

**RHODE ISLAND GOVERNMENT REGISTER**  
**PUBLIC NOTICE OF PROPOSED RULEMAKING**

---

---

**AGENCY:** Rhode Island Department of State

**DIVISION:** Public Information Division

**RULE IDENTIFIER:** 100-RICR-40-1 (ERLID 8421) effected ERLIDs 3381 and 3228

**REGULATION TITLE:** Rules and Regulations Relating to the Rhode Island Lobbying Reform Act

**RULEMAKING ACTION:** Proposed Rulemaking

**TYPE OF FILING:** Adoption

**DATES:** Public notice date: October 28, 2016

End of comment period date: November 27, 2016

Hearing date: November 9, 2016, 10:00 am – 12:00 pm Room 313, State House, Providence, RI 02903

**SUMMARY OF PROPOSED RULE:** The Regulation implements the Rhode Island Lobbying Reform Act (Law). The Regulation balances the need for enhanced transparency with the goal of streamlining the administrative aspects of the Law to make it easier for Lobbyists, Lobbying Firms, and Persons Engaging Lobbyists or Lobbying Firms to comply. The Regulation provides further detail to definitions and to exemptions. In addition, the Regulation establishes clear requirements for what information must be provided at registration and at the time of reporting. The Regulation also outlines what constitutes a penalty and the fee schedule for those penalties. The Regulation aims to provide clarity to increase compliance and facilitate oversight, while providing for additional reporting detail to enhance the transparency of lobbying activities with the government.

**COMMENTS INVITED:**

All interested parties are invited to submit written or oral comments concerning the proposed regulations by November 27, 2016 to the addresses listed below.

**ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:**

Stacy DiCola  
Public Information Division  
82 Smith Street  
State House, Room 38  
Providence, RI 02903

**Email Address:**

sdicola@sos.ri.gov

**PUBLIC HEARING INFORMATION:**

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/ interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-222-3983 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

**ALTERNATIVE PUBLIC HEARING TEXT:**

In accordance with RIGL §42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

**FOR FUTURE INFORMATION CONTACT:**

Stacy DiCola  
Public Information Division  
Rhode Island Department of State  
82 Smith Street  
State House, Room 38  
Providence, RI 02903  
401-222-3983  
sdicola@sos.ri.gov

**SUPPLEMENTARY INFORMATION:****Regulatory Analysis Summary and Supporting Documentation:**

The purpose of the Regulation is to clarify the requirements of the Rhode Island Lobbying Reform Act (Act), including reporting requirements, definitions, and the enforcement structure. The Act provides the Secretary of State discretion in what needs to be reported, what constitutes a minor infraction as well as fines associated with such infractions. The penalties provided in this Regulation are straightforward, fair and enforceable. The proposed regulation provides a balance in ensuring clarity and transparency while also making it easier for persons to understand, comply and register as a lobbyist. The proposed regulation also clarifies instances when persons are engaging with State government but are not considered lobbyists or engaged in lobbying.

Upon adoption of this regulation, there will be no overlapping or similar active regulations. The regulation for the prior Legislative Lobbying law and the regulation for the prior Executive Branch Lobbying law will have been repealed.

The Lobbying Reform Act Rules and Regulations aim to ensure transparency and clarity with respect to lobbying. The regulation also provides clear requirements of what must be reported in each of the necessary reports. Taking the above into consideration, the benefits of this regulation far outweigh any costs which may be involved.

**Authority for This Rulemaking:** *§42-139.1-1 et seq*

**Regulatory Findings:**

In the development of the proposed adoption 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.

**The Proposed Amendment:**

Rhode Island Department State proposes to amend 100-RICR-40-1 as follows:

# **TITLE 100 - RHODE ISLAND DEPARTMENT OF STATE**

## **CHAPTER 40 – PUBLIC INFORMATION DIVISION**

### **100-RICR-40-1**

#### **PART 1 – RULES AND REGULATIONS RELATING TO THE RHODE ISLAND LOBBYING REFORM ACT**

##### **1.1 Purpose**

- A. This regulation implements the Rhode Island Lobbying Reform Act (R.I. Gen. Laws §§ 42-139.1-1 et seq.). The Rhode Island Lobbying Reform Act simplifies and clarifies the rules governing lobbying, maximizes transparency without imposing unnecessary burdens on the process, provides a user-friendly registration and reporting system, and strengthens the investigation and enforcement scheme.

