

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 62

Session of 1975

INTRODUCED BY MESSRS. BERSON, MANDERINO, SCIRICA, W. D. HUTCHINSON AND WOJDAK, JANUARY 27, 1975

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 12, 1975

AN ACT

1 Amending Title 2 (Administrative Law and Procedure) of the
2 Pennsylvania Consolidated Statutes, adding revised, codified and
3 compiled provisions relating to administrative law and
4 procedure.

5 TABLE OF CONTENTS

6 TITLE 2

7 Administrative Law and Procedure

8 Chapter 1. General Provisions

9 § 101. Definitions.

10 § 102. Implementing regulations.

11 § 103. Administrative Agency Law.

12 § 104. Commonwealth Documents Law.

13 § 105. Local Agency Law.

14 § 106. Effect of future legislation.

15 Chapter 3. Promulgation of Regulations

16 Subchapter A. Regulations of Commonwealth

17 Agencies.

18 § 301. Notice of proposed rule making.

- 1 § 302. Adoption of administrative
2 regulations.
3 § 303. Effective date of regulations.
4 § 304. Omission of notice of proposed
5 rule making.
6 § 305. Approval as to legality.
7 § 306. Format of regulations.
8 § 307. Deposit of agency text of
9 regulations.
10 § 308. Unfiled administrative regula-
11 tions invalid.

12 Subchapter B. Regulations of Local Agencies

- 13 § 351. Short title and scope of
14 subchapter.
15 § 352. Deposit of agency text of
16 regulations.
17 § 353. Unfiled regulations invalid.
18 § 354. Recording and filing by recorder
19 of deeds.
20 § 355. Uniform procedures and format
21 of regulations.

22 Chapter 5. Practice and Procedure

23 Subchapter A. Practice and Procedure of
24 Commonwealth Agencies

- 25 § 501. Scope of subchapter.
26 § 502. Representation.
27 § 503. Discipline.
28 § 504. Hearing and record.
29 § 505. Evidence and cross-examination.
30 § 506. Briefs and oral argument.

1 § 507. Contents and service of
2 adjudications.

3 § 508. Notice to Department of Justice.

4 Subchapter B. Practice and Procedure of
5 Local Agencies

6 § 551. Scope of subchapter.

7 § 552. Representation.

8 § 553. Hearing and record.

9 § 554. Evidence and cross-examination.

10 § 555. Contents and service of
11 adjudications.

12 Chapter 7. Judicial Review

13 Subchapter A. Judicial Review of Common-
14 wealth Agency Action

15 § 701. Scope of subchapter.

16 § 702. Appeals.

17 § 703. Scope of review.

18 § 704. Disposition of appeal.

19 Subchapter B. Judicial Review of Local
20 Agency Action

21 § 751. Scope of subchapter.

22 § 752. Appeals.

23 § 753. Scope of review.

24 § 754. Disposition of appeal.

25 Chapter 9. Public Availability of Information

26 § 901. Short title of chapter.

27 § 902. Definitions.

28 § 903. Right to examine public records.

29 § 904. Right to copy public records.

30 § 905. Enforcement of chapter.

1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 Section 1. Title 2, act of November 25, 1970 (P.L.707,
4 No.230), known as the Pennsylvania Consolidated Statutes, is
5 amended by adding chapters to read:

6 TITLE 2

7 ADMINISTRATIVE LAW AND PROCEDURE

8 Chapter

9 1. General Provisions

10 3. Promulgation of Regulations

11 5. Practice and Procedure

12 7. Judicial Review

13 9. Public Availability of Information

14 CHAPTER 1

15 GENERAL PROVISIONS

16 Sec.

17 101. Definitions.

18 102. Implementing regulations.

19 103. Administrative Agency Law.

20 104. Commonwealth Documents Law.

21 105. Local Agency Law.

22 106. Effect of future legislation.

23 § 101. Definitions.

24 Subject to additional definitions contained in subsequent
25 provisions of this title which are applicable to specific
26 provisions of this title, the following words and phrases when
27 used in this title shall have, unless the context clearly
28 indicates otherwise, the meanings given to them in this section:

29 "Adjudication." Any order, decree, decision, determination
30 or ruling by an agency affecting personal or property rights,

1 privileges, immunities, duties, liabilities or obligations of
2 any or all of the parties to the proceeding in which the
3 adjudication is made. The term does not include any order based
4 upon a proceeding before a court or which involves the seizure
5 or forfeiture of property, paroles, pardons or releases from
6 mental institutions.

7 "Administrative regulation." Any regulation except a
8 proclamation, executive order, executive directive or other
9 similar document promulgated by the Governor, and the term
10 includes a regulation which may be promulgated by an agency only
11 with the approval of the Governor.

12 "Agency." A government agency.

13 "Agency text." The text of a regulation as issued,
14 prescribed or promulgated by the issuing, prescribing or
15 promulgating agency.

16 "Bureau." The Legislative Reference Bureau.

17 "Commonwealth agency." Any executive agency or independent
18 agency.

19 "Commonwealth government." The government of the
20 Commonwealth, including the courts and other officers or
21 agencies of the unified judicial system, the General Assembly,
22 and its officers and agencies, the Governor, and the
23 departments, boards, commissions, authorities and officers and
24 agencies of the Commonwealth, but the term does not include any
25 political subdivision, municipal or other local authority, or
26 any officer or agency of any such political subdivision or local
27 authority.

28 "County Records Committee." The County Records Committee
29 existing under the act of August 14, 1963 (P.L.839, No.407).

