

2014 -- H 8135 SUBSTITUTE A

=====
LC005469/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

—————
A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND
REGULATORY REFORM ACT

Introduced By: Representatives Serpa, Ackerman, Phillips, Canario, and Giarrusso

Date Introduced: May 01, 2014

Referred To: House Small Business

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-64.13-7 of the General Laws in Chapter 42-64.13 entitled
2 "Rhode Island Regulatory Reform Act" is hereby amended to read as follows:

3 **42-64.13-7. Powers of the office of regulatory reform. --** The office of regulatory
4 reform shall have the following powers:

5 (1) The director of the office of regulatory reform is authorized to intervene or otherwise
6 participate in any regulatory or permitting matter pending before any executive branch agency or
7 department or before any municipal board, commission, agency or subdivision thereof at which a
8 regulatory or permitting matter is pending for the expressed net benefit of a business. The director
9 of the office of regulatory reform may so intervene or otherwise participate in such pending
10 regulatory and permitting matters by providing written notice to the director of any department or
11 state agency in the executive branch, or the chairman or presiding officer over any municipal
12 department or subdivision thereof at which a regulatory or permitting matter is pending, that the
13 director of the office of regulatory reform is so intervening or otherwise participating in such
14 regulatory or permitting matter pending before such department, agency, board or commission.
15 The director of the office of regulatory reform shall be considered a party to the action and shall
16 be provided reasonable notice of any and all administrative hearings or meetings involving the
17 parties in such matter and shall be the opportunity to participate in such meetings, hearings or
18 other administrative procedures of such entity, of which such opportunity may be waived only by

1 writing from the director of the office of regulatory reform, for the purpose of assuring the
2 efficient and consistent implementation of rules and regulations in order to foster the creation and
3 retention of jobs in Rhode Island or otherwise foster economic development in Rhode Island
4 consistent with the purposes of this act. Any intervention or participation by the director of the
5 office of regulatory reform, other than in contested cases, shall not be deemed to violate the
6 provisions of the Rhode Island administrative procedures act at Title 42, Chapter 35 of the
7 general laws. Provided, however, all contested cases shall be conducted in accordance with the
8 provisions for hearings of contested cases in the administrative procedures act, Title 42, Chapter
9 35, of the general laws. As used in this section, the term "contested case" means a proceeding in
10 which conflicting rights between adverse parties are required by law to be determined in an
11 adversary proceeding that is judicial or quasi-judicial in nature, and not purely administrative in
12 character, before and/or by an agency.

13 (2) Promptly upon such intervention as set forth in subdivision (1) above, the director of
14 the office of regulatory reform shall publish its rationale for its intervention in such pending
15 regulatory or permitting matter. The director of the office of regulatory reform may so intervene
16 upon findings that:

17 (i) That the pending, regulatory or permitting action, in and of itself or as part of a
18 regulatory process, has significant economic development impact upon the state or any
19 municipality herein; and

20 (ii) The pending regulatory or permitting matter, in and of itself or as part of a regulatory
21 process, has significant impact on any industry, trade, profession or business that provides
22 significant jobs or other significant economic development impact, including municipal and state
23 taxes or other revenues, to the state or its citizens.

24 (iii) The office of regulatory reform shall upon the conclusion of each fiscal quarter
25 promptly provide to the office of the governor and the general assembly through the offices of the
26 president of the senate and the speaker of the house of representatives a written report identifying:

27 (A) All matters in which the director of the office of regulatory reform intervened;

28 (B) The rationale for his or her intervention;

29 (C) The status of the pending regulatory or permitting matter;

30 (D) Any observations or recommendations from the director of the office of regulatory
31 reform with respect to such regulatory or permitting policies or procedures relating to the subject
32 matter of such pending regulatory or permitting matters in which the director so intervened; and

33 (E) The status of the agency rule review required pursuant to subsection 42-35-3.4(d)
34 including the number of rules reviewed within the previous quarter, the number of rules amended

1 or rescinded and the estimated aggregate impact of such amendments or rescissions on businesses
2 in Rhode Island.

3 (3) The office of regulatory reform is authorized to appear as an amicus curiae in any
4 legal proceeding relating to any matter.

5 (4) The office of regulatory reform is authorized to coordinate with and support the
6 building commissioner and fire marshal in the development and implementation of a standard
7 statewide process for electronic plan review, permit management and inspection.

8 (5) The office of regulatory reform is authorized to coordinate, provide technical
9 assistance, and oversee state agency regulatory review and accompanying economic impact
10 statements on small businesses.