##### **1.2 Authority**

- A. This regulation is put in to effect pursuant to Rhode Island General Laws §§ 42-139.1-1 et seq. (the “Act”). It has been prepared in accordance with the requirements of R.I. Gen. Laws §§ 42-35-1 et seq.

##### **1.3 Regulated Parties**

- A. This regulation applies to Lobbyists, Lobbying Firms, and Persons engaging Lobbyists or Lobbying Firms, as those terms are defined below.

##### **1.4 Definitions**

- A. The following terms are defined by R.I. Gen. Laws § 42-139.1-3:
  - 1. “Appointed” or “Engaged” means receiving Compensation from another Person for the purpose of Lobbying.
  - 2. “Compensation” means any remuneration or earnings received or to be received for services rendered as a Lobbyist, including any fee, salary, forbearance, forgiveness, or any other form of recompense, and any combination of these, but does not include reimbursement for incidental expenses.
  - 3. “Lobbying” means acting directly or soliciting others to act for the purpose of promoting, opposing, amending, or influencing any action or inaction by any member of the executive or legislative branch of state government, or any public corporation.
  - 4. “Lobbying Firm” means a business entity, partnership or other organized group that receives Compensation for Lobbying.
  - 5. “Lobbyist” means any of the following:
    - a. “Contract Lobbyist” means any person who engages in Lobbying as the Appointed or Engaged representative of another person;

- b. "In-house Lobbyist" means any employee, officer, director, or agent of a corporation, partnership, or other business entity or organization whose job responsibilities include Lobbying; and
    - c. "Governmental Lobbyist" means any employee of any federal, state, or local government office or agency or any Public Corporation who engages in Lobbying.
  6. "Money" and "Anything of Value" means any fee, salary, commission, expense allowance, forbearance, forgiveness, royalty, rent, capital gain, gift, loan, reward, favor or service, gratuity or special discount, or any other form of recompense that constitutes income under the Federal Internal Revenue Code, but shall not include campaign contributions.
  7. "Person" means an individual, firm, business, corporation, association, partnership, or other group.
  8. "Public Corporation" means a body corporate and politic acting as a public corporation, which has been organized pursuant to law and granted certain powers, rights, and privileges by the general laws, but which has a separate and distinct legal existence from the state, and is not a department of the state.
  9. "Secretary" means the Rhode Island secretary of state.
- B. Further, in addition to those terms defined by R.I. Gen. Laws § 42-139.1-3, the following definitions shall also apply to this regulation:
  1. "Minor Infraction" includes, but is not limited to, filing a late registration, filing a late Lobbying report, or the failure to make payment for a Lobbying badge.
  2. "Non-Conforming Reports" means a report that does not include all of the information required by the Secretary or is otherwise incomplete.
  3. "Public Bodies" means "Public Corporations" as that term is defined in R.I. Gen. Laws § 42-139.1-3(8) and shall also mean any department, agency, commission, committee, board, council, bureau, or authority or any subdivision thereof of state government, or any other agency of the state government which exercises governmental functions. An entity shall not be deemed a Public Body or Public Corporation if it does not have a budget or staff, or if it acts solely in an advisory capacity and reports to a higher, decision-making body.
  4. "Qualified Expert Witness" means a witness who is qualified as an expert by knowledge, skill, experience, training, or education in a specialized field.
  5. "State Government Building" means any building in which a Rhode Island state agency or department, legislative body, or Public Corporation is situated, or in which employees regularly engage in their duties for a Rhode Island state agency, department, legislative body or Public Corporation.
  6. "Violation" means any individual act or item of non-compliance with the provisions of the Act, as amended hereafter, or with these regulations.
- C. The following Persons shall not be deemed "Lobbyists" for purposes of this regulation:
  1. Licensed attorneys who:
    - a. Represent a client in a contested administrative proceeding, a licensing or permitting proceeding, or a disciplinary proceeding; and