30 "Executive agency." The Governor and the departments,

1 boards, commissions, authorities and other officers and agencies
2 of the Commonwealth government, but the term does not include
3 any court or other officer or agency of the unified judicial
4 system, the General Assembly and its officers and agencies, or
5 any independent agency.

6 "Government agency." Any Commonwealth agency or any
7 political subdivision or municipal or other local authority, or
8 any officer or agency of any such political subdivision or local
9 authority.

10 "Government unit." The General Assembly and its officers and
11 agencies, any government agency or any court or other officer or
12 agency of the unified judicial system.

13 "Independent agency." Boards, commissions, authorities and
14 other agencies and officers of the Commonwealth government which
15 are not subject to the policy supervision and control of the
16 Governor, but the term does not include any court or other
17 officer or agency of the unified judicial system or the General
18 Assembly and its officers and agencies.

19 "Joint committee." The Joint Committee on Documents.

20 "Local agency." A government agency other than a
21 Commonwealth agency.

22 "Matter." Action, proceeding or appeal.

23 "Party." Any person who appears in a proceeding before an
24 agency who has a direct interest in the subject matter of such
25 proceeding.

26 "Person." Includes a government unit or an agency of the
27 Federal Government.

28 "Regulation." Any rule or regulation, or order in the nature
29 of a rule or regulation, promulgated by an agency under
30 statutory authority in the administration of any statute

1 administered by or relating to the agency, or prescribing the
2 practice or procedure before such agency. The term includes a
3 proclamation, executive order, executive directive or other
4 similar document promulgated by the Governor.

5 "Statement of policy." Any document, except an adjudication
6 or a regulation, promulgated by an agency which sets forth
7 substantive or procedural personal or property rights,
8 privileges, immunities, duties, liabilities or obligations of
9 the public or any part thereof, and includes, without limiting
10 the generality of the foregoing, any document interpreting or
11 implementing any statute enforced or administered by such
12 agency.

13 § 102. Implementing regulations.

14 (a) General rule.--An agency shall have power to promulgate,
15 amend and repeal reasonable regulations implementing the
16 provisions of this title.

17 (b) Uniform rules.--The Joint Committee on Documents shall
18 have the power, after notice in the Pennsylvania Bulletin and
19 opportunity for hearing, to promulgate, amend and repeal general
20 rules of administrative practice and procedure of the type now
21 set forth in Part II of Title 1 of the Pennsylvania Code, which
22 rules of administrative practice and procedure shall apply to
23 all agencies except to the extent expressly provided otherwise
24 by a regulation promulgated by a particular agency or by statute
25 applicable to proceedings before an agency. Whenever the joint
26 committee finds after notice to the agency affected and
27 opportunity for hearing, that any special rules of
28 administrative practice and procedure promulgated by the agency
29 are unnecessary for the effective performance by the agency of
30 its functions and are not expressly required by statute

1 applicable to proceedings before the agency, the joint committee
2 may by order rescind and delete such unnecessary special rules
3 of practice and procedure. The joint committee shall administer
4 this section with a view toward developing uniform agency rules
5 of practice and procedure to the maximum degree which is
6 consistent with the due administration of public affairs.
7 Nothing in this subsection shall be construed to authorize the
8 joint committee to affect any regulation of an agency which
9 establishes standards, interprets statutory provisions or
10 otherwise imposes substantive requirements or any other
11 regulations other than a rule or regulation relating to practice
12 and procedure.

13 § 103. Administrative Agency Law.

14 (a) General rule.--The provisions of Subchapter A of Chapter
15 5 (relating to practice and procedure of Commonwealth agencies)
16 and Subchapter A of Chapter 7 (relating to judicial review of
17 Commonwealth agency action) shall be known and may be cited as
18 the "Administrative Agency Law."

19 (b) Rule making references.--Whenever any statute makes
20 reference to the Administrative Agency Law for procedures
21 relating to the promulgation of administrative regulations, such
22 reference shall hereafter be deemed to be a reference to
23 Subchapter A of Chapter 3 (relating to regulations of
24 Commonwealth agencies).

25 § 104. Commonwealth Documents Law.

26 The provisions of Subchapter A of Chapter 3 of this title
27 (relating to regulations of Commonwealth agencies) and Part II
28 of Title 45 (relating to publication and effectiveness of
29 Commonwealth documents) shall be known and may be cited as the
30 "Commonwealth Documents Law."

1 § 105. Local Agency Law.

2 The provisions of Subchapter B of Chapter 5 (relating to
3 practice and procedure of local agencies) and Subchapter B of
4 Chapter 7 (relating to judicial review of local agency action)
5 shall be known and may be cited as the "Local Agency Law."

6 § 106. Effect of future legislation.

7 No subsequent statute shall be held to supersede or modify
8 the provisions of this title except to the extent that such
9 statute shall do so expressly.

10 CHAPTER 3

11 PROMULGATION OF REGULATIONS

12 Subchapter

13 A. Regulations of Commonwealth Agencies

14 B. Regulations of Local Agencies

15 SUBCHAPTER A

16 REGULATIONS OF COMMONWEALTH AGENCIES

17 Sec.

18 301. Notice of proposed rule making.

19 302. Adoption of administrative regulations.

20 303. Effective date of regulations.

21 304. Omission of notice of proposed rule making.

22 305. Approval as to legality.

23 306. Format of regulations.

24 307. Deposit of agency text of regulations.

25 308. Unfiled administrative regulations invalid.

26 § 301. Notice of proposed rule making.

