State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Design Professionals
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

Public Notice of Proposed Rule-Making

Pursuant to the provisions of Chapter 5, Section 8 of the General Laws of Rhode Island, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation hereby gives notice of its intent to amend Central Management Regulation 1 – Access to Public Records.

The purpose of this amendment is to bring the regulation into compliance with the amendments to Title 38, Chapter 2 of the Rhode Island General Laws.

The proposed amended regulation and concise summary of non-technical amendments are available for public inspection at www.dbr.ri.gov , in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or by email edwyer@dbr.ri.gov or by calling Elizabeth Kelleher Dwyer at (401) 462 9520.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by November 7, 2012 to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1511 Pontiac Avenue, Bldg. 69-2, Cranston, RI 02920, (401) 462 9520 edwyer@dbr.ri.gov. A public hearing to consider the proposed amendment shall be held on November 7, 2012 at 10:00 am at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard.

All are welcome at the Rhode Island Department of Business Regulation ("DBR"). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at 401-462-9551, RI Relay at 7-1-1, or email directorofficeinquiry@dbr.ri.gov at least three (3) business days prior to the hearing.

Paul McGreevy
Director, Department of Business Regulation

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Concise Summary of Proposed Non-technical Amendments to Central Management Regulation 1 – Access to Public Records

In accordance with the Administrative Procedures Act, Section 42-35-3(a)(1) of the General Laws of Rhode Island, following is a concise summary of proposed non-technical amendments:

1. Section 1 is amended to clarify the authority under which the regulation is promulgated.
2. Section 2 is amended to clarify the purpose of the regulation.
3. Section 3 is amended to clarify those records that qualify as public records.
4. Section 4 is amended to alter the procedures to request records from the Department in accordance with the recent amendments to Title 38, Chapter 2 of the Rhode Island General Laws.
5. Sections 5 and 7 are proposed to be eliminated from the regulation.
6. Section 5 (formerly section 6) is amended to alter the fees to be charged in accordance with the recent amendments to Title 38, Chapter 2 of the Rhode Island General Laws.
7. Section 6 is added to clarify that this regulation does not apply to subpeonas.

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
~~233 Richmond Street~~1511 Pontiac Avenue
~~Providence~~Cranston, RI ~~02903~~02920

CENTRAL MANAGEMENT REGULATION 1

ACCESS TO PUBLIC RECORDS

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Section 1 *Authority*

This Regulation is promulgated in accordance with R.I. Gen. Laws §§ 38-2-3 and 42-14-17.

~~(1) R.I. Gen. Laws §§ 38-2-1 *et seq.* entitled "Access to Public Records."~~

~~(2) R.I. Gen. Laws § 42-14-1 entitled "Department of Business Regulation Establishment; Powers of the Director."~~

Section 2 *Purposes*

~~(1)~~ To ~~establish Regulations to implement R.I. Gen. Laws §§ 38-2-1 *et seq.* concerning access to public records held by the Department of Business Regulation.~~

~~(2) To identify and safeguard categories of records exempt from disclosure; and~~

~~(3) To~~ provide ~~Department of Business Regulation personnel and the public with Regulations and~~ procedures for public record access.

Section 3 *Policy*

It is the policy of the Department that all files and records of the Department that are required to be disclosed by state or federal law, or otherwise ordered by a court of competent jurisdiction are available for public inspection and copying. ~~unless~~ The Department shall not

disclose files or records that are ~~disclosure is prohibited by state or federal law,~~ (1) deemed to not be a public record pursuant to one or more of the exceptions in R.I. Gen. Laws § 38-2-1 *et seq* or any amendments thereto, (2) prohibited from disclosure by any state or federal law, or ~~unless~~ (3) otherwise prohibited by order~~ed~~ ~~by~~ of a court of competent jurisdiction.

Section 4 ***Procedure for Requesting Public Records***

(1) A person requesting ~~for~~ inspection or copying of public records shall ~~be presented in writing to the~~contact the ~~Office of Legal Counsel,~~ Department of Business Regulation~~, 233 Richmond Street, Providence, Rhode Island 02903 during the ordinary business hours of the Department on forms provided by the Department~~ by email, regular mail or facsimile with the request. The Department's preferred method of communication is email but all other forms will be accepted. The request should indicate:

~~and must reasonably~~ A. A complete ~~describe~~ description of the records sought in a ~~way~~ manner that will permit their identification and location by Department personnel. ~~At the discretion of the Director, his/her Assistants/Associate/Deputy Director, and the Department Legal Counsel, the requirements of a formal request may be waived. A written record of all requests shall be maintained within each division.~~

B. The method by which the requestor would like delivery of the response. Please include all information necessary for the Department to make that communication (e.g. email address, facsimile number or street address).

