
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 181 Session of
1997

INTRODUCED BY LESCOVITZ, FLICK, TIGUE, GORDNER, CURRY, GEIST,
ROONEY, TRELLO, RAMOS, OLIVER, COY, BELARDI, TULLI,
CAPPABIANCA, OLASZ, MARKOSEK, LAUGHLIN, SAINATO,
E. Z. TAYLOR, CORRIGAN, VAN HORNE, SHANER, MASLAND,
TANGRETTI, MELIO, PRESTON, McCALL, DALEY, C. WILLIAMS,
PISTELLA, SURRA, LaGROTTA, TRAVAGLIO AND COLAFELLA,
FEBRUARY 4, 1997

REFERRED TO COMMITTEE ON COMMERCE AND ECONOMIC DEVELOPMENT,
FEBRUARY 4, 1997

AN ACT

1 Providing for inclusion in all Commonwealth rules and
2 regulations of flexible provisions designed to benefit small
3 businesses.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Regulatory
8 Flexibility Act.

9 Section 2. Findings and purpose.

10 (a) Findings.--The General Assembly finds that:

11 (1) Small businesses are vital to this Commonwealth's
12 economy, provide over one-half of this Commonwealth's
13 economic output, have accounted for nearly all of the
14 increases in employment in this Commonwealth since 1970 and
15 are an important source of major innovations which create new

1 markets and improve the quality of life.

2 (2) Small businesses in this Commonwealth have at times
3 been subjected to regulatory and reporting requirements
4 adopted by agencies, departments and instrumentalities of the
5 Commonwealth which placed a proportionately greater burden on
6 the small business community than on the other segments of
7 the business community of this Commonwealth.

8 (3) Regulations intended to protect this Commonwealth's
9 environment, health, safety and economic welfare have
10 sometimes imposed unreasonable demands and burdensome legal,
11 accounting and consulting costs on many small businesses of
12 limited resources without a proportionate benefit to the
13 environment, health, safety and economic welfare of the
14 Commonwealth.

15 (4) Over-regulation and burdensome requirements
16 affecting small businesses are costly, reduce innovation and
17 expansion, reduce competition and threaten the existence of
18 some small businesses.

19 (5) The practice of treating all individuals, businesses
20 and organizations in a uniform manner for the purpose of
21 regulatory and reporting requirements may lead to the
22 inefficient use of regulatory agency resources, enormous
23 enforcement problems and, in some cases, actions inconsistent
24 with the legislative intent of protection of this
25 Commonwealth's environment, health, safety and economic
26 welfare.

27 (6) State government information collection at times has
28 not adequately weighed the costs of collection and the
29 privacy rights of small businesses against the government's
30 need for information.

1 (b) Purpose.--It is the purpose of this act to establish as
2 a principle of regulatory policy that regulatory and reporting
3 requirements fit the scale of those being regulated, that fewer,
4 simpler requirements be made of small businesses and local
5 governments where such is consistent with the protection of this
6 Commonwealth's environment, the public health, safety and
7 welfare, and that to achieve these ends agencies be empowered
8 and encouraged to issue regulations consistent with the
9 protection of this Commonwealth's environment, public health,
10 safety and welfare which include flexible standards designed to
11 meet the particular needs and resources of small businesses.
12 This act is not intended to justify imposing greater burdens on
13 larger entities than would be imposed without this act.

14 Section 3. Definitions.

15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Agency." Each of the principal departments in the executive
19 branch of the Commonwealth and all bureaus, boards, divisions,
20 commissions, councils, authorities, offices or officers within
21 any of the departments now existing or hereafter established and
22 authorized by statute to make, adopt or promulgate rules and
23 regulations.

24 "Local government." A county, city, borough, incorporated
25 town, township, school district, vocational school district or
26 county institution district.

27 "Small business." Any for-profit business enterprise or
28 nonprofit corporation or association having 250 or fewer
29 employees.

30 Section 4. Flexible provisions in regulations.

1 Whenever any State agency reviews, proposes or adopts any
2 rule or regulation or amendment to a rule or regulation after
3 the effective date of this act, the agency shall review the
4 factors set forth in section 5(c) and may include within the
5 regulation flexible provisions to be applied to small businesses
6 and local governments. Flexible provisions may be included
7 within any regulation, if such provisions are not otherwise
8 prohibited by law, and if such provisions are consistent with
9 the protection of this Commonwealth's environment, public
10 health, safety and welfare. Flexible provisions may include, but
11 are not limited to, specialized prescriptive or performance
12 standards, simplified reporting requirements, and simplified
13 permit, licensing or certification procedures and standards.
14 Section 5. Petition for proposed rulemaking.

15 (a) General rule.--Any small business may file an informal
16 petition with any agency requesting the issuance, amendment or
17 waiver of a regulation in order to adopt flexible provisions as
18 provided in section 4.

19 (b) Content.--Any petition filed pursuant to this section
20 shall set forth clearly and concisely the specific regulation,
21 amendment or waiver requested and shall cite by appropriate
22 reference the statutory authority for the regulation. Such
23 petition shall set forth the facts upon which the need for the
24 proposed flexible provisions are based and shall explain how the
25 proposed rulemaking will both benefit small businesses and local
26 governments and be consistent with the protection of this
27 Commonwealth's environment, public health, safety and welfare.

28 (c) Review criteria.--During the review of the proposal, the
29 agency shall consider the following factors:

30 (1) The nature of any reports and the estimated cost of

1 their preparation by small businesses and local governments
2 which would be required under the new rule compared to
3 existing agency rules.

4 (2) The nature and estimated costs of other measures or
5 investments that would be required by small businesses and
6 local governments in complying with the new rules compared to
7 existing agency rules.

8 (3) The nature and estimated cost of any legal,
9 consulting and accounting services which small businesses and
10 local governments would incur in complying with the new rule
11 compared to existing agency rules.

12 (4) Compared to current agency rules, the ability of
13 small businesses and local governments to absorb the costs
14 estimated under paragraphs (1), (2) and (3) without suffering
15 economic harm and without adversely affecting competition in
16 the marketplace.

17 (5) The additional cost, if any, to the agency of
18 administering or enforcing a rule which contains flexible
19 provisions for compliance by small businesses and local
20 governments.

21 (6) The impact on the public interest of adopting
22 flexible provisions of compliance for small businesses and
23 local governments.

24 (7) The impact of the proposed changes on this
25 Commonwealth's environment, health, safety and economic
26 welfare.

27 (d) Flexible provisions in regulations.--The agency shall,
28 within 180 days, determine whether it is lawful, desirable and
29 feasible to adopt flexible provisions in regulations for small
30 businesses and local governments and notify the petitioner in

1 writing. If the agency determines that it is lawful, desirable
2 and feasible to adopt such provisions, the agency shall publish
3 in the Pennsylvania Bulletin a notice of proposed rulemaking
4 containing the appropriate flexible provisions. If requested by
5 the petitioner, the agency shall hold a hearing to consider the
6 proposed rulemaking.

7 (e) Effect of decision.--The agency decision regarding any
8 petition filed pursuant to this section shall be final, and
9 shall not constitute an adjudication as defined in 2 Pa.C.S. §
10 101 (relating to definitions), or be subject to appeal as
11 provided by 2 Pa.C.S. § 702 (relating to appeals), or as
12 otherwise provided by State law.

13 Section 6. Cooperation.

14 Every agency of State government is authorized and required
15 to furnish, upon request, advice and assistance to any other
16 agency making determinations pursuant to this act.

17 Section 7. Effective date.

18 This act shall take effect immediately.