27 Except as provided in section 304 (relating to omission of
28 notice of proposed rule making) a Commonwealth agency shall give
29 public notice of its intention to promulgate, amend or repeal
30 any administrative regulation by publication of notice in the

1 Pennsylvania Bulletin. Such notice shall include:

2 (1) The text of the proposed regulation, except any
3 portions thereof omitted pursuant to Part II of Title 45
4 (relating to publication and effectiveness of Commonwealth
5 documents), prepared in such a manner as to indicate the
6 words to be added to or deleted from the presently effective
7 text thereof, if any.

8 (2) A statement of the statutory or other authority
9 under which the regulation or change therein is proposed to
10 be promulgated.

11 (3) A brief explanation of the proposed regulation or
12 change therein.

13 (4) A request for written comments by any interested
14 person concerning the proposed regulation or change therein.

15 (5) Any other statement required by law.

16 § 302. Adoption of administrative regulations.

17 (a) General rule.--Before taking action upon any
18 administrative regulation or change therein the Commonwealth
19 agency shall review and consider any written comments submitted
20 pursuant to section 301 (relating to notice of proposed rule
21 making) and may hold such public hearings as seem appropriate.
22 If the statute or other authority under which a regulation is
23 proposed to be promulgated, amended or repealed requires the
24 holding of public hearings or establishes other procedures in
25 addition to those prescribed by this subchapter, the agency
26 shall hold public hearings or comply with such other procedures
27 as are not inconsistent with the provisions of this subchapter.

28 (b) Changes in text.--The agency text of any administrative
29 regulation or change therein as finally adopted may contain such
30 modifications to the proposed text as published pursuant to

1 section 301 as do not enlarge its original purpose, but
2 modifications which enlarge the original purpose of a proposal
3 as published under section 301 shall be republished thereunder
4 prior to final adoption by the agency.

5 § 303. Effective date of regulations.

6 Except as otherwise provided by regulations promulgated by
7 the Joint Committee on Documents, the effective date specified
8 in any administrative regulation or change therein subject to
9 the provisions of section 301 (relating to notice of proposed
10 rule making) shall be not less than 30 days after the notice of
11 proposed rule making required thereby has been given unless:

12 (1) the regulation:

13 (i) grants or recognizes exemption or relieves
14 restriction; or

15 (ii) interprets a self-executing statute or
16 regulation; or

17 (2) the agency for good cause finds (and incorporates
18 the finding and a brief statement of the reasons therefor in
19 the order adopting the regulation or change therein) that the
20 deferral of the effective date of the regulation or change
21 therein beyond the date specified in the order is
22 impracticable or contrary to the public interest.

23 § 304. Omission of notice of proposed rule making.

24 Except as otherwise provided by regulations promulgated by
25 the Joint Committee on Documents, a Commonwealth agency may omit
26 or modify the procedures specified in section 301 (relating to
27 notice of proposed rule making) and section 302 (relating to
28 adoption of administrative regulations), if:

29 (1) the regulation or change therein relates to:

30 (i) military affairs;

1 (ii) agency organization, management or personnel;
2 (iii) agency procedure or practice;
3 (iv) Commonwealth property, loans, grants, benefits
4 or contracts; or
5 (v) the interpretation of a self-executing statute
6 or regulation;
7 (2) all persons subject to the regulation or change
8 therein are named therein and are either personally served
9 with notice of the proposed promulgation, amendment or repeal
10 or otherwise have actual notice thereof in accordance with
11 law; or
12 (3) the agency for good cause finds (and incorporates
13 the finding and a brief statement of the reasons therefor in
14 the order adopting the regulation or change therein) that the
15 procedures specified in sections 301 and 302 are in the
16 circumstances impracticable, unnecessary, or contrary to the
17 public interest.

18 § 305. Approval as to legality.

19 (a) General rule.--All administrative regulations and
20 changes therein of a Commonwealth agency shall be approved as to
21 legality by the Department of Justice before they are deposited
22 with the Legislative Reference Bureau pursuant to section 307
23 (relating to deposit of agency text of regulations).

24 (b) Appeal from disapproval of independent agency
25 regulations.--In the event the Department of Justice shall rule
26 illegal all or any part of any regulations or changes therein
27 adopted by an independent agency, and such agency or a party
28 before such agency supporting such regulations or changes
29 therein shall disagree with the ruling of the Department of
30 Justice, such agency or party may appeal from the determination

1 of the department to the Commonwealth Court, whereupon the court
2 shall direct the department to approve those parts of the
3 regulations or changes therein ruled illegal which the court
4 finds to be legal.

5 (c) Disapproval of executive agency regulations.--The
6 decision of the Department of Justice shall be final and shall
7 not be subject to any form of judicial review at the instance of
8 an executive agency and the General Assembly hereby waives any
9 right to appeal which the agency might otherwise enjoy under the
10 Constitution of Pennsylvania or otherwise. A party before an
11 executive agency supporting the regulations or changes therein
12 of such agency may obtain judicial review of the decision of the
13 Department of Justice in the manner and within the time provided
14 or prescribed by law.

15 (d) Other review unaffected.--Nothing in this section shall
16 affect the right of any person adversely affected by a
17 regulation or change therein to obtain a determination of the
18 validity thereof in any appropriate proceeding.

19 § 306. Format of regulations.

20 The agency text of all regulations required to be deposited
21 with the Legislative Reference Bureau by this subchapter shall
22 be prepared in such form and format as may be prescribed by
23 regulations promulgated by the Joint Committee on Documents.
24 Such regulations shall require that every administrative
25 regulation or change therein indicate expressly the statutory or
26 other authority under which it is promulgated.

27 § 307. Deposit of agency text of regulations.

