

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1600 Session of 2015

INTRODUCED BY MACKENZIE, ACOSTA, BARRAR, BIZZARRO, CORBIN, D. COSTA, DRISCOLL, FEE, GROVE, A. HARRIS, JOZWIAK, KINSEY, KNOWLES, MALONEY, McNEILL, MILLARD, MURT, NEILSON, READSHAW, ROZZI, SCHLOSSBERG, SCHWEYER, THOMAS, WARD, WARNER, WHITE, COHEN, GILLEN, ROTHMAN, BRADFORD, KORTZ, MICCARELLI, NELSON, DUSH, GABLER AND DAVIS, SEPTEMBER 29, 2015

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, OCTOBER 18, 2016

AN ACT

1 Amending Title 51 (Military Affairs) of the Pennsylvania
2 Consolidated Statutes, PROVIDING FOR VOLUNTARY VETERANS' <--
3 PREFERENCE IN PRIVATE EMPLOYMENT; AND, in veteran-owned small
4 businesses, further providing for definitions and for
5 regulations and providing for business fee exemption.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 ~~Section 1. Chapter 96 of Title 51 of the Pennsylvania <--
9 Consolidated Statutes is amended by adding a subchapter heading
10 to read:~~

11 SECTION 1. TITLE 51 OF THE PENNSYLVANIA CONSOLIDATED <--
12 STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

CHAPTER 72

VOLUNTARY VETERANS' PREFERENCE

IN PRIVATE EMPLOYMENT

SEC.

7201. SCOPE OF CHAPTER.

1 7202. DEFINITIONS.

2 7203. VETERANS' PREFERENCE PRIVATE EMPLOYMENT POLICY.

3 7204. ELIGIBILITY FOR PREFERENCE.

4 7205. NONVIOLATION OF EQUAL OPPORTUNITY LAWS.

5 § 7201. SCOPE OF CHAPTER.

6 THIS CHAPTER RELATES TO PRIVATE EMPLOYER'S VETERANS'
7 PREFERENCE POLICIES.

8 § 7202. DEFINITIONS.

9 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
10 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
11 CONTEXT CLEARLY INDICATES OTHERWISE:

12 "DD 214." A UNITED STATES DEPARTMENT OF DEFENSE REPORT OF
13 SEPARATION FORM 214 OR A SIMILARLY EFFECTIVE FORM ISSUED BY THE
14 DEPARTMENT OF DEFENSE RELATING TO SEPARATION FROM MILITARY
15 SERVICE.

16 "PRIVATE EMPLOYER." A SOLE PROPRIETOR, CORPORATION,
17 PARTNERSHIP, LIMITED LIABILITY COMPANY OR ANY OTHER LEGAL
18 ENTITY, INCLUDING NONPROFITS, WITH MORE THAN ONE EMPLOYEE.

19 "SOLDIER." A PERSON WHO SERVED OR HEREAFTER SERVES IN THE
20 ARMED FORCES OF THE UNITED STATES, OR IN ANY WOMEN'S
21 ORGANIZATION OFFICIALLY CONNECTED THEREWITH, DURING ANY WAR OR
22 ARMED CONFLICT IN WHICH THE UNITED STATES ENGAGED AND WHO WAS
23 RELEASED FROM ACTIVE DUTY UNDER HONORABLE CONDITIONS, OTHER THAN
24 FROM PERIODS OF ACTIVE DUTY FOR TRAINING, OR WITH AN HONORABLE
25 DISCHARGE FROM SUCH SERVICE, OR A PERSON WHO SO SERVED OR
26 HEREAFTER SERVES IN THE ARMED FORCES OF THE UNITED STATES, OR IN
27 ANY WOMEN'S ORGANIZATION OFFICIALLY CONNECTED THEREWITH, SINCE
28 JULY 27, 1953, INCLUDING SERVICE IN VIETNAM, AND WHO HAS AN
29 HONORABLE DISCHARGE FROM SUCH SERVICE. QUALIFYING PERIODS OF
30 SERVICE DURING A WAR OR ARMED CONFLICT, FOR PURPOSES OF THIS

1 DEFINITION, WILL BE DESIGNATED BY THE DEPARTMENT OF MILITARY AND
2 VETERANS AFFAIRS.

3 "SPOUSE OF A DISABLED VETERAN." THE SPOUSE OF A VETERAN WHO
4 HAS BEEN CLASSIFIED BY THE UNITED STATES DEPARTMENT OF VETERANS
5 AFFAIRS' VETERANS BENEFITS ADMINISTRATION AS HAVING A PERMANENT
6 TOTAL DISABILITY AND IS A UNITED STATES CITIZEN.

