



Substitute House Bill No. 5498

Public Act No. 16-58

AN ACT REVISING THE REGULATION REVIEW PROCESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsections (g) and (h) of section 4-168 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(g) (1) An agency may proceed to adopt an emergency regulation in accordance with this subsection without prior notice, public comment period or hearing or upon any abbreviated notice, public comment period and hearing that it finds practicable if (A) the agency finds that adoption of a regulation upon fewer than thirty days' notice is required (i) due to an imminent peril to the public health, safety or welfare or (ii) by the Commissioner of Energy and Environmental Protection in order to comply with the provisions of interstate fishery management plans adopted by the Atlantic States Marine Fisheries Commission or to meet unforeseen circumstances or emergencies affecting marine resources, (B) the agency states in writing its reasons for that finding, and (C) the Governor approves such finding in writing.

(2) [An electronic copy shall be submitted] The agency shall submit an electronic copy of the proposed emergency regulation to the

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standing legislative regulation review committee in the form prescribed in subsection (b) of section 4-170, together with a statement of the terms or substance of the intended action, the purpose of the action and a reference to the statutory authority under which the action is proposed. [, not later than ten days, excluding Saturdays, Sundays and holidays, prior to the proposed effective date of such regulation.] The committee may approve or disapprove the proposed emergency regulation, in whole or in part, [within such ten-day period] not later than fifteen calendar days after its submission to the committee, at a regular meeting, if one is scheduled, or may, upon the call of either chairman or any five or more members, hold a special meeting for the purpose of approving or disapproving the regulation, in whole or in part. Failure of the committee to act on such regulation within such [ten-day] fifteen-day period shall be deemed an approval. If the committee disapproves such regulation, in whole or in part, it shall notify the agency of the reasons for its action. An approved emergency regulation [] shall be posted on the eRegulations System by the office of the Secretary of the State [, may be effective for a period of not longer than one hundred twenty days renewable once for a period of not exceeding sixty days, provided notification of such sixty-day renewal is posted on the eRegulations System and an electronic copy of such notice is sent to the committee. The sixty-day renewal period may be extended an additional sixty days] and shall be effective for a period of not longer than one hundred eighty days from the date it is approved or deemed approved and posted. Such one-hundred-eighty-day period may be extended an additional sixty days for emergency regulations described in subparagraph (A)(ii) of subdivision (1) of this subsection, provided the Commissioner of Energy and Environmental Protection requests of the standing legislative regulation review committee an extension of the renewal period at the time such regulation is submitted or not less than [ten] fifteen calendar days before the [first sixty-day renewal period] emergency regulation expires and [said] the committee approves such

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extension. Failure of the committee to act on such request within [ten] fifteen calendar days shall be deemed an approval of the extension. Nothing in this subsection shall preclude an agency proposing [such] an emergency regulation from adopting a permanent regulation that is identical or substantially similar to the emergency regulation, but such action shall not extend the effective date of the emergency regulation.

(3) If the necessary steps to adopt a permanent regulation, including the posting of notice of intent to adopt, preparation and submission of a fiscal note in accordance with the provisions of subsection (b) of section 4-170 and approval by the Attorney General and the standing legislative regulation review committee, are not completed prior to the expiration date of an emergency regulation, the emergency regulation shall cease to be effective on [that] such expiration date.

(h) [If an agency finds (1) that technical amendments to an existing regulation are necessary because of (A)] An agency may make technical amendments to an existing regulation or repeal an existing regulation to: (1) Facilitate the statutory transfer of functions, powers or duties from the agency named in the existing regulation to another agency, [(B)] (2) reflect a change in the name of the agency, [(C)] (3) transfer or renumber sections of the regulation to correspond with the transferring or renumbering of the section of the general statutes containing the statutory authority for the regulation, [or (D)] or make a correction in the numbering of the regulation, [and] with no substantive changes [are proposed] made, (4) amend an existing regulation solely to conform the regulation to amendments to the general statutes, provided the amendments to the regulation do not entail any discretion by the agency, (5) update or correct contact information contained in the regulation, (6) correct spelling, grammar, punctuation, formatting or typographical errors, with no substantive changes made, or [(2) that the] (7) repeal [of] a regulation [is necessary] because the section of the general statutes under which the regulation