28 Two duplicate original copies of the agency text of all
29 administrative and other regulations and changes therein
30 promulgated by a Commonwealth agency, certified by the executive

1 officer, chairman or secretary of the agency, shall be deposited
2 with the Legislative Reference Bureau. The processing,
3 publication and effectiveness of such regulations and changes
4 therein shall be governed by the provisions of Part II of Title
5 45 (relating to publication and effectiveness of Commonwealth
6 documents).

7 § 308. Unfiled administrative regulations invalid.

8 (a) General rule.--An administrative regulation or change
9 therein promulgated after July 1, 1969 by a Commonwealth agency
10 shall not be valid for any purpose until filed by the
11 Legislative Reference Bureau, as provided in Part II of Title 45
12 (relating to publication and effectiveness of Commonwealth
13 documents).

14 (b) Certain prior regulations.--An administrative regulation
15 or change therein promulgated on or before July 1, 1969 by a
16 Commonwealth agency shall be valid only if filed by the
17 Legislative Reference Bureau under the former provisions of
18 section 402 of the act of July 31, 1968 (P.L.769, No.240), known
19 as the "Commonwealth Documents Law" on or before September 2,
20 1969; otherwise such an administrative regulation or change
21 therein shall not be valid for any purpose.

22 SUBCHAPTER B

23 REGULATIONS OF LOCAL AGENCIES

24 Sec.

25 351. Short title and scope of subchapter.

26 352. Deposit of agency text of regulations.

27 353. Unfiled regulations invalid.

28 354. Recording and filing by recorder of deeds.

29 355. Uniform procedures and format of regulations.

30 § 351. Short title and scope of subchapter.

1 (a) Short title.--This subchapter shall be known and may be
2 cited as the "Local Documents Law."

3 (b) Scope.--The requirements and provisions of this
4 subchapter shall be in addition to the requirements and
5 provisions of section 1245 of the act of April 13, 1972
6 (P.L.184, No.62), known as the "Home Rule Charter and Optional
7 Plans Law" or any other similar statute.

8 § 352. Deposit of agency text of regulations.

9 Two duplicate original copies of the agency text of all
10 regulations and changes therein promulgated by a local agency,
11 certified by the executive officer, chairman or secretary of the
12 agency, shall be deposited in the office for the recording of
13 deeds of the county in which the principal office of the agency
14 is located.

15 § 353. Unfiled regulations invalid.

16 (a) General rule.--A regulation or change therein
17 promulgated after the effective date of this subchapter by a
18 local agency shall not be valid for any purpose until filed by
19 the recorder of deeds, as provided in section 354 (relating to
20 recording and filing by recorder of deeds).

21 (b) Existing regulations.--On or before January 1, 1980
22 every local agency shall comply with the provisions of section
23 352 (relating to deposit of agency text of regulations) with
24 respect to all regulations or changes therein promulgated prior
25 to the effective date of this subchapter, in default of which
26 such regulations shall become invalid.

27 § 354. Recording and filing by recorder of deeds.

28 If the recorder of deeds finds that a document deposited
29 pursuant to this subchapter is in the form and format required
30 by any applicable regulations promulgated under section 355

1 (relating to uniform procedures and format of regulations) he
2 shall record and index such document, assign thereto and
3 indicate thereon a distinctive serial number, and indicate
4 thereon the date and time of deposit. Upon such recording the
5 document shall be available for public inspection and copying.
6 One copy of such document shall be retained by the recorder and
7 filed under the name of the local agency which promulgated the
8 regulation or change therein. The other copy shall be
9 transmitted to the legal newspaper, if any, designated by the
10 rules of court for the publication of legal notes in the county.
11 Such transmission shall be for information only and nothing in
12 this subchapter shall be construed to require the publication of
13 regulations in any newspaper at public expense. If an agency and
14 the recorder disagree concerning the form or format of a
15 document required to be deposited with the recorder, the agency
16 may refer the matter to the County Records Committee, which
17 shall resolve the conflict pursuant to the standards and
18 procedures established under section 355.

19 § 355. Uniform procedures and format of regulations.

20 (a) Format of regulations.--The agency text of all local
21 agency regulations and changes therein required to be deposited
22 in any office for the recording of deeds by this subchapter
23 shall be prepared in such form and format as may be prescribed
24 by regulations promulgated by the County Records Committee
25 after:

26 (1) consultation with representatives of the recorders
27 of deeds of this Commonwealth; and

28 (2) notice in the Pennsylvania Bulletin and opportunity
29 for hearing.

30 Such regulations shall require that every regulation or change

1 therein indicate expressly the statutory or other authority
2 under which it is promulgated.

3 (b) Other matters.--The manner in which copies of documents
4 deposited under this subchapter are indexed, numbered and filed,
5 and other matters with respect thereto not otherwise provided
6 for in this subchapter may be prescribed by regulations
7 promulgated or orders adopted by the County Records Committee
8 after consultation with representatives of the recorders of
9 deeds of this Commonwealth.

10 CHAPTER 5

11 PRACTICE AND PROCEDURE

12 Subchapter

13 A. Practice and Procedure of Commonwealth Agencies.

14 B. Practice and Procedure of Local Agencies.

15 SUBCHAPTER A

16 PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES

17 Sec.

18 501. Scope of subchapter.

19 502. Representation.

20 503. Discipline.

21 504. Hearing and record.

22 505. Evidence and cross-examination.

23 506. Briefs and oral argument.

24 507. Contents and service of adjudications.

25 508. Notice to Department of Justice.

26 § 501. Scope of subchapter.

27 (a) General rule.--Except as provided in subsection (b),
28 this subchapter shall apply to all Commonwealth agencies.

