

STATE OF DELAWARE



EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER ONE HUNDRED TWENTY-THREE

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: REORGANIZATION OF THE DEPARTMENT OF COMMUNITY AFFAIRS
AND THE DESIGNATION OF THE DEPARTMENT OF COMMUNITY
AFFAIRS AS THE DESIGNATED STATE AGENCY FOR THE
DEVELOPMENTAL DISABILITIES PROGRAM

WHEREAS, the Secretary of the Department of Community Affairs, with the approval of the Governor, has the authority to organize the Department into such divisions or other units as will increase the effectiveness and efficiency with which its affairs are conducted and to establish, consolidate, abolish, transfer, or combine the powers, duties, and functions of divisions, subdivisions and offices within the Department under 29 Del. C., Section 8603(4), and to delegate duties, powers, and functions to Division Directors under 29 Delaware Code, Section 8603(6); and

WHEREAS, there is a need to raise certain programs which the Department of Community Affairs currently administers to a "divisional" status in order to better reflect their importance within this Department and in the government of the State and to change the titles and more clearly define the current responsibilities of certain administering agencies in the Department of Community Affairs; and

WHEREAS, the importance of the functions, powers, and duties of the Office of Human Relations, in the Department of Community Affairs, established in Section 8604 of Title 29, Del. C., would be better shown by designating the "Office" as a "Division"; and

WHEREAS, the Division of Housing and the Council on Housing, in the Department of Community Affairs, which were established pursuant to Sections 8608-8609 of Title 29, Del. C., have been given new "community development" program responsibilities; and

WHEREAS, the Office of Economic Opportunity, in the Department of Community Affairs, which was established pursuant to Executive Order Number 46 of December 22, 1969, as amended by Executive Order Number 39 of August 25, 1970, has been given new community services program responsibilities; and

WHEREAS, the importance of the functions, powers, and duties of the Office of Economic Opportunity, within the Department of Community Affairs and in State government, would be better shown by designating this "Office" as a "Division"; and

WHEREAS, Section 512 of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978 (P.L. 95-602), requires that the Governor of a state which is participating in the federally assisted Developmental Disabilities Program designate a State agency as the administering agency for this program; and

WHEREAS, the designation of the Department of Community Affairs as the administering agency for the Developmental Disabilities program would better promote coordination between this program and other handicapped-related programs within the Department of Community Affairs; and

WHEREAS, the Secretary of the Department of Health and Social Services and the Delaware Developmental Disabilities Planning Council support this designation; and

WHEREAS, the placement within the Department of Community Affairs of the Council on Hispanic Affairs, which was established pursuant to Executive Order Number 57 of July 11, 1978, as amended by Executive Order Number 62 of September 13, 1978, needs to be clarified.

NOW, THEREFORE, I, PIERRE S. du PONT, IV, in concurrence with the Secretary of the Department of Community Affairs, and by virtue of the authority vested in me as Governor of the State of Delaware, do hereby declare and order as follows:

1. Division of Human Relations.

a) Effective January 15, 1983, a Division of Human Relations is established in the Department of Community Affairs having all the powers, duties, and functions heretofore vested in the Office of Human Relations in the Department of Community Affairs, pursuant to 29 Del. C., Section 8604, and the following executive orders: Executive Order Number 9 of July 15, 1969, Executive Order Number 40 of February 21, 1974, Executive Order Number 55 of June 8, 1978 and Executive Order Number 74 of September 25, 1979, as amended; and the Director of the Division of Human Relations shall be responsible for the performance of all duties, powers, and functions heretofore vested in the Chief of Human Relations pursuant to 29 Del. C., Section 8603(2)(d), and the executive orders referenced herein.

2. Division of Housing and Community Development.

a) Effective January 15, 1983, a Division of Housing and Community Development is established in the Department of Community Affairs having all the powers, duties, and functions heretofore vested in the Division of Housing in the Department of Community Affairs pursuant to 29 Del. C., Section 8608; and, the Director of the Division of Housing and Community Development shall be responsible for the performance of all the duties, powers, and functions heretofore vested in the Director of the Division of Housing pursuant to 29 Del. C., Section 8603(2)(a).

b) In addition to those powers, duties, and functions vested in the Division of Housing, pursuant to 29 Del. C., Section 8608, the Division of Housing and Community Development and the Director of the Division of Housing and Community Development shall also be responsible for providing technical assistance, information, data and other materials to local governments which may enable them to prepare and implement community development projects and to prepare applications for federal funds which may now or in the future be available to further assist such community development efforts.

3. Council on Housing and Community Development.

a) Effective January 15, 1983, a Council on Housing and Community Development is established having all the powers, duties, and functions heretofore vested in the Council on Housing, pursuant to 29 Del. C., Section 8609. This Council shall serve in an advisory capacity to the Director of the Division of Housing and Community Development. All currently appointed members of the Council on Housing shall retain their appointments and fill out their terms on the Council on Housing and Community Development, to assure the continuity of citizen involvement in the Division's housing and community development process.