7 "SURVIVING SPOUSE." A SPOUSE OF A DECEASED SOLDIER.

8 "VETERAN." AN INDIVIDUAL WHO HAS SERVED IN THE ARMED FORCES
9 OF THE UNITED STATES, INCLUDING A RESERVE COMPONENT AND NATIONAL
10 GUARD, AND WHO HAS BEEN DISCHARGED OR RELEASED FROM THE SERVICE
11 UNDER CONDITIONS OTHER THAN DISHONORABLE.

12 "VETERANS' PREFERENCE EMPLOYMENT POLICY." A VOLUNTARY POLICY
13 ADOPTED BY A PRIVATE EMPLOYER FOR HIRING, PROMOTING OR RETAINING
14 A VETERAN, A SPOUSE OF A DISABLED VETERAN OR A SURVIVING SPOUSE
15 OVER ANOTHER QUALIFIED APPLICANT OR EMPLOYEE.

16 § 7203. VETERANS' PREFERENCE PRIVATE EMPLOYMENT POLICY.

17 (A) AUTHORITY.--A PRIVATE EMPLOYER MAY ADOPT AND APPLY A
18 VETERANS' EMPLOYMENT POLICY.

19 (B) POLICY.--A VETERANS' PREFERENCE EMPLOYMENT POLICY SHALL:

20 (1) BE IN WRITING;

21 (2) REQUIRE THE INCLUSION OF A STATEMENT IN ANY JOB
22 POSTING THAT INDICATES THAT THE EMPLOYER HAS AND APPLIES A
23 VETERANS' PREFERENCE EMPLOYMENT POLICY;

24 (3) BE PROVIDED TO THE APPLICANT AT TIME OF HIRING AND
25 PROVIDED TO ALL EMPLOYEES ON AN ANNUAL BASIS; AND

26 (4) BE APPLIED UNIFORMLY TO EMPLOYMENT DECISIONS
27 REGARDING:

28 (I) THE HIRING OF NEW APPLICANTS;

29 (II) THE PROMOTION OF CURRENT EMPLOYEES; AND

30 (III) THE RETENTION OF EMPLOYEES DURING A REDUCTION

1 IN THE WORK FORCE.

2 § 7204. ELIGIBILITY FOR PREFERENCE.

3 A VETERAN, SPOUSE OF A DISABLED VETERAN OR SURVIVING SPOUSE
4 SHALL SUBMIT THE DD 214 OF THE VETERAN TO A PRIVATE EMPLOYER
5 WITH A VETERANS' PREFERENCE EMPLOYMENT POLICY FOR CONSIDERATION
6 BY THE EMPLOYER.

7 § 7205. NONVIOLATION OF EQUAL OPPORTUNITY LAWS.

8 A VOLUNTARY VETERANS' PREFERENCE EMPLOYMENT POLICY ADOPTED
9 AND APPLIED IN ACCORDANCE WITH THIS CHAPTER SHALL NOT BE
10 CONSIDERED A VIOLATION OF ANY STATE OR LOCAL EQUAL EMPLOYMENT
11 OPPORTUNITY LAW.

12 SECTION 2. CHAPTER 96 OF TITLE 51 IS AMENDED BY ADDING A
13 SUBCHAPTER HEADING TO READ:

14 SUBCHAPTER A
15 PRELIMINARY PROVISIONS

16 Section 2 3. Section 9601 of Title 51 is amended to read: <--

17 § 9601. Definitions.

18 Subject to section 9602 (relating to regulations), the
19 following words and phrases when used in this chapter shall have
20 the meanings given to them in this section unless the context
21 clearly indicates otherwise:

22 "Commonwealth agency." As defined in 62 Pa.C.S. § 103
23 (relating to definitions).

24 "Executive agency." As defined in 62 Pa.C.S. § 103 (relating
25 to definitions).

26 "Purchasing agency." As defined in 62 Pa.C.S. § 103
27 (relating to definitions).

28 "Service-disabled." Being in possession of:

29 (1) a disability rating letter issued by the United
30 States Department of Veterans Affairs; or

1 (2) a disability determination from the United States
2 Department of Defense.

