

LEGISLATIVE HISTORY CHECKLIST
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(Administrative decisions--
 third party)

NOJA: 52:14B-3.1

LAWS OF: 1993 **CHAPTER:** 359

BILL NO: A1561

SPONSOR(S) Shinn

DATE INTRODUCED: June 8, 1992

COMMITTEE: **ASSEMBLY:** Policy and Rules
SENATE: State Government

AMENDED DURING PASSAGE: Yes Assembly substitute enacted

DATE OF PASSAGE: **ASSEMBLY:** June 25, 1993
SENATE: December 16, 1993

DATE OF APPROVAL: December 30, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

P.L.1993, CHAPTER 358, approved December 30, 1993
Assembly Committee Substitute for
1992 Assembly No. 1561

1 **AN ACT concerning certain appeals of permit decisions, and**
2 **supplementing the "Administrative Procedure Act, P.L.1988,**
3 **c.410 (C.52:14B-1 et seq.).**
4

5 **BE IT ENACTED by the Senate and General Assembly of the**
6 **State of New Jersey:**

- 7 1. The Legislature finds and declares that:
- 8 a. Under the provisions of the "Administrative Procedure
9 Act," P.L.1988, c.410 (C.52:14B-1 et seq.) all interested persons
10 are afforded reasonable opportunity to submit data, views or
11 arguments, orally or in writing, during any proceedings involving
12 a permit decision;
- 13 b. Persons who have particularized property interests or who
14 are directed affected by a permitting decision have constitutional
15 and statutory rights and remedies;
- 16 c. To allow State agencies without specific statutory
17 authorization to promulgate rules and regulations which afford
18 third parties, who have no particularized property interests or
19 who are not directly affected by a permitting decision, to appeal
20 that decision would give rise to a chaotic unpredictability and
21 instability that would be most disconcerting to New Jersey's
22 business climate and would cripple economic development in our
23 State; and
- 24 d. It is, therefore, altogether fitting and proper, and within the
25 public interest, to prohibit State agencies from promulgating
26 rules and regulation which would allow third party appeals of
27 permit decisions unless specifically authorized to do so by federal
28 law or State statute.

29 2. As used in this act:

30 "Permit decision" means a decision by a State agency to grant,
31 deny, modify, suspend or revoke any agency license, permit,
32 certificate, approval, chapter, registration or other form of
33 permission required by law, other than a license or certificate
34 issued to an individual for the practice of a profession or
35 occupation.

36 "State agency" or "agency" means and includes each of the
37 principal departments in the executive branch of the State
38 government, and all boards, divisions, commissions, agencies,
39 councils, authorities, offices or officers within any such
40 departments which are authorized to grant, deny, modify,
41 suspend, or revoke a license, permit, certificate, approval,
42 chapter, registration or other form of permission required by law,
43 other than a license or certificate issued to an individual for the
44 practice of a profession or occupation.

45 "Third party" means any person other than:

- 1 a. An applicant for any agency license, permit, certificate,
- 2 approval, chapter, registration or other form of permission
- 3 required by law;
- 4 b. A State agency; or
- 5 c. A person who has particularized property interest sufficient
- 6 to require a hearing on constitutional or statutory grounds.
- 7 3. a. Except as otherwise required by federal law or by a
- 8 statute that specifically allows a third party to appeal a permit
- 9 decision, a State agency shall not promulgate any rule or
- 10 regulation that would allow a third party to appeal a permit
- 11 decision.
- 12 b. Nothing herein shall be construed as abrogating or otherwise
- 13 limiting any person's constitutional and statutory rights to appeal
- 14 a permit decision.
- 15 4. This act shall take effect immediately.
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- 20 Prohibits State agencies from adopting rules and regulations
- 21 which authorize third party appeals of permit decisions.

ASSEMBLY, No. 1561

STATE OF NEW JERSEY

INTRODUCED JUNE 8, 1992

By Assemblyman SHINN

1 **AN ACT** concerning certain appeals of permit decisions, and
2 **supplementing** Title 52 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the
5 **State of New Jersey:**

6 1. As used in this act:

7 "Third party" means a person other than the applicant for a
8 permit;

9 "Permit decision" means a decision issued by a department or
10 other instrumentality of the State to grant, deny, modify, suspend
11 or revoke a permit.