29 (b) Exception.--None of the provisions of this subchapter
30 shall apply to:

1 (1) Proceedings before the Department of Revenue,
2 Auditor General, Board of Finance and Revenue or Secretary of
3 the Commonwealth, involving the original settlement,
4 assessment or determination or resettlement, reassessment or
5 redetermination, review or refund of taxes, interest or
6 payments made into the Commonwealth treasury.

7 (2) Proceedings before the Secretary of the Commonwealth
8 under the act of June 3, 1937 (P.L.1333, No.320), known as
9 the "Pennsylvania Election Code."

10 § 502. Representation.

11 Any party may be represented before a Commonwealth agency.

12 § 503. Discipline.

13 Any Commonwealth agency may, upon hearing and good cause
14 shown, preclude any person from practice before it.

15 § 504. Hearing and record.

16 No adjudication of a Commonwealth agency shall be valid as to
17 any party unless he shall have been afforded reasonable notice
18 of a hearing and an opportunity to be heard. All testimony shall
19 be stenographically recorded and a full and complete record
20 shall be kept of the proceedings.

21 § 505. Evidence and cross-examination.

22 Commonwealth agencies shall not be bound by technical rules
23 of evidence at agency hearings, and all relevant evidence of
24 reasonable probative value may be received. Reasonable
25 examination and cross-examination shall be permitted.

26 § 506. Briefs and oral argument.

27 All parties shall be afforded opportunity to submit briefs
28 prior to adjudication by a Commonwealth agency. Oral argument
29 upon substantial issues may be heard by the agency.

30 § 507. Contents and service of adjudications.

1 All adjudications of a Commonwealth agency shall be in
2 writing, shall contain findings and the reasons for the
3 adjudication, and shall be served upon all parties or their
4 counsel personally, or by mail.

5 § 508. Notice to Department of Justice.

6 Before notice of any hearing leading to an adjudication is
7 given by a Commonwealth agency, the agency shall submit the
8 matter to its representative in the Department of Justice who
9 shall pass upon the legality of the proposed action or defense.
10 Failure of the agency to submit the matter to the department
11 shall not invalidate any adjudication.

12 SUBCHAPTER B

13 PRACTICE AND PROCEDURE OF LOCAL AGENCIES

14 Sec.

15 551. Scope of subchapter.

16 552. Representation.

17 553. Hearing and record.

18 554. Evidence and cross-examination.

19 555. Contents and service of adjudications.

20 § 551. Scope of subchapter.

21 This subchapter shall apply to all local agencies.

22 § 552. Representation.

23 Any party may be represented before a local agency.

24 § 553. Hearing and record.

25 No adjudication of a local agency shall be valid as to any
26 party unless he shall have been afforded reasonable notice of a
27 hearing and an opportunity to be heard. All testimony may be
28 stenographically recorded and a full and complete record may be
29 kept of the proceedings. In the event all testimony is not
30 stenographically recorded and a full and complete record of the

1 proceedings is not provided by the local agency, such testimony
2 shall be stenographically recorded and a full and complete
3 record of the proceedings shall be kept at the request of any
4 party agreeing to pay the costs thereof.

5 § 554. Evidence and cross-examination.

6 Local agencies shall not be bound by technical rules of
7 evidence at agency hearings, and all relevant evidence of
8 reasonable probative value may be received. Reasonable
9 examination and cross-examination shall be permitted.

10 § 555. Contents and service of adjudications.

11 All adjudications of a local agency shall be in writing,
12 shall contain findings and the reasons for the adjudication, and
13 shall be served upon all parties or their counsel personally, or
14 by mail.

15 CHAPTER 7

16 JUDICIAL REVIEW

17 Subchapter

18 A. Judicial Review of Commonwealth Agency Action

19 B. Judicial Review of Local Agency Action

20 SUBCHAPTER A

21 JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION

22 Sec.

23 701. Scope of subchapter.

24 702. Appeals.

25 703. Scope of review.

26 704. Disposition of appeal.

27 § 701. Scope of subchapter.

28 (a) General rule.--Except as provided in subsection (b),
29 this subchapter shall apply to all Commonwealth agencies
30 regardless of the fact that a statute expressly provides that

1 there shall be no appeal from an adjudication of an agency, or
2 that the adjudication of an agency shall be final or conclusive,
3 or shall not be subject to review.

4 (b) Exceptions.--None of the provisions of this subchapter
5 shall apply to:

6 (1) Any matter which is exempt from Subchapter A of
7 Chapter 5 (relating to practice and procedure of Commonwealth
8 agencies).

9 (2) Any appeal from a Commonwealth agency which may be
10 taken initially to the courts of common pleas.

11 § 702. Appeals.

12 Any person aggrieved by a final adjudication of a
13 Commonwealth agency who has a direct interest in such
14 adjudication shall have the right to appeal therefrom in the
15 manner and within the time provided or prescribed by law to the
16 court having jurisdiction over appeals from such adjudication.

17 § 703. Scope of review.

18 (a) General rule.--A party who proceeded before a
19 Commonwealth agency under the terms of a particular statute
20 shall not be precluded from questioning the validity of the
21 statute in the appeal, but such party may not raise upon appeal
22 any other question not raised before the agency (notwithstanding
23 the fact that the agency may not be competent to resolve such
24 question) unless allowed by the court upon due cause shown.

25 (b) Equity actions.--The remedy at law provided by
26 subsection (a) shall not in any manner impair the right to
27 equitable relief heretofore existing, and such right to
28 equitable relief is hereby continued notwithstanding the
29 provisions of subsection (a).

30 § 704. Disposition of appeal.

