

2014 -- H 7259 SUBSTITUTE A

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LC003720/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS - COURT
ADMINISTRATION

Introduced By: Representatives Mattiello, Shekarchi, Craven, and Lally

Date Introduced: January 30, 2014

Referred To: House Judiciary

(Judiciary)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 8-15 of the General Laws entitled "Court Administration" is hereby
2 amended by adding thereto the following section:

3 **8-15-11. Electronic Filing and Online Payments.--** (a) In addition to any other filing
4 fees or court costs required by law or court rule, parties to any court matter may be required to
5 pay a technology surcharge or fee at the inception or the conclusion of any case, or upon making
6 any electronic payment online to any of the courts within the unified judicial system. Such
7 surcharges or fees shall be determined by the state court administrator with the approval of the
8 chief justice, not to exceed twenty five dollars (\$25.00).

9 (b) The collection of technology surcharges shall be monitored and supervised by the
10 judiciary's director of finance and shall be deposited into a restricted receipt account designated
11 as "Rhode Island Judiciary Technology Surcharge Account," the proceeds of which shall be
12 solely for use by the judiciary in support of its technology infrastructure and case management
13 system;

14 (c) The implementation of electronic court records shall not alter the application of § 38-
15 2-5 to any judicial records, whether in paper or electronic format.

16 SECTION 2. Section 8-6-5 of the General Laws in Chapter 8-6 entitled "General Powers
17 of Supreme and Superior Courts" is hereby amended to read as follows:

18 **8-6-5. Arbitration of civil actions. --** The presiding justice of the superior court may

1 promulgate rules and regulations providing for compulsory and/or noncompulsory nonbinding
2 arbitration of such category or categories of civil actions filed in or appealed to the superior court
3 as he or she shall determine. The matter shall be heard by a single arbitrator who shall be selected
4 by mutual agreement of the plaintiff(s) and defendant(s). If after thirty (30) days the plaintiff(s)
5 and defendant(s) are unable to agree upon the selection of an arbitrator, a justice of the superior
6 court shall select the arbitrator upon request in writing from either party. The costs of arbitration
7 shall be borne by the Rhode Island state court system and a reasonable cost of the arbitration not
8 to exceed five hundred dollars (\$500) per case may be assessed and apportioned to each of the
9 parties by the superior court pursuant to rules and regulations promulgated by the presiding
10 justice of the superior court consistent with § 8-6-6. The assessed costs received from the parties
11 shall be deposited into the general fund. Any party dissatisfied with the decision of the arbitrator
12 may demand a trial by jury if one was timely claimed in the complaint or answer, or a trial by
13 judge if no jury trial was claimed. The decision of the arbitrator shall not be admissible at the
14 trial. The court may require a party who rejects an arbitrator's award and demands a trial to post a
15 three hundred dollar (\$300) filing fee [and pay a technology surcharge in accordance with §8-15-](#)
16 [11](#). The filing fee shall be posted with the superior court arbitration office and deposited into an
17 arbitration fund restricted receipt account established under the control of the state court director
18 of finance. The arbitration funds shall not be subject to the indirect cost recoveries provisions set
19 forth in § 35-4-27. If more than one party rejects the arbitrator's award and demands a trial, the
20 filing fee, first received in the arbitration office, shall designate the party rejecting the award.
21 Should the verdict at trial be more favorable to the party than the arbitrator's award, the filing fee
22 shall be reimbursed to that party. Should the verdict be equal to or less favorable to the party than
23 the arbitrator's award, the filing fee posted shall be forfeited as a sanction. If forfeited as a
24 sanction the fee shall remain available for program expenses from the arbitration fund restricted
25 receipt account. The presiding justice of the superior court shall be authorized to retain the
26 services of qualified arbitrators and to direct payment for such services and other related expenses
27 from the arbitration fund restricted receipt account and may appoint an administrator of the
28 arbitration program for a ten (10) year term and until a successor is appointed and qualified.