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has been adopted has been repealed and has not been transferred or reenacted. [it may elect to comply] The agency may adopt any such amendments to or repeal of a regulation in accordance with the requirements of subsection (a) of this section or may proceed without prior notice, public comment period or hearing, provided the agency has posted such amendments to or repeal of [a] the regulation on the eRegulations System. Any such amendments to or repeal of a regulation shall be submitted in the form and manner prescribed in subsection (b) of section 4-170, to the Attorney General, as provided in section 4-169, as amended by this act, and to the standing legislative regulation review committee, as provided in section 4-170, for approval and upon approval shall be submitted to the office of the Secretary of the State for posting on the eRegulations System with, in the case of [renumbering of] transferred or renumbered sections only, a correlated table of the former and new section numbers.

Sec. 2. Section 4-172 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) After approval of a regulation as required by sections 4-169 and 4-170, as amended by this act, or after reversal of a decision of the standing legislative regulation review committee by the General Assembly pursuant to section 4-171, as amended by this act, each agency shall submit to the office of the Secretary of the State a certified electronic copy of such regulation. Concomitantly, the agency shall electronically file with the electronic copy of the regulation a statement from the department head or a duly authorized deputy department head of such agency certifying that the electronic copy of the regulation is a true and accurate copy of the regulation approved in accordance with sections 4-169 and 4-170, as amended by this act. Each regulation when so electronically submitted shall be in the form prescribed by the Secretary of the State for posting on the eRegulations System, and each section of the regulation shall include the

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appropriate regulation section number and a section heading. The Secretary of the State shall post each such regulation on the eRegulations System not later than ten calendar days after the agency submission of the regulation.

(b) Each regulation hereafter adopted is effective upon its posting on the eRegulations System by the Secretary of the State in accordance with this section, except that: (1) If a later date is required by statute or specified in the regulation, the later date is the effective date; and (2) a regulation may not be effective before the effective date of the public act requiring or permitting the adoption of the regulation. [; and (3) subject to applicable constitutional or statutory provisions, an emergency regulation becomes effective immediately upon electronic submission to the Secretary of the State, or at a stated date less than twenty days thereafter, if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a brief statement of the reasons therefor shall be submitted with the regulation.] Each emergency regulation shall be effective when posted on the eRegulations System by the Secretary of the State. The agency shall take appropriate measures to make emergency regulations known to the persons who may be affected by them.

Sec. 3. Section 4-171 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) On or before February fifteenth of each regular session of the General Assembly, the cochairpersons of the standing legislative regulation review committee shall submit to the General Assembly for its study (1) a copy of all proposed regulations which have been disapproved by the standing committee under subsection (c) of section 4-170, and (2) a list by agency of each section of the general statutes that requires the agency to adopt regulations on or before January first of the preceding year which the agency did not submit or resubmit to

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the committee by December first of such year as provided in section 4-170b.

(b) [Such] Any such regulations that were disapproved by the standing legislative regulation review committee under subsection (c) of section 4-170 shall be referred by the speaker of the House or by the president pro tempore of the Senate to an appropriate committee for its consideration and the committee shall schedule hearings thereon. The General Assembly may, by resolution, either sustain or reverse a vote of disapproval of the standing committee under the provisions of said subsection (c), except that if the General Assembly fails during its regular session to reverse by resolution the disapproval of a regulation proposed for the purpose of implementing a federally subsidized or assisted program, the vote of disapproval shall be deemed sustained for purposes of this section and the proposed regulation shall not become effective. Any action of the General Assembly under the provisions of this section shall be effective as of the date of passage of the resolution in the second house of the General Assembly.

