

CHAPTER 111
FORMERLY
HOUSE BILL NO. 147
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE PERIODIC REVIEW OF REGULATIONS ADOPTED BY EXECUTIVE BRANCH AGENCIES.

WHEREAS, although State agency regulations are often necessary for the effective functioning of State government and the protection of public health, safety and the environment, we must strive to ensure that such regulations do not impose unnecessary burdens upon our residents, businesses and other organizations; and

WHEREAS, establishing a mechanism for the periodic review of executive branch agency regulations will help ensure that such regulations continue to serve the original purpose for which they were adopted, and will provide a process by which improvements can be made to Delaware's regulatory framework; and

WHEREAS, citizens are often in the best position to identify outdated, duplicative or overly burdensome regulations, and any review of State agency regulations must include a meaningful opportunity for public input from residents, business owners, employees, and other concerned citizens; and

WHEREAS, in order to be efficient with taxpayer dollars, the process for periodic review should be focused on and targeted at those regulations that have not been subject to review for at least 4 years for which substantive concerns exist; and

WHEREAS, it is appropriate for such a review to focus on older, well-established regulations because (1) such regulations are more likely to be outdated or otherwise no longer justified by present realities; and (2) a focus on such regulations will allow state agencies to consider the real-world effects of regulations in light of economic, technological and other changes; and

WHEREAS, to reduce impediments to economic growth and improve the efficiency of state government, it is appropriate for executive branch agencies to conduct a periodic, focused and targeted review of areas in which existing regulations may be reduced or streamlined.

NOW THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 29, § 10403 of the Delaware Code by inserting the following language as subsection (2) thereof as shown in underlining and renumbering the remaining subsections accordingly:

(2) “Executive branch agency” means, for purposes of this chapter only, the Department of Agriculture, Department of Correction, Delaware Economic Development Office, Delaware National Guard, Delaware State Housing Authority, Department of Education, Department of Finance, Department of Health and Social Services, Department of Labor, Office of Management and Budget, Department of Natural Resources and Environmental Control, Department of Safety and Homeland Security, Department of Services for Children, Youth and Their Families, Department of State, Department of Technology and Information, and Department of Transportation.

Section 2. Amend Title 29, § 10407 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10407 Review of ~~preexisting rules and~~ regulations of executive branch agencies.

~~Each agency shall, during the 5 year period beginning with July 1, 1983, review agency rules which were published for comment, issued or in effect prior to such date and consider exemptions permitted by this chapter.~~

In accordance with the provisions of this section, each executive branch agency shall conduct a periodic review of regulations promulgated by such agency to determine which regulations, if any, should be modified or eliminated. The review process hereunder shall commence no later than January 1, 2016 and shall re-commence on a recurring basis every 4 years. Reviews by executive branch agencies hereunder shall be conducted in accordance with the following procedures:

(a) Each executive branch agency shall be assigned a 3-month regulatory review period by the Office of the Governor or any executive branch agency designated thereby. During such regulatory review period, each executive branch agency shall solicit public input, and shall conduct its own in-depth internal review, to identify regulations promulgated by such agency 4 years ago or more for possible modification or elimination.

(b) During its regulatory review period, each executive branch agency:

(1) Shall conduct at least 1 public hearing in each county, notice of which shall be provided in accordance with the Administrative Procedures Act, 29 Del.C. § 10101 et seq. (“APA”);

(2) Shall accept recommendations and input, in person, by mail, by fax, and via an online submission form; and

(3) Shall adopt procedures to allow for the submission of anonymous recommendations and input.

(c) At the conclusion of its regulatory review period, each executive branch agency shall evaluate the comments, proposals, and recommendations received or generated, and shall submit any revisions (i.e., regulations to be eliminated or modified) to the Register of Regulations for publication in accordance with the APA.

(d) No later than 12 months from the commencement of any regulatory review process described herein, the Office of the Governor, or any executive branch agency designated thereby, shall submit a report to General Assembly detailing the regulations eliminated or modified as a result of such process.

(e) Notwithstanding the foregoing, each executive branch agency shall be required to consider only those regulations adopted pursuant to the APA 4 years ago or more for which it has direct promulgating authority. In connection herewith, no executive branch agency shall be required to consider regulations administered by an executive branch agency but require adoption or amendment by a board, commission, or other agency, including but not limited to regulations administered by the Department of State’s Division of Professional Regulation that define standards of conduct or qualifications of individuals applying for licensure or as licensed professionals. If an executive branch agency does not have any regulations adopted pursuant to the APA 4 years ago or more for which it has direct promulgating authority, it shall not be subject to the procedures described in this section.

(f) In connection herewith, the Office of the Governor, or any executive branch agency designated thereby, may promulgate guidelines to assist executive branch agencies in implementing the requirements of this section. Such guidelines shall be subject to the APA, and may include but shall not be limited to:

(1) Coordinating the regulatory review period of each executive branch agency to maximize public input, and to minimize the administrative burden imposed upon such agency and the Register of Regulations to the extent possible;

(2) Requirements relating to the timing and content of any notice to be published by each executive branch agency in connection with its regulatory review period; and

(3) A description of procedures to allow for the submission of anonymous recommendations and input.

Approved July 22, 2015