- b. Engage in any communications with an executive branch official or office if those communications are incidental to the attorney's representation of their client rather than Lobbying activities as defined herein.
  2. Qualified Expert Witnesses testifying in an administrative proceeding or legislative hearing, either on behalf of an interested party or at the request of the agency or legislative body or committee;
  3. Members of the general assembly, general officers of the state, municipal elected or appointed officials, heads of any executive department of state government, and/or heads of any Public Corporation, or a duly appointed designee of one of the foregoing offices acting in the official capacity of said office, and any members of the Rhode Island judiciary acting in their official capacities;
  4. Persons participating in a governmental advisory committee or task force;
  5. Persons appearing on behalf of a business entity by which they are employed or organization with which they are associated, if that Person's regular duties do not include Lobbying or government relations;
    - a. This exemption applies without limitation to Persons who volunteer for any organization and who engage in Lobbying for that organization only intermittently, incidentally or occasionally, rather than on a consistent or regular basis.
  6. Persons appearing solely on their own behalf;
  7. Employees or agents of the news media who write, publish, or broadcast news items or editorials which directly or indirectly promote or oppose any action or inaction by any member or office of the executive or legislative branch of state government;
  8. Individuals participating in or attending a rally, protest, or other public assemblage organized for the expression of political or social views, positions or beliefs;
  9. Individuals participating in any proceeding pursuant to R.I. Gen Laws § 42-35;
  10. Individuals, other than employees or agents of the news media, involved in the issuance and dissemination of any publication, including data, research or analysis on public policy issues that is available to the general public, including news media reports, editorials, commentary or advertisements and
  11. Individuals responding to a request for information made by a state agency, department, legislative body or Public Corporation.
- D. The Secretary reserves the right, within his or her reasonable discretion, to recommend that a Person register as a Lobbyist if the Secretary reasonably believes that a Person has represented an organization on a consistent or regular basis, such that their actions constitute Lobbying.

## **1.5 Registration of Persons engaging Lobbyists or Lobbying Firms**

- A. The Secretary will maintain an online register of Persons engaging Lobbyists or Lobbying Firms that is available to the public.
- B. Any Person engaging Lobbyists or Lobbying Firms must provide the following information to the Secretary's online register within seven (7) calendar days of any Lobbying engagement (paper registrations are not accepted):

1. Name, telephone number, web address and business address of the Person engaging the Lobbyist or Lobbying Firm;
  2. The name(s) of the Lobbyist(s) or Lobbying Firm(s) employed;
  3. Total Compensation expected to be paid to the Lobbyist(s) or Lobbying Firm(s) for Lobbying activity;
  4. Retainers and other fee payment arrangements; and
  5. Any other information required by the Secretary.
- A. If a Person engaging Lobbyists or Lobbying Firms is not in compliance with these regulations for all prior engagements, they will not be permitted to register.
- B. Persons engaging Lobbyists or Lobbying Firms must report the termination of any Lobbying engagement to the Secretary within seven (7) calendar days of the termination.

## **1.6 Registration of Lobbying Firms**

- A. The Secretary will maintain an online register of Lobbying Firms that is available to the public.
- B. Except for the seven (7) calendar day grace period noted below in Section 1.6(C.), no Lobbying Firm shall engage in any Lobbying unless and until that Lobbying Firm is registered with the Secretary.
- C. Lobbying Firms must provide or confirm the following information in electronic form to the Secretary's online register within seven (7) calendar days of any Lobbying engagement (paper registrations are not accepted):
1. Name of Lobbying Firm, telephone number, email address, web address and business address of the Lobbying Firm;
  2. Name of the Lobbyists employed by the Lobbying Firm;
  3. Total Compensation expected to be paid to the Lobbying Firm for Lobbying; and
  4. Any other information required by the Secretary.
- D. Lobbying Firms must report the termination of any Lobbying engagement to the Secretary within seven (7) calendar days of the termination.
- E. If the Lobbying Firm does not provide all information required on the registration form or is otherwise not in compliance with these regulations for all prior engagements, it will not be permitted to register.

## **1.7 Lobbyist Registration**

- A. The Secretary will maintain an online register of Lobbyists that is available to the public.
- B. Except for the seven (7) calendar day grace period noted below in Section 1.7(C.), no Person shall engage in any Lobbying unless and until that Person is registered with the Secretary.
- C. Registrations shall be effective as of the date upon which a Lobbyist provides or confirms the following information in electronic form to the Secretary's online register and pays any applicable

badge fee, which must be within seven (7) calendar days of any Lobbying engagement (paper registrations are not accepted):

1. Name, telephone number, email address, web address (if applicable) and address of the Lobbyist;
  2. The legislation by bill number or by the subject matter(s) of the Lobbying;
  3. The executive branch officials or public bodies to be Lobbied;
  4. Total Compensation expected to be paid, except for Lobbyists employed by a Lobbying Firm; and
  5. Any other information required by the Secretary, which may include information necessary to ensure compliance with the Rhode Island "revolving door statute" at R.I. Gen. Laws § 36-14-5(e)(4), as amended hereafter.
- D. In-house Lobbyists must report that portion of the Compensation that represents a reasonable estimate of the percentage of the time spent on Lobbying activities.
- E. Governmental Lobbyists do not need to report the information required by Section 1.7(C)(2)-(5).
- F. Lobbyists must report the termination of any Lobbying engagement to the Secretary within seven (7) calendar days of the termination.
- G. If the Lobbyist does not provide all information required on the registration form or is otherwise not in compliance with these regulations for all prior engagements, he or she will not be permitted to register.
- H. The Secretary will issue an identification badge to every registered Lobbyist. Lobbyists must display the badge while engaged in any Lobbying in a State Government Building.