4. Division of Community Services.

a) Executive Order Number 39 of August 25, 1970, and Executive Order Number 46 of December 22, 1964, are hereby rescinded.

b) Effective January 15, 1983, a Division of Community Services is established in the Department of Community Affairs having all the powers, duties, and functions heretofore vested in the Office of Economic Opportunity in the Department of Community Affairs, pursuant to Executive Order Number 39 of August 25, 1970 and Executive Order Number 46 of December 22, 1964, and all subsequent duties and functions assigned to that Office by the Governor, the General Assembly, and the Secretary of the Department of Community Affairs, including, but not limited to, those energy conservation, low-income home energy assistance, and community services programs which have been established by federal law, regulations or guidelines; and, the Director of the Division of Community Services shall be responsible for the performance of all the duties, powers, and functions heretofore vested in the Director of the Office of Economic Opportunity, pursuant to the aforementioned executive orders and assignments by the Governor, the General Assembly and the Secretary of the Department of Community Affairs.

c) The Division of Community Services shall also provide, as needed, professional and clerical support for such other councils and programs as may herein or hereafter be placed for administrative purposes within this Division, and assume such other powers, duties, and functions as the Secretary of the Department of Community Affairs may assign which are not otherwise inconsistent with the laws of the State.

5. Developmental Disabilities Program.

a) Effective January 15, 1983, the Department of Community Affairs shall serve as the "designated State agency" for the federally assisted Developmental Disabilities Program, pursuant to Section 512 of the Rehabilitation, Comprehensive Services and the Developmental Disabilities Amendments of 1978 (P.L. 95-602); and, all the powers, duties, and functions heretofore vested in the Department of Health and Social Services as "the designated State agency" for this program pursuant to prior year "designations" by Governors of this State are transferred to the Department of Community Affairs.

6. Council on Hispanic Affairs.

a) Effective January 15, 1983, the Council on Hispanic Affairs, which was established pursuant to Executive Order Number 57 of July 11, 1978, as amended by Executive Order Number 62 of September 13, 1978, shall be placed for administrative purposes within the Division of Community Services.

7. Assumption of Powers.

a) The Department of Community Affairs, through appropriate divisions, subdivisions and offices, shall also have the power to perform and shall be responsible for the performance of all the powers, duties, and functions previously vested in the Office of Economic Opportunity, the Division of Housing and the Office of Human Relations, within the Department of Community Affairs, and the Developmental Disabilities Program within the Department of Health and Social Services, immediately prior to the effective date of this executive order and which are not otherwise specifically granted in this executive order.

8. Appeals.

a) Any and all rights of appeal now existing by law with respect to any Act or Acts constituting the exercise of any function or functions now vested by this executive order in the Department of Community Affairs or in any division or subdivision thereof shall continue to exist with respect to such Act or Acts as hereafter performed by the Department or by the division, subdivision or office thereof, and each such appeal shall be perfected in the manner heretofore provided by law.

9. Continuity.

a) All books, records, papers, maps, charts, plans and other material including, but not limited to, any equipment and office furniture in the possession of any agency of the State and used in connection with a function now vested in the Department of Community Affairs by this executive order shall, on the effective date of this executive order, be delivered into the custody of the Department of Community Affairs. All investigations, petitions, hearings and legal proceedings pending before, or instituted by, any agency affected by the provisions of this executive order and which are not concluded prior to the effective date of this executive order, shall continue unabated and remain in full force and effect, notwithstanding the execution of this executive order and, where necessary, may be completed before, by, or in the name of the Department of Community Affairs. All orders, rules and regulations made by any agency affected by the provisions of this executive order and which govern such functions, and which are in effect upon the effective date of this executive order, shall remain in full force and effect until revoked or modified in accordance with law by the Department of Community Affairs. All contracts and obligations of any agency affected by the provisions of this executive order made or undertaken in the performance of

their duties and being in force on the effective date of this executive order, shall, notwithstanding this executive order, remain in full force and effect and be performed by the Department of Community Affairs.

b) Subject to the applicable provisions of State law and personnel procedures, employees of any commission, board, department, council or agency, whose functions may have been affected by the provisions of this executive order, shall be transferred to the Department of Community Affairs to carry out the provisions of this executive order and these employees shall continue and be deemed to be the employees of the Department of Community Affairs on the effective date of this executive order and, where applicable, with all the benefits accrued as merit employees as of the effective date of this executive order.

c) Subject to the applicable provisions of State law and State budget and accounting procedures, any sums appropriated to any office, commission, department, council, agency or person affected by this executive order and which, upon the effective date of this executive order, are unencumbered or unexpended shall be transferred to the Department of Community Affairs to carry out the provisions of this executive order.

d) All definitions and references to any commission, board, department, council or agency which appear in any other Act or law shall, to the extent that they are consistent with this executive order and in connection with a function affected by this executive order, be construed as referring and relating to the Department of Community Affairs.

e) All definitions and references to any director, commissioner, executive secretary, commission, board or council member, or other similar person which appear in any other Act or law shall, to the extent that they are consistent with this executive order, and in connection with a function affected by this executive order, be construed as referring or relating to such person or persons and their powers, duties and functions as established and created in this executive order.

10. Misnomer of Department in Donation.

a) Any misnomer shall not defeat or annul any gift, grant, devise or bequest to the Department of Community Affairs if it sufficiently appears by the will, conveyance or other writing that the party making the same intended to pass and convey thereby to the Department of Community Affairs or to any commission, board, department, authority, council or agency, to which, by this executive order, the powers, duties and functions have been affected by this executive order the estate or interest therein expressed or described.

11. Supremacy.

All other executive orders now in effect inconsistent with this executive order are hereby repealed, superseded, modified or amended so far as necessary to conform to, and give full force and effect to, this executive order.

12. Severability.

If any provision of this executive order, or of any rule, regulation or order thereunder of the application of such provision to any person or circumstances, shall be held invalid, the remainder of this executive order and the application of such

provisions of this executive order or of such rule, regulation or order to persons or circumstances other than those to which it is held invalid, shall not be affected hereby.

APPROVED this 19th day of December
1982.



[Signature]
Governor

[Signature]
Secretary of Community Affairs

ATTEST:

[Signature]
Secretary of State