

**2016 -- S 2112 SUBSTITUTE A**

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LC003962/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2016**

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- EQUAL ACCESS TO JUSTICE  
FOR SMALL BUSINESSES AND INDIVIDUALS

Introduced By: Senators Lombardi, Archambault, Conley, Lombardo, and McCaffrey

Date Introduced: January 21, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 42-92-2 of the General Laws in Chapter 42-92 entitled "Equal  
2 Access to Justice for Small Businesses and Individuals" is hereby amended to read as follows:

3           **42-92-2. Definitions.** -- As used in this chapter:

4           (1) "Adjudicative officer" means the deciding official, without regard to whether the  
5 official is designated as an administrative law judge, a hearing officer or examiner, or otherwise,  
6 who presided at the adversary adjudication.

7           (2) "Adjudicatory proceedings" means any proceeding conducted by or on behalf of the  
8 state administratively or quasi-judicially which may result in the loss of benefits, the imposition  
9 of a fine, the adjustment of a tax assessment, the denial, suspension, or revocation of a license or  
10 permit, or which may result in the compulsion or restriction of the activities of a party. Any  
11 agency charged by statute with investigating complaints shall be deemed to have substantial  
12 justification for the investigation and for the proceedings subsequent to the investigation.

13           (3) "Agency" means any state and/or municipal board, commission, council, department,  
14 or officer, other than the legislature or the courts, authorized by law to make rules or to determine  
15 contested cases, to bring any action at law or in equity, including, but not limited to, injunctive  
16 and other relief, or to initiate criminal proceedings. This shall include contract boards of appeal,  
17 tax proceedings, and employment security administrative proceedings.

18           (4) "Municipality" means the individual cities and towns in the state of Rhode Island and

1 including, but not limited to, any city or town housing authority, fire, water, sewer district, local  
2 or regional school district, public building authority or other municipal financed agency or  
3 department.

4 (5) "Party" means any individual whose net worth is less than five hundred thousand  
5 dollars (\$500,000) at the time the adversary adjudication was initiated; and, any individual,  
6 partnership, corporation, association, or private organization doing business and located in the  
7 state, which is independently owned and operated, not dominant in its field, and which employs  
8 one hundred (100) or fewer persons at the time the adversary adjudication was initiated.

9 (6) "Reasonable litigation expenses" means those expenses which were reasonably  
10 incurred by a party in adjudicatory proceedings, including, but not limited to, attorney's fees,  
11 witness fees of all necessary witnesses, and other costs and expenses as were reasonably incurred,  
12 except that:

13 (i) The award of attorney's fees may not exceed ~~one hundred and twenty five dollars~~  
14 ~~(\$125)~~ one hundred fifty dollars (\$150) per hour, unless the court determines that special factors  
15 justify a higher fee;

16 (ii) No expert witness may be compensated at a rate in excess of the highest rate of  
17 compensation for experts paid by this state.

18 (7) "Substantial justification" means that the initial position of the agency, as well as the  
19 agency's position in the proceedings, has a reasonable basis in law and fact.

20 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- EQUAL ACCESS TO JUSTICE  
FOR SMALL BUSINESSES AND INDIVIDUALS

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- 1           This act would increase awardable attorneys' fees in adjudicatory proceedings from one
- 2 hundred twenty-five dollars (\$125) to one hundred fifty dollars (\$150) per hour.
- 3           This act would take effect upon passage.

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