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WOJDAK, JANUARY 27, 1975

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 27, 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.

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30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

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

5 TITLE 2

6 ADMINISTRATIVE LAW AND PROCEDURE

7 Chapter

8 1. General Provisions

9 3. Promulgation of Regulations

10 5. Practice and Procedure

11 7. Judicial Review

12 9. Public Availability of Information

13 CHAPTER 1

14 GENERAL PROVISIONS

15 Sec.

16 101. Definitions.

17 102. Implementing regulations.

18 103. Administrative Agency Law.

19 104. Commonwealth Documents Law.

20 105. Local Agency Law.

21 106. Effect of future legislation.

22 § 101. Definitions.

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

28 "Adjudication." Any order, decree, decision, determination
29 or ruling by an agency affecting personal or property rights,
30 privileges, immunities, duties, liabilities or obligations of

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

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

11 "Agency." A government agency.

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

15 "Bureau." The Legislative Reference Bureau.

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

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

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

29 "Executive agency." The Governor and the departments,
30 boards, commissions, authorities and other officers and agencies

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

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

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

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

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

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

21 "Matter." Action, proceeding or appeal.

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

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

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

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

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

12 § 102. Implementing regulations.

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

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

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

12 § 103. Administrative Agency Law.

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

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

24 § 104. Commonwealth Documents Law.

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

30 § 105. Local Agency Law.

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

5 § 106. Effect of future legislation.

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

9 CHAPTER 3

10 PROMULGATION OF REGULATIONS

11 Subchapter

12 A. Regulations of Commonwealth Agencies

13 B. Regulations of Local Agencies

14 SUBCHAPTER A

15 REGULATIONS OF COMMONWEALTH AGENCIES

16 Sec.

17 301. Notice of proposed rule making.

18 302. Adoption of administrative regulations.

19 303. Effective date of regulations.

20 304. Omission of notice of proposed rule making.

21 305. Approval as to legality.

22 306. Format of regulations.

23 307. Deposit of agency text of regulations.

24 308. Unfiled administrative regulations invalid.

25 § 301. Notice of proposed rule making.

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

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

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

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

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

14 (5) Any other statement required by law.

15 § 302. Adoption of administrative regulations.

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

27 (b) Changes in text.--The agency text of any administrative
28 regulation or change therein as finally adopted may contain such
29 modifications to the proposed text as published pursuant to
30 section 301 as do not enlarge its original purpose, but

1 modifications which enlarge the original purpose of a proposal
2 as published under section 301 shall be republished thereunder
3 prior to final adoption by the agency.

4 § 303. Effective date of regulations.

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

11 (1) the regulation:

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

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

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

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

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

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

29 (i) military affairs;

30 (ii) agency organization, management or personnel;

1 (iii) agency procedure or practice;

2 (iv) Commonwealth property, loans, grants, benefits
3 or contracts; or

4 (v) the interpretation of a self-executing statute
5 or regulation;

6 (2) all persons subject to the regulation or change
7 therein are named therein and are either personally served
8 with notice of the proposed promulgation, amendment or repeal
9 or otherwise have actual notice thereof in accordance with
10 law; or

11 (3) the agency for good cause finds (and incorporates
12 the finding and a brief statement of the reasons therefor in
13 the order adopting the regulation or change therein) that the
14 procedures specified in sections 301 and 302 are in the
15 circumstances impracticable, unnecessary, or contrary to the
16 public interest.

17 § 305. Approval as to legality.

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

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

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

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

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

18 § 306. Format of regulations.

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

26 § 307. Deposit of agency text of regulations.

27 Two duplicate original copies of the agency text of all
28 administrative and other regulations and changes therein
29 promulgated by a Commonwealth agency, certified by the executive
30 officer, chairman or secretary of the agency, shall be deposited

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

6 § 308. Unfiled administrative regulations invalid.

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

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

21 SUBCHAPTER B

22 REGULATIONS OF LOCAL AGENCIES

23 Sec.

24 351. Short title and scope of subchapter.

25 352. Deposit of agency text of regulations.

