

2012 -- H 8024

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LC02179
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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 Serpa, Morgan, Guthrie, Ferri, and Keable

Date Introduced: March 29, 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~~ [the](#)
7 [economic development corporation](#) shall prepare, in congruence with the analysis required in
8 section 42-35-3.3, an economic impact 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~~ [the economic development corporation](#) shall
7 prepare a regulatory flexibility analysis in which the ~~agency~~ [economic development corporation](#)
8 shall, where consistent with health, safety, environmental, and economic welfare consider
9 utilizing regulatory methods that will accomplish the objectives of applicable statutes while
10 minimizing adverse impact on small businesses. The ~~agency~~ [economic development corporation](#)
11 shall consider, without limitation, each of the following methods of reducing the impact of the
12 proposed regulation on small businesses:

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

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

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

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

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

23 [\(6\) The fact that the benefit conferred by the regulation is outweighed by the cost.](#)

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

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

31 **42-35.1-4.1. Periodic review of rules. –** [\(a\) Within four \(4\) years of the enactment of
32 this law, the economic development corporation shall review all agency rules existing at the time
33 of enactment to determine whether such rules should be continued without change, or should be
34 amended or rescinded, to minimize economic impact or the cost of the rules on small businesses](#)

1 in a manner consistent with the stated objective of applicable statutes. If the head of the economic
2 development corporation determines that completion of the review of existing rules is not feasible
3 by the established date, the economic development corporation shall publish a statement
4 certifying that determination. The economic development corporation may extend the completion
5 date by one year at a time for a total of not more than five (5) years. Within ninety (90) days of a
6 request made by the economic development corporation, each agency shall submit a list of the
7 rules and regulations requested together with any modification or amendments thereto.

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

11 (c) In reviewing rules to minimize the cost or economic impact of the rule on small
12 businesses, the economic development corporation shall consider the following factors:

13 (1) The continued need for the rule;

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

15 (3) The complexity of the rule;

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

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

20 (d) Any agency rule which the economic development corporation determines should not
21 be continued without change, or should be amended or rescinded in accordance with subsection
22 (a) hereof shall be suspended from continued enforcement unless and until the general assembly
23 shall have taken appropriate legislative action to continue the enforcement of such rule.

24 (e) In conducting its review, the economic development corporation shall have access to
25 any information possessed by the agency.

26 SECTION 3. 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 -- ADMINISTRATIVE
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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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