29 SECTION 3. Sections 9-12-10 and 9-12-10.1 of the General Laws in Chapter 9-12
30 entitled "District Court Practice" are hereby amended to read as follows:

31 **9-12-10. Claim of appeal of superior court.** -- Except as otherwise provided, in all
32 civil cases in the district court, any party may cause the case to be removed for trial on all
33 questions of law and fact to the superior court for the county in which division the suit is pending,
34 by claiming an appeal from the judgment of the district court, in writing, filed with the clerk of

1 the division within two (2) days exclusive of Saturdays, Sundays, and legal holidays after the
2 judgment is entered; provided, that the party claiming the appeal, at the time of claiming the
3 appeal, shall pay to the clerk all costs including an attorney's fee of fifty dollars (\$50.00) for the
4 party or parties adversely interested in the judgment, to be paid by the clerk to the attorney for the
5 adverse party. The attorney's fee of fifty dollars (\$50.00) shall be divided equally among the
6 attorneys for the parties adversely interested when more than one adverse party is involved; and
7 provided, further, that costs shall not be taxed, exclusive of the attorney's fee, at a sum not less
8 than twenty-five dollars (\$25.00) [in addition to a technology surcharge assessed in accordance](#)
9 [with § 8-15-11.](#)

10 **9-12-10.1. Claim of appeal to superior court in landlord tenant actions.** -- In any
11 civil action pursuant to chapter 18 of title 34, in the district court or other appropriate court, any
12 party may cause the case to be removed for trial on all questions of law and fact to the superior
13 court for the county in which division the suit is pending, by claiming an appeal from the
14 judgment of the district or other appropriate court, in writing, filed with the clerk of the division
15 within five (5) days after the judgment is entered; provided, that the party claiming the appeal at
16 the time of claiming the appeal, shall pay to the clerk all costs including an attorney's fee of fifty
17 dollars (\$50.00) for the party or parties adversely interested in the judgment, to be paid by the
18 clerk to the attorney for the adverse party; provided, further, that costs shall not be taxed,
19 exclusive of the attorney's fee, at a sum less than twenty-five dollars (\$25.00) [in addition to a](#)
20 [technology surcharge assessed in accordance with § 8-15-11.](#)

21 SECTION 4. Section 9-24-1 of the General Laws in Chapter 9-24 entitled "Appellate
22 Proceedings" is hereby amended to read as follows:

23 **9-24-1. Filing of appeal.** -- Any party aggrieved by a final judgment, decree, or order of
24 the superior court may, within the time prescribed by applicable procedural rules, appeal to the
25 supreme court. Subject to the provisions of applicable procedural rules, the appeal shall be taken
26 by filing a claim of appeal in the office of the clerk of the court from which the appeal is taken,
27 and shall deposit with the clerk an amount not exceeding fifty dollars (\$50.00) as prescribed by
28 the rules and regulations of the supreme court [in addition to a technology surcharge assessed in](#)
29 [accordance with § 8-15-11.](#)

30 SECTION 5. Sections 9-29-1, 9-29-18, 9-29-19 and 9-29-20 of the General Laws in
31 Chapter 9-29 entitled "Fees" are hereby amended to read as follows:

32 **9-29-1. District court fees.** -- (a) Every district court shall be allowed the following fees
33 in full, to be taxed in the bill of costs in every civil action:

- 34 (1) ~~(+)~~ For the entry of every small claim \$55.00

1 (2) ~~(2)~~ For the entry of every other action \$80.00

2 (3) ~~(3)~~ For every writ of execution \$20.00

3 (b) In addition to the fees set forth herein, the district court shall apply a technology
4 surcharge ~~shall be placed on all filing fees~~ assessed in accordance with § 8-15-11.

5 (c) Provided, that five dollars (\$5.00) of the fee for the entry of every action in
6 subdivision (a)(1) or (a)(2) or writ in subdivision (a)(3) shall be forwarded to Rhode Island legal
7 services.

8 **9-29-18. Superior court fees.** -- (a) The superior court shall be allowed the following
9 fees in full to be taxed in the bill of costs in every civil action:

10 (1) ~~(1)~~ For entry of every civil action, or petition \$160.00

11 (2) ~~(2)~~ For every writ of execution \$50.00

12 (3) ~~(3)~~ For the issuance of every citation \$25.00

13 (b) In addition to the fees set forth in subsection (a) of this section, the superior court
14 shall apply a technology surcharge ~~shall be placed on all filing fees assessed in accordance with §~~
15 8-15-11.

16 (c) Provided, that ten dollars (\$10.00) of the fee for the entry of every civil action or
17 petition shall be forwarded to Rhode Island Legal Services.

18 **9-29-19. Family court fees.** -- (a) The family court shall be allowed the following fees
19 in full to be taxed in the bill of costs in every domestic relations or other civil proceeding:

20 (1) ~~(1)~~ For the entry of every petition, complaint, or action \$120.00

21 (2) ~~(2)~~ For every writ of execution \$40.00

22 (b) In addition to the fees as set forth herein, the family court shall apply a technology
23 surcharge ~~shall be placed on all filing fees assessed in accordance with § 8-15-11.~~

24 (c) Provided, that ten dollars (\$10.00) of the fee for the entry of every petition,
25 complaint or action shall be forwarded to Rhode Island legal services.

