duties.

321 The advisory council shall be considered a governmental body and all meetings of the advisory  
322 council shall be announced and conducted in accordance with section 11A1/2 of chapter 30A,  
323 with the exception that remote participation is specifically authorized so long as 2 or more  
324 members are physically present at the public site. At the discretion of the chair, additional  
325 members, staff, or interested parties may remotely participate by any live, 2-way medium such as  
326 audio or video teleconferencing.

327 SECTION 6. The first paragraph of section 13K of chapter 255 of the General Laws is hereby  
328 amended by striking out, in lines 1 through 4, the words “trade school, business school,  
329 vocational school, technical school, correspondence school, dance studio, professional or  
330 proprietary school, except a proprietary school which has the authority to grant degrees,” and  
331 inserting in place thereof the words “private occupational schools as defined in section 259 of  
332 chapter 112, or dance studio,”.

333 SECTION 7. The department of elementary and secondary education shall transfer to the  
334 division of professional licensure the functions and staff of the department associated with  
335 overseeing the licensing of proprietary schools. Employees and members of the department of  
336 elementary and secondary education whose office has been transferred to the division of  
337 professional licensure by this act shall become employees and members of the division of  
338 professional licensure without impairment of civil service status and seniority and without  
339 reduction in compensation, notwithstanding any change in job titles or duties and without loss of  
340 accrued rights to holidays, sick leave, vacation and benefits, and shall thereafter perform their  
341 duties under the direction, control and supervision of the division of professional licensure.

342 Terms of office of employees and members of an office formerly under the department of  
343 elementary and secondary education and transferred to the division of professional licensure by  
344 this act shall not be deemed to be interrupted by such transfer and all such employees and  
345 members shall maintain the same rights and entitlements with respect to retirement, pension and  
346 group insurance benefits as previously existed under their employment with such boards or  
347 offices transferred by this act. Rights and obligations under collective bargaining agreements  
348 with respect to employees and members transferred from such offices shall be assumed by and  
349 imposed upon the division of professional licensure. Every employee and member transferred to  
350 the division of professional licensure under this section who immediately prior to such transfer  
351 holds a permanent appointment classified under chapter 31 or has tenure by reason of section 9A  
352 of chapter 30 shall be entitled to the rights and benefits of and shall be subject to the provisions  
353 relating to tenured employees and members under chapter 31 or section 9A of chapter 30,  
354 respectively.

355 All orders, rules and regulations duly made and all approvals duly granted which are in force  
356 immediately before the effective date of this act, shall continue in force and shall thereafter be  
357 enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the  
358 division of professional licensure. Private occupational schools holding a valid license at the  
359 time the division supersedes, revises, rescinds or cancels such orders, rules or regulations, shall  
360 have 18 months to comply with any new prerequisites to licensure established by those orders,  
361 rules or regulations.

362 All books, papers, records and documents related to the licensure of private occupational  
363 schools, which immediately before the effective date of this act are in the custody of the  
364 department of elementary and secondary education, shall be transferred to the division of  
365 professional licensure.