

2023 -- H 6275

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LC002739
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ADMINISTRATIVE
PROCEDURES

Introduced By: Representatives Place, Nardone, Craven, and Rea

Date Introduced: April 07, 2023

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-35-15 of the General Laws in Chapter 42-35 entitled
2 "Administrative Procedures" is hereby amended to read as follows:

3 **42-35-15. Judicial review of contested cases.**

4 (a) Any person, including any small business, who has exhausted all administrative
5 remedies available to him or her within the agency, and who is aggrieved by a final order in a
6 contested case is entitled to judicial review under this chapter. This section does not limit utilization
7 of or the scope of judicial review available under other means of review, redress, relief, or trial de
8 novo provided by law. Any preliminary, procedural, or intermediate agency act or ruling is
9 immediately reviewable in any case in which review of the final agency order would not provide
10 an adequate remedy.

11 (b) Proceedings for review are instituted by filing a complaint in the superior court of
12 Providence County or in the superior court in the county in which the cause of action arose, or
13 where expressly provided by the general laws in the sixth division of the district court or family
14 court of Providence County, within thirty (30) days after mailing notice of the final decision of the
15 agency or, if a rehearing is requested, within thirty (30) days after the decision thereon; provided,
16 however, that any person who is aggrieved by a final order concerning the assessment or
17 determination of any tax, interest, or penalty made by the tax administrator must pay the amount
18 of the tax, interest, or penalty to the administrator as a prerequisite to the filing of such complaint.

1 Copies of the complaint shall be served upon the agency and all other parties of record in the manner
2 prescribed by applicable procedural rules within ten (10) days after it is filed in court; provided,
3 however, that the time for service may be extended for good cause by order of the court.

4 (c) The filing of the complaint does not itself stay enforcement of the agency order. The
5 agency may grant, or the reviewing court may order, a stay upon the appropriate terms.

6 (d) Within thirty (30) days after the service of the complaint, or within further time allowed
7 by the court, the agency shall transmit to the reviewing court the original or a certified copy of the
8 entire record of the proceeding under review. By stipulation of all parties to the review proceedings,
9 the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may
10 be taxed by the court for the additional costs. The court may require or permit subsequent
11 corrections or additions to the record.

12 (e) If, before the date set for the hearing, application is made to the court for leave to present
13 additional evidence, and it is shown to the satisfaction of the court that the additional evidence is
14 material and that there were good reasons for failure to present it in the proceeding before the
15 agency, the court may order that the additional evidence be taken before the agency upon conditions
16 determined by the court. The agency may modify its findings and decision by reason of the
17 additional evidence and shall file that evidence and any modifications, new findings, or decisions
18 with the reviewing court.

19 (f) The review shall be conducted by the court without a jury and shall be confined to the
20 record. In cases of alleged irregularities in procedure before the agency, not shown in the record,
21 proof thereon may be taken in the court. The court, upon request, shall hear oral argument and
22 receive written briefs. In a proceeding brought by or against the regulated party, the court shall
23 decide all questions of law, including the interpretation of a constitutional or statutory provision or
24 a rule adopted by an agency, without deference to any previous determination that may have been
25 made on the question by the agency.

26 (g) The court shall not substitute its judgment for that of the agency as to the weight of the
27 evidence on questions of fact. The court may affirm the decision of the agency or remand the case
28 for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant
29 have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

30 (1) In violation of constitutional or statutory provisions;

31 (2) In excess of the statutory authority of the agency;

32 (3) Made upon unlawful procedure;

33 (4) Affected by other error of law;

34 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the

- 1 whole record; or
- 2 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
- 3 exercise of discretion.
- 4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would amend the administrative procedures act and provide that on the review of
2 an agency decision by a court upon appeal, the court shall decide questions of law without deference
3 to any previous determination or interpretation of the law by the agency.

4 This act would take effect upon passage.

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