12 2. Except as required by federal law or as authorized by a
13 statute that specifically allows a third party to appeal a permit
14 decision, no principal department or any other instrumentality of
15 the State shall adopt rules or regulations that would allow a third
16 party to appeal a permit decision of the department or other
17 instrumentality of the State to an administrative law judge or to
18 the department or other instrumentality of the State, other than
19 persons who have a constitutional right to appeal the decision.

20 3. This act shall take effect immediately.

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STATEMENT

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25 This bill would prohibit any principal department of the State
26 or any other instrumentality of the State unless specifically
27 authorized by law, from adopting rules or regulations that would
28 allow third parties, who are persons other than an applicant for a
29 permit issued by the department, to appeal a permit decision of
30 the department or other instrumentality of the State, other than
31 persons who have a constitutional right to appeal the decision.

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Prohibits certain third party appeals of permit decisions.

ASSEMBLY POLICY AND RULES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1561

STATE OF NEW JERSEY

DATED: JUNE 15, 1992

The Assembly Policy and Rules reports favorably a committee substitute for Assembly Bill No. 1561.

The Assembly Committee Substitute for Assembly Bill No. 1561 supplements the "Administrative Procedure Act," P.L. 1968, c. 410 (C.52:14B-1 et seq.) to prohibit State agencies from promulgating rules and regulations which would permit third parties to appeal permit decisions.

A third party is defined in the bill as a person who does not have a particularized property interest sufficient to require a hearing on constitutional or statutory grounds.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1561

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1993

The Senate State Government Committee reports favorably an Assembly Committee Substitute for Assembly, No. 1561.

This bill supplements the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). It provides that except as otherwise required by federal law or by a statute specifically allowing a third party to appeal a permit decision, a State agency shall not promulgate any rule or regulation allowing a third party to appeal a permit decision. A third party is defined as any person other than:

(1) an applicant for any agency license, permit, certificate, approval, chapter, registration or other form of permission required by law;

(2) a State agency; or

(3) a person who has a particularized property interest sufficient to require a hearing on constitutional or statutory grounds.

*Original filed
Aug 15 1992
JUL 15 1992*

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1561
STATE OF NEW JERSEY

By Assemblyman SHINN

AN ACT concerning certain appeals of permit decisions, and supplementing the "Administrative Procedure Act, P.L. 1968, c.410 (C.52:14B-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds and declares that:

a. Under the provisions of the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) all interested persons are afforded reasonable opportunity to submit data, views or arguments, orally or in writing, during any proceedings involving a permit decision;

b. Persons who have particularized property interests or who are directed affected by a permitting decision have constitutional and statutory rights and remedies;

c. To allow State agencies without specific statutory authorization to promulgate rules and regulations which afford third parties, who have no particularized property interests or who are not directly affected by a permitting decision, to appeal that decision would give rise to a chaotic unpredictability and instability that would be most disconcerting to New Jersey's business climate and would cripple economic development in our State; and

d. It is, therefore, altogether fitting and proper, and within the public interest, to prohibit State agencies from promulgating rules and regulation which would allow third party appeals of permit decisions unless specifically authorized to do so by federal law or State statute.

2. As used in this act:

"Permit decision" means a decision by a State agency to grant, deny, modify, suspend or revoke any agency license, permit, certificate, approval, chapter, registration or other form of permission required by law, other than a license or certificate issued to an individual for the practice of a profession or occupation.

"State agency" or "agency" means and includes each of the principal departments in the executive branch of the State government, and all boards, divisions, commissions, agencies, councils, authorities, offices or officers within any such departments which are authorized to grant, deny, modify, suspend, or revoke a license, permit, certificate, approval, chapter, registration or other form of permission required by law, other than a license or certificate issued to an individual for the practice of a profession or occupation.

"Third party" means any person other than:

a. An applicant for any agency license, permit, certificate, approval, chapter, registration or other form of permission required by law;

b. A State agency; or

c. A person who has particularized property interest sufficient to require a hearing on constitutional or statutory grounds.

3. a. Except as otherwise required by federal law or by a statute that specifically allows a third party to appeal a permit decision, a State agency shall not promulgate any rule or regulation that would allow a third party to appeal a permit decision.

b. Nothing herein shall be construed as abrogating or otherwise limiting any person's constitutional and statutory rights to appeal a permit decision.

4. This act shall take effect immediately.

Prohibits State agencies from adopting rules and regulations which authorize third party appeals of permit decisions.