26 353. Unfiled regulations invalid.

27 354. Recording and filing by recorder of deeds.

28 355. Uniform procedures and format of regulations.

29 § 351. Short title and scope of subchapter.

30 (a) Short title.--This subchapter shall be known and may be

1 cited as the "Local Documents Law."

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

7 § 352. Deposit of agency text of regulations.

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

14 § 353. Unfiled regulations invalid.

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

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

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

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

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

18 § 355. Uniform procedures and format of regulations.

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

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

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

29 Such regulations shall require that every regulation or change
30 therein indicate expressly the statutory or other authority

1 under which it is promulgated.

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

9 CHAPTER 5

10 PRACTICE AND PROCEDURE

11 Subchapter

12 A. Practice and Procedure of Commonwealth Agencies.

13 B. Practice and Procedure of Local Agencies.

14 SUBCHAPTER A

15 PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES

16 Sec.

17 501. Scope of subchapter.

18 502. Representation.

19 503. Discipline.

20 504. Hearing and record.

21 505. Evidence and cross-examination.

22 506. Briefs and oral argument.

23 507. Contents and service of adjudications.

24 508. Notice to Department of Justice.

25 § 501. Scope of subchapter.

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

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

30 (1) Proceedings before the Department of Revenue,

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

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

9 § 502. Representation.

10 Any party may be represented before a Commonwealth agency.

11 § 503. Discipline.

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

14 § 504. Hearing and record.

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

20 § 505. Evidence and cross-examination.

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

25 § 506. Briefs and oral argument.

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

29 § 507. Contents and service of adjudications.

30 All adjudications of a Commonwealth agency shall be in

1 writing, shall contain findings and the reasons for the
2 adjudication, and shall be served upon all parties or their
3 counsel personally, or by mail.

4 § 508. Notice to Department of Justice.

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

11 SUBCHAPTER B

12 PRACTICE AND PROCEDURE OF LOCAL AGENCIES

13 Sec.

14 551. Scope of subchapter.

15 552. Representation.

16 553. Hearing and record.

17 554. Evidence and cross-examination.

18 555. Contents and service of adjudications.

19 § 551. Scope of subchapter.

20 This subchapter shall apply to all local agencies.

21 § 552. Representation.

22 Any party may be represented before a local agency.

23 § 553. Hearing and record.

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

1 shall be stenographically recorded and a full and complete
2 record of the proceedings shall be kept at the request of any
3 party agreeing to pay the costs thereof.

4 § 554. Evidence and cross-examination.

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

9 § 555. Contents and service of adjudications.

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

14 CHAPTER 7

15 JUDICIAL REVIEW

16 Subchapter

17 A. Judicial Review of Commonwealth Agency Action

18 B. Judicial Review of Local Agency Action

19 SUBCHAPTER A

20 JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION

21 Sec.

22 701. Scope of subchapter.

23 702. Appeals.

24 703. Scope of review.

25 704. Disposition of appeal.

26 § 701. Scope of subchapter.

27 (a) General rule.--Except as provided in subsection (b),
28 this subchapter shall apply to all Commonwealth agencies
29 regardless of the fact that a statute expressly provides that
30 there shall be no appeal from an adjudication of an agency, or

1 that the adjudication of an agency shall be final or conclusive,
2 or shall not be subject to review.

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

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

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

10 § 702. Appeals.

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

16 § 703. Scope of review.

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

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

29 § 704. Disposition of appeal.

30 The court shall hear the appeal without a jury on the record

1 certified by the Commonwealth agency. After hearing, the court
2 shall affirm the adjudication unless it shall find that the
3 adjudication is in violation of the constitutional rights of the
4 appellant, or is not in accordance with law, or that the
5 provisions of Subchapter A of Chapter 5 (relating to practice
6 and procedure of Commonwealth agencies) have been violated in
7 the proceedings before the agency, or that any finding of fact
8 made by the agency and necessary to support its adjudication is
9 not supported by substantial evidence. If the adjudication is
10 not affirmed, the court may modify, vacate, set aside or reverse
11 it, in whole, or in part, and may remand the matter to the
12 agency and direct the entry of such appropriate order, or
13 require such further proceedings to be had as may be just under
14 the circumstances.