## **1.8 Lobbying Reports - Lobbyists**

- A. Lobbyists, excluding Governmental Lobbyists, must submit monthly online reports to the Secretary on the form designated by the Secretary, in the months of February through July. Each report must include the Lobbying activity during the calendar month immediately preceding such filing, and upon termination of the Lobbyist's engagement. The reports will be maintained as public documents.

Monthly online reports are due as follows:

1. January activity ----- Report due February 15
  2. February activity ----- Report due March 15
  3. March activity ----- Report due April 15
  4. April activity ----- Report due May 15
  5. May activity ----- Report due June 15
  6. June activity ----- Report due July 15
- B. Lobbyists, excluding Governmental Lobbyists, must submit quarterly online reports to the Secretary on the form designated by the Secretary by October fifteenth (15th) and January

fifteenth (15th). Each quarterly report must include the Lobbying activity during the three (3) calendar months immediately preceding such filing, and upon the termination of the Lobbyist's engagement. The reports will be maintained as public documents.

Quarterly online reports are due as follows:

1. July - September activity ----- Report due October 15
2. October – December activity ----- Report due January 15

C. Reports must include the following information, together with any and all updates to the information upon each subsequent filing:

1. All Compensation received for Lobbying;
  - a. In-house Lobbyists are required to report only that portion of the Compensation that represents a reasonable estimate of the percentage of the time spent by him or her on Lobbying activities;
  - b. Contract Lobbyists employed by a Lobbying Firm must disclose the total Compensation paid to that Lobbying Firm as directed under Section 1.6(C.) – Lobbying Firms;
2. The name(s) of the Person(s) who paid the Compensation;
3. All expenditures made for the purpose of Lobbying, other than regularly occurring office expenses, such as routine copies, printing, postage, binding, software and office supplies;
4. The legislation by bill number or by the subject matter(s) of the Lobbying and the stance on any such bill (i.e., promoting, opposing or neutral);
5. The executive branch officials or Public Bodies lobbied;
6. All Money and Anything of Value provided or promised (knowingly or in circumstances where the Lobbyist reasonably should know) to any legislative or executive branch official, once the total value exceeds two hundred fifty dollars (\$250.00) within the current calendar year.

This report shall include:

- a. Name and Title of the legislative or executive branch official;
  - b. Office of the executive branch official; and
  - c. Dates and itemization of all prior and subsequent expenditures once the two hundred fifty dollar (\$250.00) threshold is met.
7. All campaign contributions once the total contributions exceed one hundred dollars (\$100.00), made to any elected state official, candidate for state elected office or political action committee within the calendar year:

This report shall include:

- a. Name of the recipient(s) of the contribution;
- b. Date(s) of the contribution(s); and

- c. Office for which such state official or candidate is campaigning.

## **1.9 Lobbying Reports – Persons engaging the services of Lobbyists or Lobbying Firms**

- A. Persons who engage the services of Lobbyists or Lobbying Firms must submit monthly online reports to the Secretary on the form designated by the Secretary in the months of February through July. Each report must include the Lobbying activity during the calendar month immediately preceding such filing, and upon termination of the Lobbyist's engagement. The reports will be maintained as public documents.

Monthly online reports are due as follows:

- 1. January activity ----- Report due February 15
- 2. February activity ----- Report due March 15
- 3. March activity ----- Report due April 15
- 4. April activity ----- Report due May 15
- 5. May activity ----- Report due June 15
- 6. June activity ----- Report due July 15

- B. Persons who engage the services of Lobbyists or Lobbying Firms must submit quarterly online reports to the Secretary on the form designated by the Secretary by October fifteenth (15<sup>th</sup>) and January fifteenth (15<sup>th</sup>). Each quarterly report must include the Lobbying activity during the three (3) calendar months immediately preceding such filing, and upon the termination of the Lobbyist's engagement. The reports will be maintained as public documents.

