

SECOND REGULAR SESSION

SENATE BILL NO. 908

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR FLOTRON.

Read 1st time February 12, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3591.011

AN ACT

To amend chapter 536, RSMo, by adding thereto one new section relating to remedies for hardship caused by new or changed interpretations of law by executive branch administrative agencies.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 536, RSMo, is amended by adding thereto one new section, to be known as section 536.089, to read as follows:

536.089. 1. It is hereby declared to be the public policy of the state of Missouri that interpretations of the statutes and the constitution of this state by an executive branch administrative agency, which are reasonably relied upon in good faith by any non-governmental entity or person to their detriment, shall be binding upon such executive branch administrative agency with regard to such entity or person. In furtherance of such public policy, no executive branch administrative agency of this state shall enforce or apply retroactively any new or changed interpretation of the statutes or the constitution, whether caused by a change of policy or regulation by such executive branch administrative agency or by a decision of a court declaring a prior administrative agency interpretation invalid, where any non-governmental entity or person has reasonably and in good faith relied upon such past agency policy, rule or interpretation of law. Executive branch administrative agencies shall, upon request of any person or entity claiming to be adversely affected by a proposed retroactive application of a changed or of a new interpretation of the statutes or the constitution of the state, conduct such proceedings as may be appropriate to determine the existence of detrimental reliance, including a determination of:

(1) The adoption and existence of a prior interpretation of law or of the

constitution by the agency;

(2) The reliance of the person or entity on such interpretation or policy of the agency;

(3) The reasonableness of the reliance; and

(4) The detriment, economic or otherwise, to the person or entity as a result of such reliance.

2. Upon a finding of detrimental reliance of a non-governmental entity or person, the agency shall apply any new or changed decision or interpretation prospectively only and shall not apply such new or changed decision or interpretation retroactively as to undertakings of persons relying in good faith on such past interpretations of law. Further, to the extent that any further acts are required of an agency in order to protect such persons from impairment of their interest, undertakings and commitments accrued based upon an agency's interpretation of law and prior to a change in an interpretation of law reasonably and detrimentally relied upon, the executive branch administrative agency shall take all such further action requested by a person or entity under this section as would have been taken or granted in the absence of any new or changed interpretation of law, constitutional provision, policy or regulation made by the agency or required by decision or order of a court, including the granting of any license, permit, certificate or other benefit, right or privilege other than the payment of money. This section shall apply to all executive branch administrative agency interpretations reasonably relied upon by a non-governmental entity or person on and after January 1, 1999.

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