Chapter 301

(House Bill 459)

AN ACT concerning

State Licensing Agencies – Justification Statements Required for Fee Increases Proposed by Regulations

FOR the purpose of requiring units of State government, when adopting by regulation increases or decreases in fees for licenses to practice any business activity, business or health occupation, or business or health profession licensed or otherwise regulated under State law, to submit to the Joint Committee on Administrative, Executive, and Legislative Review certain information explaining or justifying the reasons for the proposed increase or decrease; and generally relating to regulations proposed by units of State government that license and regulate various occupations, professions, and business activities.

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–110
Annotated Code of Maryland
(2009 Replacement Volume)

Preamble

WHEREAS, The units of the Executive Branch of State government that license and regulate by State law various health and business occupations and professions and business related activities periodically propose, through the regulatory process, increases in license and permit fees for those occupations, professions, and activities; and

WHEREAS, When seeking fee increases by regulation, the units are not consistent with respect to the justification provided on which they relied to propose the increase in the fees for the licenses or permits issued by them, and, in many instances, no justification is provided at all; and

WHEREAS, The General Assembly finds that there is a need to strengthen its ability to review, analyze, and otherwise engage in effective legislative oversight of proposed regulations by units of State government that seek to increase licensing fees for various occupations and professions and business activities and to foster greater transparency with respect to and accountability for those increases; and

WHEREAS, The work of the Joint Committee on Administrative, Executive, and Legislative Review (AELR), as the statutory committee of the General Assembly

charged with the oversight of Executive Branch regulations, would be enhanced by its having meaningful and practical information submitted to it from units of State government, when they seek occupational and professional license fee increases, that sets forth their justification for the increases; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

10–110.

(a) **[**This**]** **EXCEPT FOR SUBSECTION (C) OF THIS SECTION, THIS** section does not apply to a regulation adopted under § 10–111(b) of this subtitle.

(b) At least 15 days before the date a proposed regulation is submitted to the Maryland Register for publication under § 10–112 of this subtitle, the promulgating unit shall submit to the State Children's Environmental Health and Protection Advisory Council established under § 13–1503 of the Health – General Article for review any proposed regulations identified by the promulgating unit as having an impact on environmental hazards affecting the health of children.

(c) **(1)** At least 15 days before the date a proposed regulation is submitted to the Maryland Register for publication under § 10–112 of this subtitle, the promulgating unit shall submit the proposed regulation to the Committee and the Department of Legislative Services.

(2) (I) IF THE PROPOSED REGULATION, EITHER IN WHOLE OR IN PART, SUBMITTED TO THE COMMITTEE AND THE DEPARTMENT OF LEGISLATIVE SERVICES IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION INCLUDES AN INCREASE OR DECREASE IN A FEE FOR A LICENSE TO PRACTICE ANY BUSINESS ACTIVITY, BUSINESS OR HEALTH OCCUPATION, OR BUSINESS OR HEALTH PROFESSION LICENSED OR OTHERWISE REGULATED UNDER STATE LAW, THE PROMULGATING UNIT SHALL INCLUDE CLEARLY WRITTEN EXPLANATORY REASONS THAT JUSTIFY THE INCREASE OR DECREASE IN THE FEE.

(II) IF A REGULATION SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH PROPOSES AN INCREASE IN A FEE FOR A LICENSE, THE WRITTEN JUSTIFICATION ALSO SHALL INCLUDE INFORMATION ABOUT:

1. THE AMOUNT OF MONEY NEEDED BY THE PROMULGATING UNIT TO OPERATE EFFECTIVELY OR TO ELIMINATE AN IMBALANCE BETWEEN THE REVENUES AND EXPENDITURES OF THE UNIT;

2. THE MOST RECENT YEAR IN WHICH THE PROMULGATING UNIT HAD LAST INCREASED ITS FEES;

3. THE STRUCTURE OF THE PROMULGATING UNIT AS TO WHETHER IT IS ONE THAT RETAINS THE LICENSE FEES IT RECEIVES OR PASSES THEM THROUGH TO A NATIONAL ORGANIZATION OR ASSOCIATION THAT CREATES AND ADMINISTERS A UNIFORM LICENSING EXAMINATION THAT IS TAKEN BY ANYONE IN THE UNITED STATES WHO IS SEEKING A LICENSE TO PRACTICE A PARTICULAR OCCUPATION OR PROFESSION OR BUSINESS ACTIVITY ISSUED BY THE PROMULGATING UNIT;

4. MEASURES TAKEN BY THE PROMULGATING UNIT TO AVOID OR MITIGATE THE NECESSITY OF A FEE INCREASE AND THE RESULTS OF THOSE MEASURES;

5. SPECIAL CIRCUMSTANCES ABOUT THE ACTIVITIES AND RESPONSIBILITIES OF THE PROMULGATING UNIT, INCLUDING INVESTIGATIONS OF INDIVIDUALS LICENSED BY THE UNIT, THAT HAVE HAD AN ADVERSE IMPACT ON THE UNIT'S OPERATING EXPENSES;

6. CONSIDERATION GIVEN BY THE PROMULGATING UNIT TO THE HARDSHIP A LICENSE FEE INCREASE MAY HAVE ON INDIVIDUALS AND TRAINEES LICENSED OR REGULATED BY THE UNIT; AND

7. ACTIONS TAKEN BY THE PROMULGATING UNIT TO ELICIT THE OPINIONS OF THE INDIVIDUALS WHO ARE LICENSED BY THE PROMULGATING UNIT AND THE MEMBERS OF THE PUBLIC AS TO THE EFFECTIVENESS AND PERFORMANCE OF THE PROMULGATING UNIT.

(d) (1) The Committee is not required to take any action with respect to a proposed regulation submitted to it pursuant to subsection (c) of this section.

(2) Failure by the Committee to approve or disapprove the proposed regulation during the period of preliminary review provided by subsection (c) of this section may not be construed to mean that the Committee approves or disapproves the proposed regulation.

(3) During the preliminary review period, the Committee may take any action relating to the proposed regulation that the Committee is authorized to take under §§ 10–111.1 and 10–112 of this subtitle.

(e) Prior to the date specified in subsection (c) of this section, the promulgating unit is encouraged to submit the proposed regulation to the Committee and to consult with the Committee concerning the form and content of that regulation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.