Quarterly online reports are due as follows:

- 1. July - September activity ----- Report due October 15
- 2. October – December activity ----- Report due January 15

- C. Reports must include the following information, together with any and all updates to the information upon each subsequent filing:

- 1. All Compensation paid to Lobbyists and Lobbying Firms for the purposes of Lobbying;
- 2. All expenditures made for the purpose of Lobbying other than regularly occurring office expenses, such as routine copies, printing, postage, binding, software and office supplies; and
- 3. All Money and Anything of Value provided or promised (knowingly or in circumstances where the Persons engaging the services of a Lobbyist or Lobbying Firm reasonably should know) to any legislative or executive branch official, once the total value exceeds two hundred fifty dollars (\$250.00) in the current calendar year.

This report shall include:

- a. Name and Title of the legislative or executive branch official;

- b. Office of the executive branch official; and
  - c. Dates and itemization of all prior and subsequent expenditures, once the two hundred fifty dollar (\$250.00) threshold is met.
4. All campaign contributions, once the total contributions exceed one hundred dollars (\$100.00), made to any elected state official, candidate for state elected office or political action committee within a calendar year:

This report shall include:

- a. Name of the recipient(s) of the contribution;
- b. Date(s) of the contribution(s); and
- c. Office for which such state official or candidate is campaigning.

### **1.10 Lobby Reports – Lobbying Firms**

- A. Lobbying Firms, must submit monthly online reports to the Secretary on the form designated by the Secretary in the months of February through July. Each report must include the Lobbying activity during the calendar month immediately preceding such filing, and upon termination of the Lobbyist's engagement. The reports will be maintained as public documents.

Monthly online reports are due as follows:

- 1. January activity ----- Report due February 15
- 2. February activity ----- Report due March 15
- 3. March activity ----- Report due April 15
- 4. April activity ----- Report due May 15
- 5. May activity ----- Report due June 15
- 6. June activity ----- Report due July 15

- B. Lobbying Firms, must submit quarterly online reports to the Secretary on the form designated by the Secretary by October fifteenth (15<sup>th</sup>) and January fifteenth (15<sup>th</sup>). Each quarterly report must include the Lobbying activity during the three (3) calendar months immediately preceding such filing, and upon the termination of the Lobbyist's engagement. The reports will be maintained as public documents.

Quarterly online reports are due as follows:

- 1. July - September activity ----- Report due October 15
- 2. October – December activity ----- Report due January 15

- C. Reports must include the following information, together with any and all updates to the information upon each subsequent filing:

- 1. The name(s) of the Lobbyist(s) employed by the Lobbying Firm;

2. All Compensation the Lobbying Firm received for Lobbying;
3. The name(s) of the Person(s) who paid Compensation to the Lobbying Firm for Lobbying;
4. All expenditures made for the purpose of Lobbying, other than regularly occurring office expenses, such as routine copies, printing, postage, binding, software and office supplies; and
5. All Money and Anything of Value provided or promised (knowingly or in circumstances where the Lobbying Firm reasonably should know) to any legislative or executive branch official, once the total value exceeds two hundred fifty dollars (\$250.00) in the current calendar year.

This report shall include:

- a. Name and Title of the legislative or executive branch official;
- b. Office of the executive branch official; and
- c. Dates and itemization of all prior and subsequent expenditures, once the two hundred fifty dollar (\$250.00) threshold is met.

### **1.11 Fees**

#### **A. Badge Fees:**

1. Initial fee; Ten dollars (\$10.00).
2. Replacement fee; Ten dollars (\$10.00).

### **1.12 Failure to File Reports and Non-Conforming Reports**

- A. If a report is not filed or a filed report does not comply with these regulations or the Act, the Secretary will notify the delinquent Person in writing.
- B. Within twenty (20) calendar days of receipt of a notice from the Secretary, the delinquent Person must file or correct the report, as applicable.
- C. If the delinquent Person does not file or correct the report within twenty (20) calendar days of receipt of a notice from the Secretary, the Secretary will issue a show cause order against the delinquent Person. The show cause order will require that Person to establish facts which show why a penalty should not be imposed.
- D. If the delinquent Person does not establish facts as to why penalties should not be imposed, the Secretary may impose a penalty in accordance with Section 1.15.

### **1.13 Failure to Register and Investigations by the Secretary**

- A. The Secretary may initiate a preliminary investigation into the activities of any Person who has allegedly been engaged in Lobbying without registration, or who may be in violation of these regulations or the Act for another reason.
- B. Within thirty (30) calendar days of the commencement of such investigation, the Secretary will notify the Person who is the subject of investigation of the existence of the investigation and the general nature of the alleged violation.

