

# HOUSE BILL No. 5935

March 30, 2006, Introduced by Reps. Baxter, Taub, Robertson, Gosselin, Farhat, Booher, LaJoy, Elsenheimer, Pastor, Palsrok, Stakoe, Hildenbrand, Moore, Wenke, Stahl, Nofs, Stewart, Newell, Brandenburg, Caswell, Hummel, Kahn, David Law, Mortimer, Ball, Schuitmaker, Drolet, Palmer, Huizenga, Hoogendyk, Ward, Jones, Green, Caul, Marleau, Pavlov, Vander Veen, Garfield, Kooiman, Acciavatti, Amos and Moolenaar and referred to the Committee on Commerce.

A bill to amend 1969 PA 306, entitled  
"Administrative procedures act of 1969,"  
by amending sections 26 and 63 (MCL 24.226 and 24.263).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 26. (1) An agency shall not adopt a guideline, **BULLETIN,**  
2       **INTERPRETIVE STATEMENT, OR FORM WITH INSTRUCTIONS** in lieu of a  
3       rule.

4       (2) A **GUIDELINE, BULLETIN, INTERPRETIVE STATEMENT, DECLARATORY**  
5       **RULING, OR FORM WITH INSTRUCTIONS** SHALL NOT BE GIVEN THE FORCE AND  
6       **EFFECT OF LAW BY THE AGENCY AND IS CONSIDERED MERELY ADVISORY. AN**  
7       **AGENCY SHALL NOT RELY UPON A GUIDELINE, BULLETIN, INTERPRETIVE**  
8       **STATEMENT, DECLARATORY RULING, OR FORM WITH INSTRUCTIONS TO SUPPORT**  
9       **AN AGENCY'S DECISION TO ACT OR REFUSE TO ACT IF THAT DECISION IS**

1 SUBJECT TO JUDICIAL REVIEW. A COURT SHALL NOT RELY UPON A  
2 GUIDELINE, BULLETIN, INTERPRETIVE STATEMENT, DECLARATORY RULING, OR  
3 FORM WITH INSTRUCTIONS TO UPHOLD SUCH AN AGENCY DECISION.

4 Sec. 63. (1) On request of an interested person, an agency may  
5 issue a declaratory ruling as to the applicability to an actual  
6 state of facts of a statute administered by the agency or of a rule  
7 or order of the agency. An agency shall prescribe by rule the form  
8 for such a request and procedure for its submission, consideration,  
9 and disposition. A declaratory ruling is binding on the agency and  
10 the person requesting it unless it is altered or set aside by any  
11 court. An agency may not retroactively change a declaratory ruling  
12 ~~, but nothing in~~ **EXCEPT THAT** this subsection ~~prevents~~ **DOES NOT**  
13 **PREVENT** an agency from prospectively changing a declaratory ruling.  
14 A declaratory ruling is subject to judicial review in the same  
15 manner as an agency final decision or order in a contested case.

16 (2) **IN ISSUING ORDERS, BULLETINS, GUIDELINES, INTERPRETIVE**  
17 **STATEMENTS, DECLARATORY RULINGS, AND FORMS WITH INSTRUCTIONS AND IN**  
18 **CONSTRUING, IMPLEMENTING, AND ENFORCING THE REQUIREMENTS OF THE**  
19 **LAW, AN AGENCY SHALL AT ALL TIMES GIVE DUE CONSIDERATION TO**  
20 **REDUCING THE ADVERSE IMPACT ITS ORDERS, BULLETINS, GUIDELINES,**  
21 **INTERPRETIVE STATEMENTS, DECLARATORY RULINGS, AND FORMS WITH**  
22 **INSTRUCTIONS MAY HAVE ON THE DEVELOPMENT AND GROWTH IN THIS STATE**  
23 **OF SMALL BUSINESSES TO THE END OF ENCOURAGING AND FOSTERING THE**  
24 **GROWTH OF SMALL BUSINESSES AND THE ELIMINATION OF UNNECESSARY**  
25 **REGULATORY BURDENS FOR SMALLER BUSINESSES.**