

HOUSE BILL No. 5454

September 23, 2009, Introduced by Reps. Horn, Walsh, Kowall, Stamas, Crawford, Daley, Meekhof, Kurtz, McMillin, Lund, Rick Jones, Haveman, Caul, Hansen, Booher and Genetski and referred to the Committee on Regulatory Reform.

A bill to provide for the tolling of compliance with requirements imposed by law or rule for certain regulatory activities, to extend the time for the application of certain benefits or the taking of certain actions, and tolling the imposition of certain sanctions; to provide for certain powers and duties of certain state and local agencies and officials; and to provide for remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "regulatory shutdown act".

3 Sec. 2. As used in this act:

4 (a) "Administrative rule" means a rule promulgated by a state
5 regulatory agency under the administrative procedures act of 1969,
6 1969 PA 306, MCL 24.201 to 24.328.

1 (b) "Benefit" means an exemption or entitlement available to a
2 person under law or administrative rule and includes the ability to
3 bring an action before, or to oppose an action brought by, a state
4 regulatory agency.

5 (c) "Late application sanction" means any legal, criminal, or
6 administrative action, penalty, or sanction associated with the
7 failure to timely apply for a license or benefit; to obtain a
8 required inspection or certification; or to timely oppose a
9 sanction or penalty imposed by operation of law or administrative
10 rule.

11 (d) "Late fee" means a fee imposed by a state regulatory
12 agency for the acceptance of an initial or renewal application for
13 any license after its due date as prescribed by law or
14 administrative rule.

15 (e) "License" means a certificate, registration,
16 accreditation, permit, or license issued by a state regulatory
17 agency allowing a person to engage in certain activity or use a
18 certain title.

19 (f) "State regulatory agency" means a department, bureau, or
20 agency of this state that has regulatory authority over the
21 issuance of a license. State regulatory agency includes a local
22 unit of government enforcing state law.

23 (g) "State regulatory shutdown" means a circumstance where, by
24 order of the governor or by operation of law, there exists a
25 complete or partial suspension or cessation of the operation of 1
26 or more state regulatory agencies, for a length of time of at least
27 1 business day.

1 Sec. 3. (1) Except as otherwise prohibited by law, a state
2 regulatory shutdown tolls the time period for the filing of an
3 initial or renewal application for any license issued by a state
4 regulatory agency or for the application for a benefit.

5 (2) A state regulatory agency shall not impose and collect a
6 late fee or impose a late application sanction for a license if the
7 holder or applicant for the license was prevented from paying the
8 license fee or from receiving any state inspection or certification
9 as required by law or administrative rule due to a state regulatory
10 shutdown.

11 (3) A state regulatory agency shall not deny the application
12 for a benefit and shall not impose a late application sanction if
13 the applicant was prevented from applying due to a state regulatory
14 shutdown.

15 (4) The failure of a state regulatory agency to complete an
16 inspection or certification or to otherwise comply with law or
17 administrative rule due to any regulatory backlog resulting from a
18 state regulatory shutdown is not grounds for failure to confer a
19 benefit, provide a license, or allow the operation of a business or
20 facility. If a state inspection or the on-site presence of state
21 inspectors or other state agents is required on a daily basis for a
22 state regulated entity to operate, those requirements are waived
23 during a state regulatory shutdown.

24 Sec. 4. The tolling of the time period for application for a
25 license or benefit under section 3 shall last for the duration of
26 the state regulatory shutdown and until the later of the following:

27 (a) Five days after the first business day after the cessation

1 of the state regulatory shutdown as determined by the state
2 regulatory agency and the governor.

3 (b) Five days after the first business day the state
4 regulatory agency announces on its website the cessation of the
5 state regulatory shutdown.