

2012 -- H 7770

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LC01199
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ADMINISTRATIVE
PROCEDURES

Introduced By: Representatives Trillo, Reilly, Ehrhardt, Chippendale, and Newberry

Date Introduced: February 16, 2012

Referred To: House Small Business

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-35.1-3 and 42-35.1-4 of the General Laws in Chapter 42-35.1
2 entitled "Small Business Regulatory Fairness in Administrative Procedures" are hereby amended
3 to read as follows:

4 **42-35.1-3. Economic Impact statements.** -- (a) Prior to [the continued enforcement of](#)
5 [any regulation or](#) the adoption of any proposed regulation that may have an adverse impact on
6 small businesses, excluding those businesses defined in subsection 42-35-3.3(d), each agency
7 shall prepare, in congruence with the analysis required in section 42-35-3.3, an economic impact
8 statements that includes the following:

9 (1) An identification and estimate of the number of the small businesses subject to the
10 [existing or](#) proposed regulation;

11 (2) The projected reporting, recordkeeping, and other administrative costs required for
12 compliance with the [existing or](#) proposed regulation, including the type of professional skills
13 necessary for preparation of the report or record;

14 (3) A statement of the [effect or](#) probable effect on impacted small businesses;

15 (4) A description of any less intrusive or less costly alternative methods of achieving the
16 purpose of the [existing or](#) proposed regulation.

17 (b) The economic impact statement required herein shall be published in guide form as
18 well as posted on the department of administration and the of economic development corporation

1 websites. The guide should be published and/or posted on or around the same date as the
2 regulation change and shall include a description of actions need by the small business to meet
3 the requirement of the regulation.

4 **42-35.1-4. Regulatory flexibility -- Flexibility analysis required. --** (a)

5 Notwithstanding any general or public law to the contrary, prior to the adoption of any proposed
6 regulation on and after January 1, 2010, each agency shall prepare a regulatory flexibility analysis
7 in which the agency shall, where consistent with health, safety, environmental, and economic
8 welfare consider utilizing regulatory methods that will accomplish the objectives of applicable
9 statutes while minimizing adverse impact on small businesses. The agency shall consider, without
10 limitation, each of the following methods of reducing the impact of the proposed regulation on
11 small businesses:

12 (1) The establishment of less stringent compliance or reporting requirements for small
13 businesses;

14 (2) The establishment of less stringent schedules or deadlines for compliance or
15 reporting requirements for small businesses;

16 (3) The consolidation or simplification of compliance or reporting requirements for small
17 businesses;

18 (4) The establishment of performance standards for small businesses to replace design or
19 operational standards required in the proposed regulation; and

20 (5) The exemption of small businesses from all or any part of the requirements contained
21 in the proposed regulation.

22 (6) The fact that the benefit conferred by the regulation is outweighed by the cost.

23 (b) Prior to the adoption of any proposed regulation that may have an adverse impact on
24 small businesses each agency shall notify the economic development corporation of its intent to
25 adopt the proposed regulation. The economic development corporation shall advise and assist
26 agencies in complying with the provisions of this section.

27 SECTION 2. Chapter 42-35.1 of the General Laws entitled "Small Business Regulatory
28 Fairness in Administrative Procedures" is hereby amended by adding thereto the following
29 section:

30 **42-35.1-4.1. Periodic review of rules. –** (a) Within four (4) years of the enactment of
31 this law, each agency shall review all agency rules existing at the time of enactment to determine
32 whether such rules should be continued without change, or should be amended or rescinded, to
33 minimize economic impact or the cost of the rules on small businesses in a manner consistent
34 with the stated objective of applicable statutes. If the head of the agency determines that

1 completion of the review of existing rules is not feasible by the established date, the agency shall
2 publish a statement certifying that determination. The agency may extend the completion date by
3 one year at a time for a total of not more than five (5) years.

4 (b) Rules adopted after the enactment of this law shall be reviewed every five (5) years
5 after publication of such rules in final form to ensure that they minimize economic impact on
6 small businesses in a manner consistent with the stated objectives of applicable statutes.

7 (c) In reviewing rules to minimize the cost or economic impact of the rule on small
8 businesses, the agency shall consider the following factors:

9 (1) The continued need for the rule;

10 (2) The nature of complaints or comments received concerning the rule from the public;

11 (3) The complexity of the rule;

12 (4) The extent to which the rule overlaps, duplicates, or conflicts with other federal, state,
13 and local governmental rules; and

14 (5) The length of time since the rule has been evaluated or the degree to which
15 technology, economic conditions, or other factors have changed in the area affected by the rule.

16 SECTION 3. 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 require a cost/benefit analysis and periodic review of all regulations
- 2 governing or impacting small businesses.
- 3 This act would take effect upon passage.

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