(2) If making the request by

A. Email - the request should be sent to one of the following email addresses:

Insurance Division - insuranceinquiry@dbr.ri.gov

Banking Division – bankinquiry@dbr.ri.gov

Securities Division – securityinquiry@dbr.ri.gov

Racing & Athletics – racingathleticsinquiry@dbr.ri.gov

Commercial Licensing – commerciallicensinginquiry@dbr.ri.gov

All other Divisions - directorsofficeinquiry@dbr.ri.gov

B. Facsimile - the request should be sent to one of the following numbers:

Insurance Division - (401) 462 9602

Banking Division – (401) 462 9532

Securities, Commercial Licensing and Racing & Athletics Divisions – (401) 462 9645

All other Divisions - (401) 462 9532

C. Regular mail - the request should be sent to:

Public Records Officer
Department of Business Regulation
1511 Pontiac Avenue
Cranston, Rhode Island 02920

(3) The Department will provide a form on its website in the format attached hereto as a template for information which would be sufficient to allow it to determine whether the records are available or to provide the records in the method selected by the requestor. This form is to be used only for guidance and is not required in order to make a public records request.

(4) If the records sought are maintained by the Department in a retrievable electronic system, a response will be provided indicating that the requestor should make an appointment to come to the Department's offices to search for and retrieve the records. Public access to these systems is available and upon locating the record the requestor has the option of printing the document(s) or downloading them onto a devise provided by the requesting party.

(5) If the records are so voluminous that the request would require a reorganization, consolidation or compilation of data the requestor will be invited to make an appointment to inspect the voluminous records to locate the information requested.

(~~2~~5) Within ten (10) business days of the request the Department will respond in the mode requested by the requestor or if no manner is specified by the mode in which the request was received, with one or more of the following:

A. That the Requestor should contact the Department to schedule an appointment to inspect the records.

B. A copy of the documents requested;

C. A response that the documents do not exist or are not within the custody or control of the Department;

D. A response that the documents are not "public documents" as defined by R.I. Gen. Laws § 38-2-2 and a description of the procedures for appealing that denial;

E. A response that the~~If the~~ description of records sought in the request is not sufficient to allow the Department to identify and locate the requested records~~, the Department will notify the person requesting such records that additional information is needed.~~;

F. A response that the documents are being produced in a redacted fashion in accordance with R.I. Gen. Laws § 38-2-2.

G. A response that the records will be produced upon receipt of payment for an amount calculated in accordance with R.I. Gen. Laws §§ 38-2-3(k) and 38-2-4. The exact amount owed will be set forth and the records will be produced after payment is received.

~~(3) The Department will make every reasonable effort to honor the request within ten (10) business days of receipt of the form as specified herein.~~

(~~4~~7) ~~The Department will make its best efforts to notify the inquirer of the status of the request within ten (10) days, s~~Should it appear that the request cannot be honored within ~~the~~ ten (10) business days the Department will respond indicating that additional time is needed and specifying the reason for that additional time up to an additional twenty (20) business days. ~~For good cause, the time to respond may be extended to thirty (30) days.~~

~~**Section 5 *Hours of Inspections***~~

~~All records made available pursuant to these procedures may be inspected between the hours of 8:30 a.m. and 3:30 p.m. Monday through Friday.~~

Section ~~6~~5 *Fees*

~~(1) Official publications which the Department prepares in the discharge of its duty to inform the public on matters of public interest shall be furnished free of charge when available.~~

~~(2) The Department will supply one copy of any of its Rules and Regulations to an individual requesting same free of charge. Rules and Regulations of the Department are also on file at the Office of the Secretary of State and certified copies thereof may be obtained from that office. Rules and Regulations of the Department are also available online from the Department's website.~~

(~~3~~1) The Department shall charge a fee for copying and/or search and retrieval of requested documents consistent with ~~applicable state law~~R.I. Gen. Laws § 38-2-4.

(2) All persons requesting delivery of records shall be responsible for the actual cost of delivery.

(~~4~~3) All payments for copies of records shall be paid in advance of delivery, or, at the option of the Department, at such later time as the Department may specify. All checks shall be payable to the General Treasurer, State of Rhode Island.