1 The court shall hear the appeal without a jury on the record
2 certified by the Commonwealth agency. After hearing, the court
3 shall affirm the adjudication unless it shall find that the
4 adjudication is in violation of the constitutional rights of the
5 appellant, or is not in accordance with law, or that the
6 provisions of Subchapter A of Chapter 5 (relating to practice
7 and procedure of Commonwealth agencies) have been violated in
8 the proceedings before the agency, or that any finding of fact
9 made by the agency and necessary to support its adjudication is
10 not supported by substantial evidence. If the adjudication is
11 not affirmed, the court may modify, vacate, set aside or reverse
12 it, in whole, or in part, and may remand the matter to the
13 agency and direct the entry of such appropriate order, or
14 require such further proceedings to be had as may be just under
15 the circumstances.

16 SUBCHAPTER B

17 JUDICIAL REVIEW OF LOCAL AGENCY ACTION

18 Sec.

19 751. Scope of subchapter.

20 752. Appeals.

21 753. Scope of review.

22 754. Disposition of appeal.

23 § 751. Scope of subchapter.

24 (a) General rule.--Except as provided in subsection (b),
25 this subchapter shall apply to all local agencies regardless of
26 the fact that a statute expressly provides that there shall be
27 no appeal from an adjudication of an agency, or that the
28 adjudication of an agency shall be final or conclusive, or shall
29 not be subject to review.

30 (b) Exception.--The provisions of this subchapter shall

1 apply to any adjudication which under any existing statute may
2 be appealed to a court of record, but only to the extent not
3 inconsistent with such statute.

4 § 752. Appeals.

5 Any person aggrieved by a final adjudication of a local
6 agency who has a direct interest in such adjudication shall have
7 the right to appeal therefrom in the manner and within the time
8 provided or prescribed by law to the court having jurisdiction
9 over appeals from such adjudication.

10 § 753. Scope of review.

11 (a) General rule.--A party who proceeded before a local
12 agency under the terms of a particular statute, home rule
13 charter, or local ordinance or resolution shall not be precluded
14 from questioning the validity of the statute, home rule charter
15 or local ordinance or resolution in the appeal, but if a full
16 and complete record of the proceedings before the agency was
17 made such party may not raise upon appeal any other question not
18 raised before the agency (notwithstanding the fact that the
19 agency may not be competent to resolve such question) unless
20 allowed by the court upon due cause shown.

21 (b) Equity actions.--The remedy at law provided by
22 subsection (a) shall not in any manner impair the right to
23 equitable relief heretofore existing, and such right to
24 equitable relief is hereby continued, notwithstanding the
25 provisions of subsection (a).

26 § 754. Disposition of appeal.

27 (a) Incomplete record.--In the event a full and complete
28 record of the proceedings before the local agency was not made,
29 the court may hear the appeal de novo, or may remand the
30 proceedings to the agency for the purpose of making a full and

1 complete record or for further disposition in accordance with
2 the order of the court.

3 (b) Complete record.--In the event a full and complete
4 record of the proceedings before the local agency was made, the
5 court shall hear the appeal without a jury on the record
6 certified by the agency. After hearing the court shall affirm
7 the adjudication unless it shall find that the adjudication is
8 in violation of the constitutional rights of the appellant, or
9 is not in accordance with law, or that the provisions of
10 Subchapter B of Chapter 5 (relating to practice and procedure of
11 local agencies) have been violated in the proceedings before the
12 agency, or that any finding of fact made by the agency and
13 necessary to support its adjudication is not supported by
14 substantial evidence. If the adjudication is not affirmed, the
15 court may modify, vacate, set aside or reverse it, in whole, or
16 in part, and may remand the matter to the agency and direct the
17 entry of such appropriate order, or require such further
18 proceedings to be had as may be just under the circumstances.

19 CHAPTER 9

20 PUBLIC AVAILABILITY OF INFORMATION

21 Sec.

22 901. Short title of chapter.

23 902. Definitions.

24 903. Right to examine public records.

25 904. Right to copy public records.

26 905. Enforcement of chapter.

27 § 901. Short title of chapter.

28 This chapter shall be known and may be cited as the
29 "Pennsylvania Freedom of Information Act."

30 § 902. Definitions.

1 The following words and phrases when used in this chapter
2 shall have, unless the context clearly indicates otherwise, the
3 meanings given to them in this section:

4 "Agency." A government agency or any similar organization
5 created by or pursuant to a statute which declares in substance
6 that such organization performs or has for its purpose the
7 performance of an essential governmental function.

8 "Public record." Any account, voucher or contract dealing
9 with the receipt or disbursement of funds by an agency or its
10 acquisition, use or disposal of services or of supplies,
11 materials, equipment or other property and any minute, order or
12 decision by an agency fixing the personal or property rights,
13 privileges, immunities, duties or obligations of any person;
14 except that the term shall not mean:

15 (1) any report, communication or other paper, the
16 publication of which would disclose the institution, progress
17 or result of an investigation undertaken by an agency in the
18 performance of its official duties, except those reports
19 filed by agencies pertaining to safety and health in
20 industrial plants; or

21 (2) any record, document, material, exhibit, pleading,
22 report, memorandum or other paper, except the record of any
23 conviction for any criminal act:

24 (i) access to or the publication of which is
25 prohibited, restricted or forbidden by statute or order
26 of court;

27 (ii) which would operate to the prejudice or
28 impairment of the reputation or personal security of a
29 person; or

30 (iii) which would result in the loss by the agency

1 of Federal funds.

2 § 903. Right to examine public records.

