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# HOUSE BILL No. 1298

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-22-2-28; IC 25-1-2-10.

**Synopsis:** Regulation of professional licensing. Allows a proposed administrative rule to proceed in the rulemaking process without a fiscal impact statement if the office of management and budget does not complete the fiscal impact statement for the proposed rule in the 45 days allowed for action by the office. Creates a one (1) year amnesty program for licensees who failed to renew their licenses. Creates the renewal amnesty program fund for fees collected under the amnesty program.

**Effective:** July 1, 2011.

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**Welch, Davisson, Brown C, Bacon**

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January 12, 2011, read first time and referred to Committee on Public Health.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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# HOUSE BILL No. 1298



A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-22-2-28, AS AMENDED BY P.L.110-2010,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 28. (a) The following definitions apply throughout  
4 this section:

- 5 (1) "Ombudsman" refers to the small business ombudsman  
6 designated under IC 5-28-17-5.
- 7 (2) "Total estimated economic impact" means the annual  
8 economic impact of a rule on all regulated persons after the rule  
9 is fully implemented under subsection (g).
- 10 (b) The ombudsman:
  - 11 (1) shall review a proposed rule that:
    - 12 (A) imposes requirements or costs on small businesses (as  
13 defined in IC 4-22-2.1-4); and
    - 14 (B) is referred to the ombudsman by an agency under  
15 IC 4-22-2.1-5(c); and
  - 16 (2) may review a proposed rule that imposes requirements or  
17 costs on businesses other than small businesses (as defined in



1 IC 4-22-2.1-4).  
 2 After conducting a review under subdivision (1) or (2), the ombudsman  
 3 may suggest alternatives to reduce any regulatory burden that the  
 4 proposed rule imposes on small businesses or other businesses. The  
 5 agency that intends to adopt the proposed rule shall respond in writing  
 6 to the ombudsman concerning the ombudsman's comments or  
 7 suggested alternatives before adopting the proposed rule under section  
 8 29 of this chapter.

9 (c) Subject to subsection (f) and not later than fifty (50) days before  
 10 the public hearing required by section 26 of this chapter, an agency  
 11 shall submit a proposed rule to the office of management and budget  
 12 for a review under subsection (d) if the agency proposing the rule  
 13 determines that the rule will have a total estimated economic impact  
 14 greater than five hundred thousand dollars (\$500,000) on all regulated  
 15 persons. In determining the total estimated economic impact under this  
 16 subsection, the agency shall consider any applicable information  
 17 submitted by the regulated persons affected by the rule. To assist the  
 18 office of management and budget in preparing the fiscal impact  
 19 statement required by subsection (d), the agency shall submit, along  
 20 with the proposed rule, the data used and assumptions made by the  
 21 agency in determining the total estimated economic impact of the rule.

22 (d) Except as provided in subsection (e), before the adoption of the  
 23 rule, and not more than forty-five (45) days after receiving a proposed  
 24 rule under subsection (c), the office of management and budget shall  
 25 prepare, using the data and assumptions provided by the agency  
 26 proposing the rule, along with any other data or information available  
 27 to the office of management and budget, a fiscal impact statement  
 28 concerning the effect that compliance with the proposed rule will have  
 29 on:

- 30 (1) the state; and
- 31 (2) all persons regulated by the proposed rule.

32 The fiscal impact statement must contain the total estimated economic  
 33 impact of the proposed rule and a determination concerning the extent  
 34 to which the proposed rule creates an unfunded mandate on a state  
 35 agency or political subdivision. The fiscal impact statement is a public  
 36 document. The office of management and budget shall make the fiscal  
 37 impact statement available to interested parties upon request. The  
 38 agency proposing the rule shall consider the fiscal impact statement as  
 39 part of the rulemaking process and shall provide the office of  
 40 management and budget with the information necessary to prepare the  
 41 fiscal impact statement, including any economic impact statement  
 42 prepared by the agency under IC 4-22-2.1-5. The office of management

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1 and budget may also receive and consider applicable information from  
2 the regulated persons affected by the rule in preparation of the fiscal  
3 impact statement. **If the office of management and budget has not**  
4 **completed the fiscal impact statement of a proposed rule within the**  
5 **forty-five (45) days required under this subsection, the rule may**  
6 **proceed without the fiscal impact statement.**

7 (e) With respect to a proposed rule subject to IC 13-14-9:

8 (1) the department of environmental management shall give  
9 written notice to the office of management and budget of the  
10 proposed date of preliminary adoption of the proposed rule not  
11 less than sixty-six (66) days before that date; and

12 (2) the office of management and budget shall prepare the fiscal  
13 impact statement referred to in subsection (d) not later than  
14 twenty-one (21) days before the proposed date of preliminary  
15 adoption of the proposed rule.

16 (f) In determining whether a proposed rule has a total estimated  
17 economic impact greater than five hundred thousand dollars  
18 (\$500,000), the agency proposing the rule shall consider the impact of  
19 the rule on any regulated person that already complies with the  
20 standards imposed by the rule on a voluntary basis.

21 (g) For purposes of this section, a rule is fully implemented after:

22 (1) the conclusion of any phase-in period during which:

23 (A) the rule is gradually made to apply to certain regulated  
24 persons; or

25 (B) the costs of the rule are gradually implemented; and

26 (2) the rule applies to all regulated persons that will be affected  
27 by the rule.

28 In determining the total estimated economic impact of a proposed rule  
29 under this section, the agency proposing the rule shall consider the  
30 annual economic impact on all regulated persons beginning with the  
31 first twelve (12) month period after the rule is fully implemented. The  
32 agency may use actual or forecasted data and may consider the actual  
33 and anticipated effects of inflation and deflation. The agency shall  
34 describe any assumptions made and any data used in determining the  
35 total estimated economic impact of a rule under this section.

36 SECTION 2. IC 25-1-2-10 IS ADDED TO THE INDIANA CODE  
37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
38 1, 2011]: **Sec. 10. (a) As used in this section, "agency" refers to the**  
39 **Indiana professional licensing agency established by IC 25-1-5-3.**

40 **(b) As used in this section, "fund" refers to the renewal amnesty**  
41 **program fund created under subsection (f).**

42 **(c) The agency shall create an amnesty program for individuals**

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1 licensed under this title who did not renew their licenses for one (1)  
2 or more renewal periods during the period beginning January 1,  
3 2000, and ending June 30, 2011. The amnesty program begins July  
4 1, 2011, and ends June 30, 2012.

5 (d) To be eligible for the program, the licensee must have been  
6 eligible for renewal during the time for which renewal was not  
7 completed.

8 (e) When renewing a license under this section, the licensee shall  
9 pay:

- 10 (1) the license renewal fee; and
- 11 (2) an additional fee of one hundred dollars (\$100) to be  
12 deposited in the renewal amnesty program fund established  
13 under subsection (f).

14 (f) The renewal amnesty program fund is created to allow the  
15 agency to increase oversight of the license renewal process. The  
16 fund shall be administered by the agency.

17 (g) The fund consists of fees collected under subsection (e)(2).

18 (h) The expenses of administering the fund shall be paid from  
19 money in the fund.

20 (i) The treasurer of state shall invest the money in the fund not  
21 currently needed to meet the obligations of the fund in the same  
22 manner as other public money may be invested. Interest that  
23 accrues from these investments shall be deposited in the fund.

24 (j) Money in the fund at the end of a state fiscal year does not  
25 revert to the state general fund.

26 (k) The fund is subject to appropriations made by the general  
27 assembly.

28 (l) This section expires December 31, 2013. Any money left in  
29 the fund on December 31, 2013, reverts to the state general fund.

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