~~(5) The Department will inform the person requesting the record of the approximate cost which will be incurred.~~

~~**Section 7** ***Supervision of Inspections***~~

~~(1) Without regard for the location(s) selected for the public's inspection of records, the inspection will be accomplished in a manner which will provide for general supervision by authorized staff. This is necessary to prevent the unauthorized removal of records or other actions which would destroy the integrity of the record.~~

~~(2) The section head in charge of the activity related to the public record shall have overall responsibility for the security of the public record. However, the section head may designate a staff member to coordinate the functions and responsibilities for the public's inspection of records.~~

~~(3) All personnel dealing with the public are to be made aware, by their section heads, of the procedures established for public inspection of records and shall direct inquiries to:~~

~~(a) The section head of the activity/function to which the public record requested relates to or~~

~~(b) In the event that the public record cannot be categorized as falling under a specific section head's responsibility, the inquirer will be directed to the Office of Legal Counsel which will serve as a resource in matters relating to the public's inspection of records.~~

Section 6 ***Subpeonas***

Subpoenas issued pursuant to the rules of any Court will be addressed in accordancw with those rules. This regulation does not apply to such subpoenas.

Section ~~8~~7 ***Severability***

If any provision of these Rules and Regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of these rules and regulations are declared to be severable.

Section 8 ***Effective Date***

This regulation is effective as indicated below.

EFFECTIVE DATE:	July 1, 1985
AMENDED:	January 25, 1999
	January 2, 2000
REFILED:	December 27, 2001
AMENDED:	April 8, 2003
	December 2012

REQUEST TO INSPECT AND/OR COPY PUBLIC RECORDS
OF THE DEPARTMENT OF BUSINESS REGULATION
~~(FORM 7.0)~~
~~PURSUANT TO R.I. Gen. Laws § 38-2-1 *et seq.*~~
~~This form must be completed, signed and returned to:~~
~~Office of Legal Counsel~~Public Information Officer
Rhode Island Department of Business Regulation
~~233 Richmond Street, Suite 235~~1511 Pontiac Ave
~~Providence~~Cranston, RI ~~02903~~02920 ~~-4235~~
~~(401) 222-5400~~

This form is optional. Records may be requested in any manner that is readily identifiable as a request for public records.

Name _____

Telephone Number of Requesting Party: _(___)_____-_____

Requested Manner of Delivery of Public Records: Email:_____ Fax: _____Regular Mail: _____

Delivery Email, Fax Number or Address: _____

~~ADDRESS OF PERSON MAKING REQUEST:_____~~
~~TELEPHONE NO. OF PERSON MAKING REQUEST:_____~~

Title and/or Description of Document(s) Requested to be Inspected_____and/or Copied_____:
_____
_____
_____

Name and Title of Person in Department Having Custody of Document(s), if known:

_____

~~Copies of any document(s) are fifteen ($.15) cents per page or the actual reproduction cost of paper larger than 8 ½" x 14", plus an hourly charge of fifteen ($15.00) dollars per hour for searching and copying, unless otherwise provided by Department Regulations. There is no charge for the first hour of search and retrieval.~~

~~Materials requested ARE_____ARE NOT_____sought for the purpose of pending litigation involving Rhode Island Department of Business Regulation or the State of Rhode Island.~~

_____ _____
~~Date Signature of Person Making Request~~

~~RESPONSE TO REQUEST TO INSPECT AND/OR COPY PUBLIC RECORDS OF THE DEPARTMENT OF BUSINESS REGULATION (FORM 7.0)~~

PURSUANT TO R.I. Gen. Laws § 38-2-1 *et seq.*

Dear _____:

On _____ the Rhode Island Department of Business Regulation ("Department") received your Request to Inspect and/or Copy Public Records Pursuant to R.I. Gen. Laws § 38-2-1 *et seq.* A copy of your request is attached.

A. RESPONSE TO REQUEST:

☐ GRANTED

☐ DENIED/DENIED IN PART because the record(s) requested are exempt from disclosure pursuant to the following provisions of law: _____

☐ NO SUCH DOCUMENT(S) EXIST IN THE DEPARTMENT'S RECORDS

B. PROCEDURE TO INSPECT/OBTAIN PUBLIC RECORDS BEING RELEASED PURSUANT TO SECTION A ABOVE:

☐ A copy of the records will be mailed to you upon our receipt of payment in the amount of $ _____ for copying and document search fees pursuant to R.I. Gen. Laws § 38-2-4.

☐ A copy of the records is enclosed. Please forward payment in the amount of $ _____ for copying and document search fees pursuant to R.I. Gen. Laws § 38-2-4 to the address below.

☐ The record is available for inspection in the _____Division of the Department of Business Regulation between the hours of 8:30 a.m. and 3:30 p.m. Monday through Friday, at the address specified below. Please call to arrange an appointment.

☐ Not Applicable.

C. If your request is denied, you have the right to appeal to the Department's chief administrative officer. If your appeal is denied, you have the right to appeal to the Attorney General or the Superior Court.

DATED: _____ SIGNATURE: _____

Checks should be made out the General Treasurer, State of Rhode Island
Mail Checks to: Department of Business Regulation,
_____ Division
233 Richmond Street
Providence, RI 02903-4235
(401) 222-2246