3 Every public record of an agency shall, at reasonable times,
4 be open for examination and inspection by any citizen of this
5 Commonwealth.

6 § 904. Right to copy public records.

7 Any citizen of this Commonwealth shall have the right to take
8 extracts or make copies of public records and to make
9 photographs or photostats of such records while they are in the
10 possession, custody and control of the lawful custodian thereof
11 or his authorized deputy.

12 § 905. Enforcement of chapter.

13 Any person denied any right granted by this chapter may
14 appeal under Chapter 7 (relating to judicial review) from such
15 denial. If the court determines that such denial was not for
16 just and proper cause under the terms of this chapter, the court
17 may enter such order for disclosure as it may deem proper.

18 Section 2. The following acts and parts of acts are hereby
19 repealed absolutely:

20 Act of June 4, 1945 (P.L.1388, No. 442), known as the
21 "Administrative Agency Law."

22 Act of June 21, 1957 (P.L.390, No. 212), entitled "An act
23 requiring certain records of the Commonwealth and its political
24 subdivisions and of certain authorities and other agencies
25 performing essential governmental functions, to be open for
26 examination and inspection by citizens of the Commonwealth of
27 Pennsylvania; authorizing such citizens under certain conditions
28 to make extracts, copies, photographs or photostats of such
29 records; and providing for appeals to the courts of common
30 pleas."

1 Sections 201 through 208, act of July 31, 1968 (P.L.769, No.
2 240), known as the "Commonwealth Documents Law."

3 Act of December 2, 1968 (P.L.1133, No. 353), known as the
4 "Local Agency Law."

5 Section 3. All other parts of those acts which are specified
6 in section 2 of this act and all other acts and parts of acts
7 are hereby repealed in so far as inconsistent with this act.

8 Section. 4. Unless otherwise provided by a statute
9 authorizing a particular appeal from a Commonwealth agency, no
10 appeal under Subchapter A of Chapter 7 of Title 2 (relating to
11 judicial review of Commonwealth agency action) shall operate as
12 a supersedeas, unless the court to which the appeal is taken, or
13 a judge thereof, shall so order after hearing. Upon due notice
14 to the agency, the court may grant a supersedeas upon such terms
15 and conditions, including the filing of security as it may
16 prescribe. Where the statute, pertaining to a particular subject
17 of adjudication, requires that security be filed as a condition
18 to obtaining a supersedeas, the court shall require adequate
19 security.

20 Section 5. An appeal under 2 Pa. C. S. § 752 (relating to
21 appeals), unless otherwise provided by a statute authorizing a
22 particular appeal, shall be taken within 30 days to the court of
23 common pleas of any judicial district in which the local agency
24 has jurisdiction. If service of an adjudication is made by mail
25 the date of mailing shall be the date of service.

26 SECTION 6. THE COMMONWEALTH COURT SHALL HAVE ORIGINAL
27 JURISDICTION IN ACTIONS OF MANDAMUS AND PROHIBITION TO COURTS OF
28 INFERIOR JURISDICTION WHERE SUCH ACTIONS ARE ANCILLARY TO
29 MATTERS WITHIN ITS APPELLATE JURISDICTION, AND IT, OR ANY JUDGE
30 THEREOF, SHALL HAVE FULL POWER AND AUTHORITY WHEN AND AS OFTEN

←

1 AS THERE MAY BE OCCASION, TO ISSUE WRITS OF HABEAS CORPUS UNDER
2 LIKE CONDITIONS RETURNABLE TO THE SAID COURT.

3 Section ~~6~~ 7. This act shall take effect in 60 days except ←
4 that Subchapter B of Chapter 3 of Title 2 of the Pennsylvania
5 Consolidated Statutes, as added by this act, shall take effect
6 in 6 months.

1 § 106: New. Patterned after act of July 31, 1968 (P.L.769, No.
2 240), § 605 (45 P.S. § 1605).

3 2 Pa. C. S. § 301: Substantially a reenactment of act of July
4 31, 1968 (P.L.769, No. 240), § 201 (45 P.S. § 1201).

5 2 Pa. C. S. § 302: Substantially a reenactment of act of July
6 31, 1968 (P.L.769, No. 240), § 202 (45 P.S. § 1202).

7 2 Pa. C. S. § 303: Substantially a reenactment of act of July
8 31, 1968 (P.L.769, No. 240), § 203 (45 P.S. § 1203).

9 2 Pa. C. S. § 304: Substantially a reenactment of act of July
10 31, 1968 (P.L.769, No. 240), § 204 (45 P.S. § 1204).

11 2 Pa. C. S. § 305: Derived from act of July 31, 1968
12 (P.L.769, No. 240), § 205 (45 P.S. § 1205).

13 2 Pa. C. S. § 306: Derived from act of July 31, 1968
14 (P.L.769, No. 240), § 206 (45 P.S. § 1206).

15 2 Pa. C. S. § 307: Substantially a reenactment of act of July
16 31, 1968 (P.L.769, No. 240), § 207 (45 P.S. § 1207).

17 2 Pa. C. S. § 308: Derived from act of July 31, 1968
18 (P.L.769, No. 240), §§ 208 and 402 (45 P.S. §§ 1208 and 1402).

19 2 Pa. C. S. § 351: New. Subsection (a) patterned after act of
20 July 31, 1968 (P.L.769, No. 240), § 101 (45 P.S. § 1101).

1 2 Pa. C. S. § 352: New. Patterned after act of July 31, 1968
2 (P.L.769, No. 240), § 207 (45 P.S. § 1207).