15 SUBCHAPTER B

16 JUDICIAL REVIEW OF LOCAL AGENCY ACTION

17 Sec.

18 751. Scope of subchapter.

19 752. Appeals.

20 753. Scope of review.

21 754. Disposition of appeal.

22 § 751. Scope of subchapter.

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

29 (b) Exception.--The provisions of this subchapter shall
30 apply to any adjudication which under any existing statute may

1 be appealed to a court of record, but only to the extent not
2 inconsistent with such statute.

3 § 752. Appeals.

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

9 § 753. Scope of review.

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

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

25 § 754. Disposition of appeal.

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

1 the order of the court.

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

18 CHAPTER 9

19 PUBLIC AVAILABILITY OF INFORMATION

20 Sec.

21 901. Short title of chapter.

22 902. Definitions.

23 903. Right to examine public records.

24 904. Right to copy public records.

25 905. Enforcement of chapter.

26 § 901. Short title of chapter.

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

29 § 902. Definitions.

30 The following words and phrases when used in this chapter

1 shall have, unless the context clearly indicates otherwise, the
2 meanings given to them in this section:

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

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

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

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

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

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

29 (iii) which would result in the loss by the agency
30 of Federal funds.

1 § 903. Right to examine public records.

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

5 § 904. Right to copy public records.

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

11 § 905. Enforcement of chapter.

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

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

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

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

30 Sections 201 through 208, act of July 31, 1968 (P.L.769, No.

1 240), known as the "Commonwealth Documents Law."

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

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

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

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

25 Section 6. This act shall take effect in 60 days except that
26 Subchapter B of Chapter 3 of Title 2 of the Pennsylvania
27 Consolidated Statutes, as added by this act, shall take effect
28 in 6 months.

SOURCE NOTES

(Prepared by Pennsylvania Bar Association)

2 Pa. C. S. § 101: Derived from act of June 4, 1945 (P.L.1388, No.442), § 2 (71 P.S. § 1710.2); act of July 31, 1968 (P.L.769, No. 240), § 102 (45 P.S. § 1102); act of December 2, 1968 (P.L.1133, No. 353), § 2 (53 P.S. § 11302).

2 Pa. C. S. § 102: Subsection (a) derived from act of June 4, 1945 (P.L.1388, No.442), § 35 (71 P.S. § 1710.35) and generalized to apply to local agencies. See also act of June 21, 1957 (P.L.390, No.212), § 3 (65 P.S. § 66.3). Subsection (b) is new and patterned after S.B.223 (P.N.732) of 1973.

2 Pa. C. S. § 103: Substantially a reenactment of act of June 4, 1945 (P.L.1388, No.442), § 1 (71 P.S. § 1710.1) and act of July 31, 1968 (P.L.769, No. 240), § 606 (45 P.S. § 1606).

2 Pa. C. C. S. § 104: Substantially a reenactment of act of July 31, 1968 (P.L.769, No. 240), § 101 (45 P.S. § 1101).

2 Pa. C. S. § 105: Substantially a reenactment of act of December 2, 1968 (P.L.1133, No. 353) § 1 (53 P.S. § 11301).

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

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

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

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

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

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

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

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

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

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

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

2 Pa. C. S. § 353: New. Patterned after act of July 31, 1968

1 (P.L.769, No. 240), §§ 208 and 402 (45 P.S. §§ 1208 and 1402).

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

4 2 Pa. C. S. § 355: New. Patterned after act of July 31, 1968
5 (P.L.769, No.240), §§ 206 and 603 (45 P.S. §§ 1206 and 1603).

6 2 Pa. C. S. § 501: Derived from act of June 4, 1945
7 (P.L.1388, No.442), §§ 47 and 50 (71 P.S. §§ 1710.47 and
8 1710.50).

