

SHORT TITLE: Administrative procedures; Oklahoma Regulatory Review Act; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 216

By: Maddox

AS INTRODUCED

An Act relating to administrative procedures;

providing short title; creating Oklahoma Regulatory Review Act; defining terms; requiring review of certain statutory provisions, agency rules, and other regulations by certain date; establishing standard for regulations; requiring certain actions to conform regulations to the standard; requiring certain recommendations and reports; providing for petition; requiring response to petition within certain period; providing for recourse to district court; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 401 of Title 75, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Regulatory Review Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 402 of Title 75, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Regulatory Review Act:

1. "Agency" means any board, commission, committee, department, or other instrumentality or entity of the executive branch of state government whether established under the constitution or statutes of this state and shall include any entity established by such board, commission, committee, department, or other instrumentality or entity of the executive branch. The term "agency" shall not exclude executive-branch agencies that are exempt from provisions of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes;

2. "Person" means any individual or business;

3. "Public protection" shall be narrowly construed to mean protection of members of the public against fraud or harm; the term "public protection" shall not mean the protection of businesses against competition; and

4. "Regulation" means any statutory provision, rule, procedural requirement, policy, fee, test requirement, permit, or other administrative practice or provision affecting the conduct of business or the practice of a profession or occupation.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 403 of Title 75, unless there is created a duplication in numbering, reads as follows:

A. Regulations shall be limited to those demonstrably necessary and carefully tailored to fulfill specific, legitimate public health, safety, or other public protection objectives.

B. By December 31, 1998, each agency shall review every regulation within its jurisdiction and shall:

1. Articulate with specificity the public health, safety, or other public protection objective or objectives served by the regulation; and

2. Articulate the reason or reasons why the regulation is necessary to serve the specified objective or objectives.

C. To the extent that an agency finds any regulation that does not satisfy the standard set forth in subsection A of this section, the agency shall:

1. Pursuant, where applicable, to the Administrative Procedures Act, Section 250 et seq. and Section 302 et seq. of Title 75 of the Oklahoma Statutes, repeal or rescind the regulation or amend or otherwise modify the regulation to conform to the standard, if taking such action is within the agency's authority; or

2. If such action is not within the agency's authority, recommend to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives such action be accomplished.

D. By July 1, 1999, each agency shall file a report with the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives summarizing the actions taken to comply with this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 404 of Title 75, unless there is created a duplication in numbering, reads as follows:

A. On or after September 1, 1999, any person may petition in writing any agency to repeal, rescind, amend, or otherwise modify any regulation affecting a business or profession within that agency's jurisdiction. Where the Administrative Procedures Act, Section 250 et seq. and Section 302 et seq. of Title 75 of the Oklahoma Statutes is applicable, the petition shall be filed pursuant to Section 305 of Title 75 of the Oklahoma Statutes. Nothing herein shall be construed as precluding the filing of petitions pursuant to Section 305 of Title 75 of the Oklahoma Statutes prior to September 1, 1999.

B. Within ninety (90) days of the filing of a petition, the agency shall either take the action petitioned for or state the

basis for concluding that the regulation is in compliance with the standard stated in subsection A of Section 3 of this act.

C. If the agency fails to take action pursuant to subsection B of this section, the petitioner shall have recourse to the district court in whose jurisdiction the main office of the agency is located.

SECTION 5. This act shall become effective November 1, 1997.

46-1-0136

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