26 **9-29-20. Supreme court fees.** -- (a) The supreme court, by a majority of its members,
27 shall have the power to prescribe by rule a fee of not more than one hundred fifty dollars
28 (\$150.00) for docketing a civil appeal or docketing any other proceeding brought to review a civil
29 matter, and to prescribe a waiver of the fee as to a person who is unable to pay the fee.

30 ~~(b) Commencing July 1, 1992, in addition to the fees set forth herein, the court, by a~~
31 ~~majority of its members, shall have the power to prescribe by rule a surcharge in the amount of~~
32 ~~forty (\$40.00) for docketing a civil appeal or docketing any other proceeding brought to review a~~
33 ~~civil matter.~~

34 ~~(e)(b) Commencing July 1, 1999, the~~ The court may ~~increase the~~ apply a technology or

1 [other surcharge for docketing a civil appeal or docketing any other proceeding brought before the](#)
2 [court in an amount not to exceed](#) ~~to~~ eighty-five dollars (\$85.00).

3 SECTION 6. Section 10-16-4 of the General Laws in Chapter 10-16 entitled "Small
4 Claims and Consumer Claims" is hereby amended to read as follows:

5 **10-16-4. Filing fee – Waiver of appeal.** -- (a) The plaintiff shall pay into the court an
6 entry fee of fifty-five dollars (\$55.00), of which twenty dollars (\$20.00) shall be placed in a
7 "small claims mediation restricted receipt account" together with an amount equal to the then
8 prevailing postal rate, for mailing notices in the case, which shall be deemed the beginning of the
9 action. The "small claims mediation restricted receipt account" shall be established under the
10 control of the state court director of finance; the chief judge of the district court shall be
11 authorized to pay for the services of qualified mediators and other related expenses from the
12 "small claims mediation restricted receipt account." [In addition to the entry fee, the court shall](#)
13 [apply a technology surcharge in accordance with § 8-15-11.](#)

14 (b) The plaintiff shall also file with his or her claim a written waiver of right of appeal.

15 SECTION 7. Chapter 12-20 of the General Laws entitled "Costs" is hereby amended by
16 adding thereto the following section:

17 **12-20-12. Technology Surcharge.** -- [A technology surcharge shall be assessed as a cost](#)
18 [against the defendant in accordance with § 8-15-11.](#)

19 SECTION 8. Section 28-35-32 of the General Laws in Chapter 28-35 entitled "Workers
20 Compensation-Procedure" is hereby amended to read as follows:

21 **28-35-32. Costs – Counsel and witness fees.** -- ~~No fee shall be charged by the clerk of~~
22 ~~any court or by the administrator of the workers' compensation court for the performance of any~~
23 ~~service required by this chapter, except for certified copies of decrees and copies of transcripts.~~

24 Notwithstanding any provisions of law to the contrary, the workers' compensation court shall
25 be allowed a filing fee of twenty dollars (\$20.00) for the filing of a petition under chapters 29 –
26 38 of this title, and a filing fee of twenty-five dollars (\$25.00) for the filing of an appeal under §
27 28-35-28, which sums shall be deposited to provide additional funding to the uninsured
28 employers fund as established by chapter 28-53. [The workers' compensation court may charge](#)
29 [fees for certified copies of decrees and copies of transcripts. In addition to the fees set forth](#)
30 [herein, the workers' compensation court shall apply a technology surcharge on all petitions and](#)
31 [appeals in accordance with § 8-15-11.](#) In proceedings under this chapter, and in proceeding under
32 chapter 37 of this title, costs shall be awarded, including counsel fees and fees for medical and
33 other expert witnesses including interpreters, to employees who successfully prosecute petitions
34 for compensation, petitions for medical expenses, petitions to amend a preliminary order or

1 memorandum of agreement, and all other employee petitions, except petitions for lump sum
2 commutation, and to employees who successfully defend, in whole or in part, proceedings
3 seeking to reduce or terminate any and all workers' compensation benefits, and to medical
4 services providers who successfully prosecute petitions for the payment of medical expenses
5 except that medical services providers shall not be paid expert witness fees for testimony in
6 support of petitions filed in their behalf. These costs shall be assessed against the employer by a
7 single judge, by an appellate panel and by the supreme court on appeal consistent with the
8 services rendered before each tribunal and shall be made a part of the decree. No employee's
9 attorney shall accept any other or additional fees for his services for the particular petition for
10 which the fees are awarded in each tribunal.