Sec. 4. Section 4-189i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Not later than July 1, [1996] 2017, and not later than every [five] seven years thereafter, [the regulation review] each committee of cognizance, in consultation with each agency that is within the cognizance of the committee, shall establish the date by which [the] each such agency shall submit a review of [the] its existing regulations [adopted by said agency] and shall notify the administrator of the regulation review committee of each such date and any extension thereof. In establishing such date, or any extension of the date that may be requested by the agency, the committee of cognizance (1) shall consider the volume and complexity of such regulations and the personnel and other resources of the agency [which] that would be available to undertake the review within the agency's available

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appropriations, and (2) may establish a schedule of dates for the review of various portions of such regulations upon the agreement of the committee of cognizance and the administrative head of the agency.

(b) Not later than the date specified by the [regulation review] committee of cognizance pursuant to subsection (a) of this section, each such agency shall submit to the committee of cognizance and to the administrator of the regulation review committee a review of its existing regulations, which shall include, but need not be limited to: (1) The agency's recommendations on how it may substantially reduce the number and length of its existing regulations; (2) the agency's determination of whether each of its existing [regulation] regulations (A) is obsolete, (B) has not been used within the preceding [five] seven years, (C) is inconsistent with any provision of the general statutes, federal law or any regulation adopted under the general statutes or federal law, (D) has been the subject of written complaints, and (E) is otherwise no longer effective; and (3) the agency's recommendation, [of] if any, regarding any extraordinary circumstances in which waivers from its existing regulations may be appropriate.

(c) Upon receipt of an agency's review, the [regulation review] committee of cognizance shall [: (1) Send a copy of the review to the committee of cognizance and (2)] schedule a public hearing, [jointly with the committee of cognizance,] which shall be held [within thirty] not later than ninety days following such receipt. The [regulation review] committee of cognizance shall [have] make copies of the review available to the public at least [five] fifteen days prior to the hearing.

(d) Following the public hearing: (1) The [regulation review] committee of cognizance may request the agency to initiate the process under chapter 54 to carry out a recommendation of the agency under subsection (b) of this section to amend or repeal an existing regulation

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which, in the determination of the [regulation review] committee of cognizance, does not require the enactment of authorizing legislation, and (2) the committee of cognizance shall consider any recommendation by the agency under subsection (b) of this section which, in the determination of the committee of cognizance, [or the regulation review committee,] would require the enactment of authorizing legislation.

(e) If an agency fails to submit [to the regulation review committee] a review of [the agency's] its regulations to the committee of cognizance and the administrator of the regulation review committee as required by [subsections (a) and] subsection (b) of this section or if the [regulation review] committee of cognizance determines that the agency has not conducted a satisfactory review of [the agency's] its regulations as required by said [subsections] subsection, the [regulation review] committee of cognizance may: (1) Conduct a review of the existing regulations of the agency, as described in subsection (b) of this section, (2) request the agency to initiate the process under chapter 54 to carry out a recommendation of the [regulation review] committee of cognizance pursuant to such review to amend or repeal an existing regulation which, in the determination of the [regulation review] committee of cognizance, does not require the enactment of authorizing legislation, and (3) [request the committee of cognizance to consider any recommendation by the regulation review committee pursuant to such review which, in the determination of the regulation review committee, would require the enactment of authorizing legislation] introduce legislation to authorize the agency to amend or repeal existing regulations. If the agency fails to initiate the process to amend or repeal an existing regulation pursuant to subdivision (2) of this subsection, the [regulation review] committee of cognizance may [request the committee of cognizance to] introduce legislation requiring the agency to initiate such process.