11 (6) The office of regulatory reform is authorized to review state regulatory and permitting
12 processes and develop maps, flow charts, and other visualizations of such processes to increase
13 their navigability and efficiency. Such maps and visualizations shall be designed to inform
14 businesses of their responsibilities and obligations through each step of the regulatory process and
15 shall help inform future efforts to improve processes, eliminate redundant or obsolete
16 requirements, and improve interagency communication.

17 SECTION 2. Chapter 42-64.13 of the General Laws entitled "Rhode Island Regulatory
18 Reform Act" is hereby amended by adding thereto the following section:

19 **42-64.13-11. Additional functions and duties.** – Utilizing the period three review
20 produced by the office of regulatory reform, the following additional responsibilities and
21 authority are hereby granted and required of the office of regulatory reform:

22 (1) The office of regulatory reform is directed to review current state regulatory and
23 permitting processes to develop maps, flow charts, and other visuals to provide and facilitate a
24 way for businesses and individuals to understand and navigate their responsibilities and
25 obligations in connection with each step of the regulatory process;

26 (i) This mapping process shall be used to identify duplications, conflict, or overlap of
27 processes and regulations for the purpose of elimination or consolidation;

28 (ii) This mapping process may result in a web-based map to be used by the state as well
29 as a prototype for local government;

30 (2) There shall be no exemption from review by the office of regulatory reform for
31 businesses that are not defined as small businesses including, without limitation, financial
32 companies, developers, architects, building designers, utilities, and nonprofit institutions, due to
33 the fact that exemptions can create a significant barrier to comprehensive review and reform;

34 (3) The office of regulatory reform shall prepare a "Regulation Manual" to standardize

1 and bring uniformity to the structure, presentation, and format of state regulatory requirements,
2 and shall work with public and private entities to promote public access where needed;

3 (4) The office of regulatory reform shall submit to the general assembly by each January
4 31, recommendations for the removal of duplicative regulations and non-regulations. The office
5 of regulatory reform shall promote the elimination or condensing of duplicative regulations and
6 seek alternative avenues for non-regulations. This report shall also include a summary of any
7 legal challenges to any regulation;

8 (5) The office of regulatory reform shall identify and suggest ways to consolidate
9 separate regulatory requirements into a logical whole and to also reorganize, consolidate and
10 centralize regulations;

11 (6) The office of regulatory reform shall provide recommendations to reform audit,
12 inspection, and enforcement processes to provide and facilitate for the education, consultation,
13 training and other forms of assistance to businesses as they navigate the enforcement process;

14 (7) The office of regulatory reform shall produce a web-based suggestion box allowing
15 businesses to make suggestions for reform of the regulatory process, and to identify arbitrary
16 processes;

17 (8) The office of regulatory reform shall prepare a cost-benefit analysis to collect data
18 concerning regulatory agencies which have had difficulty quantifying the number and types of
19 businesses they regulate, and shall look for ways to promote better cost-benefit analyses,
20 including researching training options and economic impact tools;

21 (9) The office of regulatory reform shall create an improvement training program, using
22 methods such as lean consultation services;

23 (10) The office of regulatory reform shall develop a legislative package for the general
24 assembly to, among other things, eliminate statutory exemptions and reinstate the requirement for
25 the governor to review regulatory proposals. In addition, the office of regulatory reform shall
26 require regulatory agencies to post economic impact statements online alongside proposed
27 regulatory changes;

28 (11) The required five (5) year periodic review and five (5) year refiling of rules and
29 regulations shall be synchronized by the office of regulatory reform in any proposed legislation to
30 address such efforts;

31 (12) The office of regulatory reform shall promote performance-based or outcome-based
32 regulatory approaches and make recommendations focusing on achieving the desired results,
33 allowing for alternative methods to achieve regulatory goals more efficiently and effectively. The
34 general assembly further finds and declares that Rhode Island needs to shift the balance from a

1 command-and-control regulatory approach to performance-based regulation. Performance-based
2 or outcome-based regulation holds businesses accountable for results, but allows them greater
3 flexibility in choosing the best means in achieving those results. The office of regulatory reform
4 shall prepare a report for submission to the general assembly and the governor by January 31,
5 2015, recommending approaches to developing performance-based regulations. The report shall
6 also include an approach to enforcement reform, continuous process improvement, and other
7 reform efforts beyond current performance.

8 SECTION 3. This act shall take effect upon passage.

=====
LC005469/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND
REGULATORY REFORM ACT

1 This act would enable the office of regulatory reform to review state regulatory and
2 permitting processes to develop maps, flow charts, and other visual processes to allow businesses
3 to navigate the regulatory process, improve efficiencies, eliminate redundant or obsolete
4 requirements, identify arbitrary processes, promote outcome-based approaches, and bring
5 uniformity to state requirements.

6 This act would take effect upon passage.

=====
LC005469/SUB A
=====