3 "Service-disabled veteran-owned small business." A small
4 business owned and controlled by:

5 (1) a service-disabled veteran or veterans; or

6 (2) if approved by the Department of General Services, a
7 surviving spouse or permanent caregiver of a service-disabled
8 veteran.

9 "Small business." As defined in 62 Pa.C.S. § 2102 (relating
10 to definitions).

11 "State-affiliated entity." As defined in 62 Pa.C.S. § 103
12 (relating to definitions).

13 "Veteran." [An individual who served on active duty in the
14 United States Armed Forces, including any of the following:

15 (1) A reservist or member of the National Guard who was
16 discharged or released from the service under honorable
17 conditions.

18 (2) A reservist or member of the National Guard who
19 completed an initial term of enlistment or qualifying period
20 of service.

21 (3) A reservist or member of the National Guard who was
22 disabled in the line of duty during training.] An individual
23 who served in the United States Armed Forces, including a
24 reserve component or the National Guard, and who was
25 discharged or released from service under conditions other
26 than dishonorable.

27 "Veteran-owned small business." A small business owned and
28 controlled by a veteran or veterans.

29 Section ~~3~~ 4. Chapter 96 of Title 51 is amended by adding a <--
30 subchapter heading to read:

1 Section 5 6. Chapter 96 of Title 51 is amended by adding a <--
2 subchapter to read:

3 SUBCHAPTER C
4 BUSINESS FEE EXEMPTION

5 Sec.

6 9610. Definitions.

7 9611. Exemption.

8 § 9610. Definitions.

9 As used in this subchapter, the following words and phrases
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Business fee." A fee required to be paid to the
13 Commonwealth or an instrumentality of the Commonwealth A <--
14 POLITICAL SUBDIVISION for starting or opening a business within
15 this Commonwealth. The term does not include a fee for
16 maintaining licensure or other requirement for continuing to
17 operate a business.

18 "Reservist." A member of a United States Armed Forces
19 reserve component or National Guard.

20 "Reservist-owned small business." A business owned and
21 controlled by a member of a United States Armed Forces reserve
22 component or National Guard.

23 § 9611. Exemption.

24 (a) Payment.--A veteran-owned or reservist-owned small
25 business shall be exempt from the payment of a business fee.

26 (b) Proof.--A veteran or reservist must provide the
27 department OR LICENSING AUTHORITY OF A POLITICAL SUBDIVISION <--
28 with proof of the veteran's or reservist's status using any of
29 the following WITH ANY BUSINESS APPLICATION: <--

30 (1) A copy of a Federal DD-214 form.

1 (2) A copy of a Federal NGB-22 form.

2 (3) A valid Federal Veterans' Administration card.

3 (4) A valid Department of Defense-issued military
4 identification card.

5 (c) Status.--The Department of State OR LICENSING AUTHORITY <--
6 OF A POLITICAL SUBDIVISION, in consultation with other
7 Commonwealth agencies, may determine an applicant's status as a
8 veteran or reservist in accordance with this section.

9 (d) Offenses.--

10 (1) A person who fraudulently obtains a business fee
11 exemption commits a misdemeanor of the third degree.

12 (2) A person assigning, transferring or attempting to
13 assign or transfer a business fee exemption or using or
14 attempting to use a business fee exemption contrary to this
15 section commits a misdemeanor of the third degree.

16 (e) Reporting.--The Department of State shall annually
17 determine the total number of business fee exemptions issued <--
18 under this section. APPLIED FOR AND ISSUED AND THE TOTAL DOLLAR <--
19 AMOUNT OF THE EXEMPTIONS UNDER THIS SECTION AND SUBMIT A REPORT
20 TO THE CHAIR AND MINORITY CHAIR OF THE VETERANS AFFAIRS AND
21 EMERGENCY PREPAREDNESS COMMITTEE OF THE SENATE AND THE CHAIR AND
22 MINORITY CHAIR OF THE VETERANS AFFAIRS AND EMERGENCY
23 PREPAREDNESS COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE
24 REPORT MAY BE SUBMITTED ELECTRONICALLY.

25 Section 6 7. The amendment of 51 Pa.C.S. §§ 9601 and 9602 <--
26 shall not affect nor impair the status of any of the following
27 under 51 Pa.C.S. Ch. 96 or 74 Pa.C.S.:

28 (1) A veteran-owned small business.

29 (2) A service-disabled veteran-owned small business.

30 Section 7 8. This act shall take effect in 60 days. <--