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Sec. 5. Subsection (a) of section 4-168 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to regulations noticed on and after January 1, 2017*):

(a) Except as provided in subsections (g) and (h) of this section, an agency, not less than thirty days prior to adopting a proposed regulation, shall (1) post a notice of its intended action on the eRegulations System, which notice shall include (A) a specified public comment period of not less than thirty days, (B) a description sufficiently detailed so as to apprise persons likely to be affected of the issues and subjects involved in the proposed regulation, (C) a statement of the purposes for which the regulation is proposed, (D) a reference to the statutory authority for the proposed regulation, (E) when, where and how interested persons may obtain a copy of the small business impact and regulatory flexibility analysis required pursuant to section 4-168a, and (F) when, where and how interested persons may present their views on the proposed regulation; (2) post a copy of the proposed regulation on the eRegulations System; (3) give notice electronically to each joint standing committee of the General Assembly having cognizance of the subject matter of the proposed regulation; (4) prior to January 1, 2017, give notice electronically or provide a paper copy notice, if requested, to all persons who have made requests to the agency for advance notice of its regulation-making proceedings; (5) provide a paper copy or electronic version of the proposed regulation to persons requesting it; and (6) prepare a fiscal note, including an estimate of the cost or of the revenue impact (A) on the state or any municipality of the state, and (B) on small businesses in the state, including an estimate of the number of small businesses subject to the proposed regulation and the projected costs, including, but not limited to, reporting, recordkeeping and administrative, associated with compliance with the proposed regulation and, if applicable, the regulatory flexibility analysis prepared under section 4-168a. The governing body of any

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municipality, if requested, shall provide the agency, within twenty working days, with any information that may be necessary for analysis in preparation of such fiscal note. On and after January 1, 2017, each such agency shall mail a paper copy of the notice posted pursuant to subdivision (1) of this subsection, not later than five days after posting such notice, to any person who has requested advance notice of the agency's regulation-making proceedings on or after October 1, 2016.

Sec. 6. (*Effective from passage*) (a) Not later than September 1, 2016, each agency that provides an electronic notice or paper copy notice of the agency's intent to adopt regulations to persons who have requested such notification pursuant to section 4-168 of the general statutes, as amended by this act, shall provide a list of the electronic mail address or United States Postal Service physical address, as applicable, of each such person to the Office of Policy and Management. Not later than October 1, 2016, the Secretary of the Office of Policy and Management shall notify each person on the list submitted by the agency that on and after January 1, 2017, any such notice of intent shall be provided (1) electronically on the eRegulations System, or (2) by mail to any person who submits a written request to the applicable agency to receive a paper copy of notice on or after the effective date of this section. The office shall include in any such notice provided under subdivision (2) of this subsection instructions on how to subscribe to electronic notifications on the eRegulations System.

(b) The office shall provide the notice required under subsection (a) of this section electronically to any person who has provided an electronic mail address and by mail to any person who has requested a paper copy of such notice.

Sec. 7. Subsection (e) of section 4-168 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2017, and applicable to regulations noticed on and after said date*):

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(e) After the close of the public comment period and prior to submission to the Attorney General, in accordance with section 4-169, as amended by this act, the agency shall post on the eRegulations System a notice describing whether the agency has decided to move forward with the proposed regulation. [The agency shall provide such notice electronically to all persons who have submitted oral or written comment on the proposed regulation and shall provide a paper copy of such notice to all persons who have submitted comments in a nonelectronic format. The] If any comments have been received, the agency shall also post on the eRegulations System: (1) [The final wording of the proposed regulation; (2) a] A statement of the principal reasons in support of its intended action; and [(3)] (2) a statement of the principal considerations in opposition to its intended action as urged in written or oral comments on the proposed regulation and its reasons for rejecting such considerations. The agency shall distribute its response to comments electronically to all persons who have commented on the regulation and have provided a valid electronic mail address and shall mail a copy of such response to any person who has commented on the regulation and specifically requested a paper copy on or after January 1, 2017.