11 SECTION 8. Sections 31-41.1-3, 31-41.1-4, 31-41.1-8, and 31-41.1-9 of the General
12 Laws in Chapter 31-41.1 entitled "Adjudication of Traffic Offenses" are hereby amended to read
13 as follows:

14 **31-41.1-3. Method of payment.** -- If the offending operator elects to dispose of the
15 charge without personally appearing before the traffic tribunal, he or she shall execute the form
16 indicated and return it to the traffic tribunal not later than twenty (20) days from the date of the
17 summons either by mailing or delivering the form and summons to the violation section of the
18 traffic tribunal, or to its designee, together with a check or money order in the amount indicated
19 by the fine schedule on the form [in addition to any technology surcharge applied by the traffic](#)
20 [tribunal assessed in accordance with § 8-15-11.](#)

21 **31-41.1-4. Schedule of violations.**-- (a) The penalties for violations of the enumerated
22 sections, listed in numerical order, correspond to the fines described. However, those offenses for
23 which punishments ~~which~~ may vary according to the severity of the offense, or punishment which
24 require the violator to perform a service, shall be heard and decided by the traffic tribunal or
25 municipal court. The following violations may be handled administratively through the method
26 prescribed in this chapter. This list is not exclusive and jurisdiction may be conferred on the
27 traffic tribunal with regard to other violations.

28 VIOLATIONS SCHEDULE

29 SEE THE BOOK FOR THE PROPER TABLE.

30 SPEEDING Fine

31 SEE THE BOOK FOR THE PROPER TABLE.

32 (b) In addition to any other penalties provided by law, a judge may impose the
33 following penalties for speeding:

34 (1) For speeds up to and including ten miles per hour (10 mph) over the posted speed

1 limit on public highways, a fine as provided for in subsection (a) of this section for the first
2 offense, ten dollars (\$10.00) per mile for each mile in excess of the speed limit for the second
3 offense if within twelve (12) months of the first offense, and fifteen dollars (\$15.00) per mile for
4 each mile in excess of the speed limit for the third and any subsequent offense if within twelve
5 (12) months of the first offense. In addition, the license may be suspended up to thirty (30) days.

6 (2) For speeds in excess of ten miles per hour (10 mph) over the posted speed limit on
7 public highways, a mandatory fine of ten dollars (\$10.00) for each mile over the speed limit for
8 the first offense, fifteen dollars (\$15.00) per mile for each mile in excess of the speed limit for the
9 second offense if within twelve (12) months of the first offense, and twenty dollars (\$20.00) per
10 mile for each mile in excess of the speed limit for the third and subsequent offense if within
11 twelve (12) months of the first offense. In addition, the license may be suspended up to sixty (60)
12 days.

13 (c) Except for a technology surcharge assessed in accordance with § 8-15-11, Any any
14 person charged with a violation who pays the fine administratively pursuant to chapter ~~8.2~~ 41.1 of
15 title ~~8~~ 31 shall not be subject to any additional costs or assessments, including, but not limited to,
16 the hearing fee established in § 8-18-4 ~~or assessment for substance abuse prevention.~~

17 **31-41.1-8. Appellate review. --** (a) *Appeals panels.* The chief magistrate of the traffic
18 tribunal shall establish one or more appeals panels, each consisting of three (3) members of the
19 traffic tribunal and shall select a presiding member for each appeals panel from the members so
20 appointed. No member of the traffic tribunal shall serve as a member of an appeals panel hearing
21 the appeal of a determination by that member. The chief judge shall also designate any other
22 personnel of the traffic tribunal that may be necessary to assist an appeals panel in carrying out its
23 functions.

24 (b) *Right of appeal.* Any person who is aggrieved by a determination of a judge or
25 magistrate may appeal the determination pursuant to the provisions of this section.

26 (c) *Appeals panel.* Each appeal filed pursuant to this section shall be reviewed by an
27 appeals panel which shall make a determination of the appeal, and shall cause an appropriate
28 order to be entered in the records of the traffic tribunal.

29 (d) *Time limitations.* No appeal shall be reviewed if it is filed more than ten (10) days
30 after notice was given of the determination appealed from, unless it is determined that failure to
31 file was due to excusable neglect. Notice shall be complete upon mailing.

32 (e) *Appeal procedures.* Any person desiring to file an appeal from an adverse
33 determination pursuant to this section shall do so in a form and manner provided by the clerk of
34 the traffic tribunal. The transcript of any hearing which formed the basis for the determination

1 will be reviewed only if it is submitted by the appellant. An appeal shall not be deemed to be
2 finally submitted until the appellant has submitted all forms or documents required to be
3 submitted by the clerk of the traffic tribunal or by this section.

