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1998 Survey of Rhode Island Law: Legislation: Ethics: An Act Relating to the Code of Ethics

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Code of Ethics. *An Act Relating to the Code of Ethics.* Provides that the commission may dismiss a code of ethics complaint if there is a lack of probable cause. The commission shall require any person filing a complaint which is frivolous, unreasonable or groundless, or if the commission fails to find a violation of the Code of Ethics, to pay a civil penalty of not more than five thousand dollars. Effective July 9, 1998. 1998 R.I. Pub. Laws ch. 256.

This legislation (the Act) amends chapters 36-14-12 and 36-14-13 of the Rhode Island General Laws. The Act amends chapter 36-14-12 by creating section 6(d) which mandates that the commission impose a penalty for complaints dismissed that are frivolous, unreasonable or groundless.¹ Under chapter 36-14-12 the commission has the general power to investigate complaints regarding a violation of the code of ethics.² The commission conducts an investigation to determine if the complaint contains probable cause within 180 days after the complaint is filed.³ The commission may, after completing its preliminary investigation, dismiss⁴ or investigate the complaint further.⁵ The Act gives the commission the authority to impose a civil penalty if the commission finds that the complaint filed does not contain probable cause and is frivolous, unreasonable or groundless.⁶ Under these circumstances, the amendment to the chapter provides that the commission has the authority to impose a civil penalty of not more than five thousand dollars.⁷ The Act also states that all or part of the fine may be paid to the subject of the complaint as a method of reimbursing him for expenses procured as a result of his defense.⁸

1. 1998 R.I. Pub. Laws ch. 256.

2. See R.I. Gen. Laws § 36-14-12 (1956) (1997 Reenactment & Supp. 1998).

3. See *id.* § 36-14-12(c) (providing that the commission must complete its investigation within 180 days but that it may also, for good cause shown, grant no more than two extensions for sixty days each).

4. See *id.* § 36-14-12(c)(1) (stating that the commission must dismiss the complaint if it finds that the "complaint does not allege facts sufficient to constitute a knowing and willful violation of any of the provisions"); see also *id.* § 36-14-12(c)(3) (requiring that the commission dismiss upon a finding of no probable cause).

5. See *id.* § 36-14-12(c)(2). The commission must investigate the allegations if it finds that the "facts [are] sufficient to constitute a violation of any of the provisions." *Id.*

6. See *id.* § 36-14-12.

7. See 1998 R.I. Pub. Laws ch. 256.

8. See R.I. Gen. Laws § 36-14-12 (1956) (1997 Reenactment & Supp. 1998).

Similarly, the Act also amends chapter 36-14-13 of the Rhode Island General Laws. Section 5(g) is created which mandates that the commission impose a penalty for complaints dismissed for a lack of probable cause.⁹ Under chapter 36-14-13 the commission has the general power "to adjudicate the merits of allegations of violations of the Rhode Island code of ethics."¹⁰ The commission has the power to conduct a hearing and impose civil penalties for each violation.¹¹ The Act gives the commission the authority to impose a civil penalty upon the filer of the complaint if the commission finds that there has not been a violation of the code of ethics and that the complaint is frivolous, unreasonable or groundless.¹² Under these circumstances, the amendment to the Act provides that the commission has the authority to impose a civil penalty of not more than five thousand dollars.¹³ The Act also states that all or part of the fine may be paid to the subject of the complaint as a method of reimbursing him for expenses procured as a result of his defense.¹⁴

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9. See 1998 R.I. Pub. Laws ch. 256.

10. R.I. Gen. Laws § 36-14-13 (1956) (1997 Reenactment & Supp. 1998).

11. See *id.* § 36-14-13(d) (stating that the civil penalty for each violation can not be more than \$25,000).

12. See 1998 R.I. Pub. Laws ch. 256.

13. See *id.*

14. See *id.*