3 2 Pa. C. S. § 353: New. Patterned after act of July 31, 1968
4 (P.L.769, No. 240), §§ 208 and 402 (45 P.S. §§ 1208 and 1402).

5 2 Pa. C. S. § 354: New. Patterned after act of July 31, 1968
6 (P.L.769, No. 240), § 409 (45 P.S. § 1409).

7 2 Pa. C. S. § 355: New. Patterned after act of July 31, 1968
8 (P.L.769, No.240), §§ 206 and 603 (45 P.S. §§ 1206 and 1603).

9 2 Pa. C. S. § 501: Derived from act of June 4, 1945
10 (P.L.1388, No.442), §§ 47 and 50 (71 P.S. §§ 1710.47 and
11 1710.50).

12 2 Pa. C. S. § 502: Derived from of act of June 4, 1945
13 (P.L.1388, No.442), § 11 (71 P.S. § 1710.11).

14 2 Pa. C. S. § 503: Derived from act of June 4, 1945
15 (P.L.1388, No.442), § 12 (71 P.S. § 1710.12).

16 2 Pa. C. S. § 504: Substantially a reenactment of act of June
17 4, 1945 (P.L.1388, No.442) § 31 (71 P.S. § 1710.31).

18 2 Pa. C. S. § 505: Substantially a reenactment of act of June
19 4, 1945 (P.L.1388, No.442), § 32 (71 P.S. § 1710.32).

20 2 Pa. C. S. § 506: Substantially a reenactment of act of June
21 4, 1945 (P.L.1388, No.442), § 33 (71 P.S. § 1710.33).

1 2 Pa. C. S. § 507: Derived from act of June 4, 1945
2 (P.L.1388, No.442), § 34 (71 P.S. § 1710.34).

3 2 Pa. C. S. § 508: Substantially a reenactment of act of June
4 4, 1945 (P.L.1388, No.442), § 36 (71 P.S. § 1710.36).

5 2 Pa. C. S. § 551: Substantially a reenactment of act of
6 December 2, 1968 (P.L.1133, No. 353) §§ 10 and 11 (53 P.S. §§
7 11310 and 11311).

8 2 Pa. C. S. § 552: Reenactment of act of December 2, 1968
9 (P.L.1133, No. 353), § 3 (53 P.S. § 11303).

10 2 Pa. C. S. § 553: Substantially a reenactment of act of
11 December 2, 1968 (P.L.1133, No. 353), § 4 (53 P.S. § 11304).

12 2 Pa. C. S. § 554: Substantially a reenactment of act of
13 December 2, 1968 (P.L.1133, No. 353), § 5 (53 P.S. § 11305).

14 2 Pa. C. S. § 555: Derived from act of December 2, 1968
15 (P.L.1133, No. 353), § 6 (53 P.S. § 11306).

16 2 Pa. C. S. § 701: Derived from act of June 4, 1945
17 (P.L.1388, No.442), §§ 47 and 50 (71 P.S. §§ 1710.47 and
18 1710.50). De novo appeals to the Commonwealth Court eliminated
19 except in tax and election cases.

20 2 Pa. C. S. § 702: Patterned after act of December 2, 1968
21 (P.L.1133, No. 353), § 7 (53 P.S. § 11307).

1 2 Pa. C. S. § 703: Derived from act of June 4, 1945
2 (P.L.1388, No.442), § 42 (71 P.S. § 1710.42).

3 2 Pa. C. S. § 704: Derived from act of June 4, 1945
4 (P.L.1388, No.442), § 44 (71 P.S. § 1710.44), and act of July
5 31, 1970 (P.L.673, No.223), § 504 (17 P.S. § 211.504).

6 2 Pa. C. S. § 751: Derived from act of December 2, 1968
7 (P.L.1133, No. 353), § 10 (53 P.S. § 11310) and act of June 4,
8 1945 (P.L.1388, No.442), § 47 (71 P.S. § 1710.47).

9 2 Pa. C. S. § 752: Derived from act of December 2, 1968
10 (P.L.1133, No. 353), § 7 (53 P.S. § 11307).

11 2 Pa. C. S. § 753: New. Patterned after 2 Pa. C. S. § 703.

12 2 Pa. C. S. § 754: Derived from act of December 2, 1968
13 (P.L.1133, No. 353), § 8 (53 P.S. § 11308), and act of July 31,
14 1970 (P.L.673, No.223), § 504 (17 P.S. § 211.504).

15 2 Pa. C. S. § 901: New.

16 2 Pa. C. S. § 902: Substantially a reenactment of act of June
17 21, 1957 (P.L.390, No.212), § 1 (65 P.S. § 66.1).

18 2 Pa. C. S. § 903: Substantially a reenactment of act of June
19 21, 1957 (P.L.390, No.212), § 2 (65 P.S. § 66.2).

20 2 Pa. C. S. § 904: Derived from act of June 21, 1957
21 (P.L.390, No.212), § 3 (65 P.S. § 66.3).

1 2 Pa. C. S. § 905: Substantially a reenactment of act of June
2 21, 1957 (P.L.390, No.212), § 4 (65 P.S. § 66.4).

3 Section 2: New.

4 Section 3: New.

5 Section 4: Substantially a reenactment of act of June 4, 1945
6 (P.L.1388, No.442), § 43 (71 P.S. § 1710.43).

7 Section 5: Derived from act of December 2, 1968 (P.L.1133,
8 No.353), §§ 6 and 7 (53 P.S. §§ 11306 and 11307).

9 Section 6: New. INTENDED TO OVERRULE BETHLEHEM MINES CORP. ←
10 V. COMMONWEALTH, 11 COMM. CT. 375, 313A. 2D 790 (1973)