Sec. 8. Section 4-169 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2017, and applicable to regulations noticed on and after said date*):

No adoption, amendment or repeal of any regulation, except a regulation issued pursuant to subsection (g) of section 4-168, as amended by this act, shall be effective until the proposed regulation and any revision of a proposed regulation to be resubmitted to the standing legislative regulation review committee (1) has been submitted electronically to the Attorney General and the version submitted to the Attorney General posted on the eRegulations System by the agency proposing such regulation, and (2) approved by the

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Attorney General or by some other person designated by the Attorney General for such purpose. The review of such regulations by the Attorney General shall be limited to a determination of the legal sufficiency of the proposed regulation. If the Attorney General or the Attorney General's designated representative fails to give notice to the agency of any legal insufficiency within thirty days of the receipt of the proposed regulation, the Attorney General shall be deemed to have approved the proposed regulation for purposes of this section. The approval of the Attorney General shall be provided to the agency electronically, included in the regulation-making record and submitted electronically by the agency to the standing legislative regulation review committee. As used in this section "legal sufficiency" means [(1)] (A) the absence of conflict with any general statute or regulation, federal law or regulation or the Constitution of this state or of the United States, and [(2)] (B) compliance with the notice and hearing requirements of section 4-168, as amended by this act.

Sec. 9. Section 4-173b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Secretary of the State shall establish and maintain the eRegulations System, which shall include a compilation of the regulations of Connecticut state agencies adopted by all state agencies subsequent to October 27, 1970. Such compilation may be a revision of the most current compilation published by the Commission on Official Legal Publications. The Commission on Official Legal Publications shall, within available appropriations, provide any assistance requested by the Secretary of the State in the creation of the eRegulations System. On and after the certification date the eRegulations System shall also include the official electronic regulation-making record described in section 4-168b. On and after the date the Secretary of the State certifies the eRegulations System as sufficient pursuant to this section, the regulations of Connecticut state

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agencies published by the Secretary on said system shall be the official compilation of the regulations of Connecticut state agencies for all purposes, including all legal and administrative proceedings. The Secretary of the State shall update the compilation of the regulations of Connecticut state agencies published on the eRegulations System at least monthly. The eRegulations System shall be easily accessible to and searchable by the public and shall enable members of the public to request and receive an electronic notification when an agency posts a notice of intent to adopt regulations in accordance with section 4-168, as amended by this act. The Secretary of the State may specify the format in which state agencies shall submit the final approved version of such regulations and all other documents required pursuant to this section and sections 4-167, 4-168, as amended by this act, 4-170 and 4-172, as amended by this act, and all state agencies shall follow the instructions of the Secretary of the State with respect to agency submissions to the Secretary.

(b) The Secretary of the State shall post on the eRegulations System all effective regulations of Connecticut state agencies as provided by the Commission on Official Legal Publications and any updates thereto. The Secretary of the State shall designate such posting as an unofficial version of the regulations of Connecticut state agencies until such time as the Secretary certifies in writing that the compilation of the regulations of Connecticut state agencies published on the eRegulations System is technologically sufficient to serve as the official compilation of the regulations of Connecticut state agencies and the electronic repository for the regulation-making record. Such certification shall be published on the Secretary's Internet web site and in the Connecticut Law Journal. Until such time as the Secretary makes such certification concerning the official compilation: (1) The Secretary, upon receipt of the certified electronic copy of an approved regulation in accordance with section 4-172, as amended by this act, shall forward an electronic copy of such regulation to the Commission on Official

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Legal Publications for publication in accordance with this section, (2) the Commission on Official Legal Publications shall continue to publish the regulations of Connecticut state agencies, and (3) such published version shall be the official version of said regulations.

[(b)] (c) Each agency and quasi-public agency with regulatory authority shall post a conspicuous web site link to the eRegulations System on the agency's or quasi-public agency's Internet web site and shall, if practicable, link to the specific provisions of the regulations of Connecticut state agencies that concern the agency's or quasi-public agency's particular programs.

[(c)] (d) Not later than January 1, 2014, the Secretary of the State shall develop and implement a plan to maintain a paper copy at the office of the Secretary of the State of all of the regulations of Connecticut state agencies posted on the eRegulations System.
Approved May 31, 2016