- C. As part of the investigation, the Secretary may request books, papers or other documents directly relating to services rendered or Compensation received in connection with Lobbying. If such information is not willingly provided to the Secretary within twenty (20) calendar days following the request, the Secretary may file a complaint with the superior court. The complaint may request such relief as is reasonably required by the Secretary to conduct the investigation. The court may enter an order for the relief requested or may modify the relief in the court's reasonable discretion.
1. Any such complaint must include:
    - a. The identity of the complainant; and
    - b. A full and complete statement of the facts and circumstances, including:
      - (1) Details about the alleged violation; and
      - (2) A copy of the initial request to the alleged violator for the production of books, papers or other documents.
  2. The court may require reasonable additional testimony or documentary evidence in support of the requested relief.
- D. If the Secretary's investigation fails to indicate that there is probable cause to believe a violation occurred, the Secretary will immediately terminate the investigation, dismiss any applicable complaint, and notify the alleged violator in writing within twenty (20) calendar days.
- E. If the Secretary's preliminary investigation indicates that there is probable cause to believe a violation occurred, the Secretary may petition the court for a declaratory judgment regarding the suspected violation. Before making a decision, the court may require the production of documents or testimony. If the court determines by the preponderance of the evidence that a violation has occurred, the Secretary may further petition the court for appropriate relief, which may include an order to pay a civil penalty of up to five thousand dollars (\$5,000) per violation, and/or revocation of a registration for a period of up to three (3) years.
- F. Expressly excepting any records provided by the Secretary to the attorney general for use in a criminal proceeding pursuant to Section 15(F), or made part of a complaint to the court, all of which may be public records, records accumulated by the Secretary in connection with an investigation of an alleged violation will be confidential pursuant to the Access to Public Records Act, R.I. Gen. Laws §§ 38-2-1 et seq.

#### **1.14 Powers and Duties of the Secretary**

- A. The Secretary has the authority to perform any duties that are necessary to implement the Act, including without limitation developing registration and reporting forms and an online register, adopting regulations and collecting fees and fines. The Secretary may also prepare and publish educational materials relating to the Act, such as an instructional link and training video available on the Secretary's website.

#### **1.15 Penalties**

- A. A penalty of up to five thousand dollars (\$5,000) per violation, and/or revocation of the applicable registration for a period of up to three (3) years may be imposed for a violation of these regulations, including but not limited to:
1. Failure to register;

2. Failure to file reports; or
  3. Filing and not correcting non-conforming reports.
- B. The amount of the penalty imposed for a violation depends upon the facts and circumstances, and is up to the Secretary's discretion, based upon but not limited to:
1. Whether the violation was willful and knowing or unintentional;
  2. Whether and to what degree there have been repeat violations by the same Person within the immediately preceding five (5) years;
  3. The severity of the delinquency; and
  4. The duration of time between initial notice of the delinquency by the Secretary and the date of compliance.
- C. The Secretary will maintain a record of all violations and fines issued, in accordance with the Rhode Island Department of State Records Retention Schedule.
- D. The initial penalty for Minor Infractions shall be twenty-five dollars (\$25.00). Where the minor infraction is not corrected within seven (7) days of the notice of non-compliance provided by the Secretary, an additional penalty of two dollars (\$2.00) per day will be assessed from the date of the non-compliance notice until the violation is corrected, up to a maximum of two thousand dollars (\$2,000) per violation.
- E. Notwithstanding the penalties set forth above, the Secretary may issue a warning and directive to comply with these regulations and the Act to an offender who has not committed any other violations or received any other warnings concerning these regulations in the past five (5) years.
- F. The Secretary may refer a knowing and willful violation of these regulations to the attorney general for prosecution. In addition to the civil penalties set forth in this Section, a knowing and willful violation may result in a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) and/or imprisonment for up to one (1) year.

### **1.16 Appeals**

- A. Any penalty imposed by the Secretary pursuant to these regulations may be appealed to the superior court pursuant to the provisions of R.I. Gen. Laws, §§ 42-35-1 et seq.

### **1.17 Application**

- A. These regulations shall be liberally construed to permit the Department of State to effectuate the purposes of R.I. Gen. Laws §§ 42-139.1-1 et seq.

### **1.18 Severability**

- A. If any provision of these regulations or the application thereof to any Person or circumstances is held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

### **1.19 Effective Date**

- A. This Regulation shall be effective on the date indicated below.

EFFECTIVE DATE: January 2, 2017