

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: S3/3/97 S3/6/97 H3/13/97

A Bill

SENATE BILL 559

4
5 By: Senator Bell

For An Act To Be Entitled

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9 "AN ACT TO AMEND ARKANSAS CODE 25-15-207 CONCERNING
10 ACTIONS FOR DECLARATORY JUDGEMENTS ON THE VALIDITY OF
11 STATE AGENCY RULES; AND FOR OTHER PURPOSES."

Subtitle

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14 "AN ACT CONCERNING ACTIONS FOR
15 DECLARATORY JUDGEMENTS ON THE VALIDITY
16 OF STATE AGENCY RULES."

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code 25-15-207 is amended to read as follows:

21 "25-15-207. Rules - Actions for declaratory judgments.

22 (a) The validity or applicability of a rule may be determined in an
23 action for declaratory judgment if:

24 (1) ~~it~~ It is alleged that the rule, or its threatened application,
25 injures or threatens to injure the plaintiff in his person, business, or
26 property-; or

27 (2) It is alleged that ~~the~~ rule or regulation was not exercised
28 within the specific grant and authority to the agency.

29 (b) The action may be brought in the circuit court of any county in
30 which the plaintiff resides or does business *or in the Circuit Court of*
31 *Pulaski County.*

32 (c) The agency shall be made defendant in that action.

33 (d) A declaratory judgment may be rendered whether or not the plaintiff
34 has requested the agency to pass upon the validity or applicability of the
35 rule in question.

36 (e) The mere grant of rulemaking authority to the agency shall not be

1 sufficient to validate a rule. The rulemaking authority must be reasonably
2 exercised within the specific grant of authority to the agency.

3 (f) The burden of proof regarding the validity of a rule shall be on
4 the agency promulgating the rule.

5 (g) Notwithstanding any law to the contrary, this section shall also
6 apply to those boards, commissions, departments, officials or other
7 authorities of the government of the State of Arkansas, that are otherwise
8 exempted by §25-15-202 or any other law, except the Arkansas Public Service
9 Commission, the Employment Security Department, and the Workers' Compensation
10 Commission."

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12 SECTION 2. All provisions of this act of a general and permanent nature
13 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
14 Revision Commission shall incorporate the same in the Code.

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16 SECTION 3. If any provision of this act or the application thereof to
17 any person or circumstance is held invalid, such invalidity shall not affect
18 other provisions or applications of the act which can be given effect without
19 the invalid provision or application, and to this end the provisions of this
20 act are declared to be severable.

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22 SECTION 4. All laws and parts of laws in conflict with this act are
23 hereby repealed.

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25 /s/Bell

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