4 (f) *Standard of review.* The appeals panel shall not substitute its judgment for that of the
5 judge or magistrate as to the weight of the evidence on questions of fact. The appeals panel may
6 affirm the decision of the judge or magistrate, or it may remand the case for further proceedings
7 or reverse or modify the decision if the substantial rights of the appellant have been prejudicial
8 because the judge's findings, inferences, conclusions or decisions are:

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

10 (2) In excess of the statutory authority of the judge or magistrate;

11 (3) Made upon unlawful procedure;

12 (4) Affected by other error of law;

13 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the
14 whole record; or

15 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly
16 unwarranted exercise of discretion.

17 (g) *Transcript of hearings.* Transcripts of the record of any hearing may be obtained at
18 the cost of the traffic tribunal if prepared by the tribunal or at a rate specified in the contract
19 between the court and the contractor, if prepared by a private contractor.

20 (h) *Fees.* The fee for filing an appeal shall be twenty-five dollars (\$25.00), and this fee
21 shall be deposited into the general fund. In addition to the appeal filing fee, the traffic tribunal
22 shall apply a technology surcharge assessed in accordance with § 8-15-11. No appeal shall be
23 accepted unless the required fee has been paid or if forma pauperis status has been granted.

24 (i) *Stays pending appeal.* Whenever a determination has not been made within thirty
25 (30) days after an appeal has been finally submitted, a stay of execution will be deemed granted
26 by operation of law, and the license, certificate, permit, or privilege affected will be automatically
27 restored pending final determination by the appeals panel.

28 **31-41.1-9. Appeals to district court.** -- (a) *Right of appeal.* Any person who is
29 aggrieved by a determination of an appeals panel may appeal the determination pursuant to the
30 provisions of this section.

31 (b) *Time limitations.* No appeal shall be reviewed if it is filed more than ten (10) days
32 after notice was given of the determination appealed from. Notice shall be complete upon
33 mailing.

34 (c) *Appeal procedures.* Any person desiring to file an appeal from an adverse

1 determination pursuant to this section shall do so in a form and manner provided by the clerk of
2 the traffic tribunal. The transcript of any hearing which formed the basis for the determination
3 will be reviewed only if it is submitted by the appellant. An appeal shall not be deemed to be
4 finally submitted until the appellant has submitted all forms or documents required to be
5 submitted by the clerk of the traffic tribunal or by this section.

6 (d) *Standard of review.* The judge of the district court shall not substitute his or her
7 judgment for that of the appeals panel as to the weight of the evidence on questions of fact. The
8 district court judge may affirm the decision of the appeals panel, or may remand the case for
9 further proceedings or reverse or modify the decision if the substantial rights of the appellant
10 have been prejudicial because the appeals panel's findings, inferences, conclusions or decisions
11 are:

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

13 (2) In excess of the statutory authority of the appeals panel;

14 (3) Made upon unlawful procedure;

15 (4) Affected by other error of law;

16 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the
17 whole record; or

18 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly
19 unwarranted exercise of discretion.

20 (e) *Transcript of hearings.* Transcripts of the record of any hearing may be obtained at
21 the cost of the traffic tribunal if prepared by the tribunal or at a rate specified in the contract
22 between the tribunal and the contractor, if prepared by a private contractor.

23 (f) *Fees.* The fee for filing an appeal shall be twenty-five dollars (\$25.00), and this fee
24 shall be deposited into the general fund. [In addition to the appeal filing fee, the traffic tribunal](#)
25 [shall apply a technology surcharge assessed in accordance with § 8-15-11.](#) No appeal shall be
26 accepted unless the required fee has been paid or if forma pauperis status has been granted.

27 (g) *Stays pending appeal.* Whenever a determination has not been made within thirty (30)
28 days after an appeal has been finally submitted, a stay of execution will be deemed granted by
29 operation of law, and the license, certificate, permit, or privilege affected will be automatically
30 restored pending final determination by the district court.

31 (h) *Certiorari.* Any person who has exhausted all remedies available to him or her under
32 the provisions of this section, including an appeal before the district court, may seek review by
33 petition for writ of certiorari to the supreme court.

1 SECTION 9. This act shall take effect on March 1, 2014.

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LC003720/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS - COURT
ADMINISTRATION

1 This act would provide for the processing of electronic payments submitted to all courts
2 within the unified judicial system and provides for the implementation of technology fees not to
3 exceed twenty five dollars (\$25.00) in order to process electronic payments.

4 This act would take effect on March 1, 2014.

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