9 2 Pa. C. S. § 502: Derived from of act of June 4, 1945
10 (P.L.1388, No.442), § 11 (71 P.S. § 1710.11).

11 2 Pa. C. S. § 503: Derived from act of June 4, 1945
12 (P.L.1388, No.442), § 12 (71 P.S. § 1710.12).

13 2 Pa. C. S. § 504: Substantially a reenactment of act of June
14 4, 1945 (P.L.1388, No.442) § 31 (71 P.S. § 1710.31).

15 2 Pa. C. S. § 505: Substantially a reenactment of act of June
16 4, 1945 (P.L.1388, No.442), § 32 (71 P.S. § 1710.32).

17 2 Pa. C. S. § 506: Substantially a reenactment of act of June
18 4, 1945 (P.L.1388, No.442), § 33 (71 P.S. § 1710.33).

19 2 Pa. C. S. § 507: Derived from act of June 4, 1945
20 (P.L.1388, No.442), § 34 (71 P.S. § 1710.34).

21 2 Pa. C. S. § 508: Substantially a reenactment of act of June
22 4, 1945 (P.L.1388, No.442), § 36 (71 P.S. § 1710.36).

23 2 Pa. C. S. § 551: Substantially a reenactment of act of
24 December 2, 1968 (P.L.1133, No. 353) §§ 10 and 11 (53 P.S. §§
25 11310 and 11311).

26 2 Pa. C. S. § 552: Reenactment of act of December 2, 1968
27 (P.L.1133, No. 353), § 3 (53 P.S. § 11303).

28 2 Pa. C. S. § 553: Substantially a reenactment of act of
29 December 2, 1968 (P.L.1133, No. 353), § 4 (53 P.S. § 11304).

30 2 Pa. C. S. § 554: Substantially a reenactment of act of
31 December 2, 1968 (P.L.1133, No. 353), § 5 (53 P.S. § 11305).

32 2 Pa. C. S. § 555: Derived from act of December 2, 1968
33 (P.L.1133, No. 353), § 6 (53 P.S. § 11306).

34 2 Pa. C. S. § 701: Derived from act of June 4, 1945
35 (P.L.1388, No.442), §§ 47 and 50 (71 P.S. §§ 1710.47 and
36 1710.50). De novo appeals to the Commonwealth Court eliminated
37 except in tax and election cases.

38 2 Pa. C. S. § 702: Patterned after act of December 2, 1968
39 (P.L.1133, No. 353), § 7 (53 P.S. § 11307).

40 2 Pa. C. S. § 703: Derived from act of June 4, 1945
41 (P.L.1388, No.442), § 42 (71 P.S. § 1710.42).

1 2 Pa. C. S. § 704: Derived from act of June 4, 1945
2 (P.L.1388, No.442), § 44 (71 P.S. § 1710.44), and act of July
3 31, 1970 (P.L.673, No.223), § 504 (17 P.S. § 211.504).

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

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

9 2 Pa. C. S. § 753: New. Patterned after 2 Pa. C. S. § 703.

10 2 Pa. C. S. § 754: Derived from act of December 2, 1968
11 (P.L.1133, No. 353), § 8 (53 P.S. § 11308), and act of July 31,
12 1970 (P.L.673, No.223), § 504 (17 P.S. § 211.504).

13 2 Pa. C. S. § 901: New.

14 2 Pa. C. S. § 902: Substantially a reenactment of act of June
15 21, 1957 (P.L.390, No.212), § 1 (65 P.S. § 66.1).

16 2 Pa. C. S. § 903: Substantially a reenactment of act of June
17 21, 1957 (P.L.390, No.212), § 2 (65 P.S. § 66.2).

18 2 Pa. C. S. § 904: Derived from act of June 21, 1957
19 (P.L.390, No.212), § 3 (65 P.S. § 66.3).

20 2 Pa. C. S. § 905: Substantially a reenactment of act of June
21 21, 1957 (P.L.390, No.212), § 4 (65 P.S. § 66.4).

22 Section 2: New.

23 Section 3: New.

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

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

28 Section 6: New.