

IC 4-21.5-2

Chapter 2. Application

IC 4-21.5-2-0.1

Application of article; application of previous statute; references to previous statutes

Sec. 0.1. (a) This article governs:

- (1) all proceedings, and all proceedings for judicial review or civil enforcement of agency action, commenced after June 30, 1987; and
- (2) proceedings conducted after June 30, 1987, on remand from a court.

(b) The following are governed by IC 4-22-1 (before its repeal) as it existed on June 30, 1987:

- (1) Any adjudicative proceedings pending on June 30, 1987, and not being conducted on remand after June 30, 1987.
- (2) All judicial review proceedings concerning agency action pending on June 30, 1987.
- (3) All civil enforcement proceedings concerning agency action pending on June 30, 1987.

(c) After June 30, 1987, any reference to Acts 1947, c.365 or IC 4-22-1 in a statute or rule in effect on July 1, 1987, shall be construed as a reference to IC 4-21.5 as effective on July 1, 1987.

As added by P.L.220-2011, SEC.43.

IC 4-21.5-2-1

Minimum rights and duties

Sec. 1. This article creates minimum procedural rights and imposes minimum procedural duties.

As added by P.L.18-1986, SEC.1.

IC 4-21.5-2-2

Waiver of rights and duties

Sec. 2. Except to the extent precluded by a law, a person may waive any right conferred upon that person by this article. This section does not permit the waiver of any procedural duty imposed by this article.

As added by P.L.18-1986, SEC.1.

IC 4-21.5-2-3

Application of law

Sec. 3. This article applies to an agency, except to the extent that a statute clearly and specifically provides otherwise. This article applies (to the extent that a statute other than this article specifically applies this article) to a class of otherwise exempt orders or one (1) or more stages of an otherwise exempt proceeding.

As added by P.L.18-1986, SEC.1.

IC 4-21.5-2-4

Exemptions

Sec. 4. (a) This article does not apply to any of the following agencies:

- (1) The governor.
- (2) The state board of accounts.
- (3) The state educational institutions.
- (4) The department of workforce development.
- (5) The unemployment insurance review board of the department of workforce development.
- (6) The worker's compensation board of Indiana.
- (7) The military officers or boards.
- (8) The Indiana utility regulatory commission.
- (9) The department of state revenue (excluding an agency action related to the licensure of private employment agencies).
- (10) The department of local government finance.
- (11) The Indiana board of tax review.

(b) This article does not apply to action related to railroad rate and tariff regulation by the Indiana department of transportation.

As added by P.L.18-1986, SEC.1. Amended by P.L.18-1987, SEC.5; P.L.28-1988, SEC.1; P.L.18-1990, SEC.7; P.L.21-1995, SEC.7; P.L.198-2001, SEC.1; P.L.256-2003, SEC.1; P.L.188-2003, SEC.1; P.L.91-2006, SEC.1; P.L.2-2007, SEC.51; P.L.219-2007, SEC.3.

IC 4-21.5-2-5

Exemptions; agency actions

Sec. 5. This article does not apply to the following agency actions:

- (1) The issuance of a warrant or jeopardy warrant for the collection of taxes.
- (2) A determination of probable cause or no probable cause by the civil rights commission.
- (3) A determination in a factfinding conference of the civil rights commission.
- (4) A personnel action, except review of:
 - (A) a personnel action by the state employees appeals commission under IC 4-15-2.2-42; or
 - (B) a personnel action that is not covered by IC 4-15-2.2 but may be taken only for cause.
- (5) A resolution, directive, or other action of any agency that relates solely to the internal policy, organization, or procedure of that agency or another agency and is not a licensing or enforcement action. Actions to which this exemption applies include the statutory obligations of an agency to approve or ratify an action of another agency.
- (6) An agency action related to an offender within the jurisdiction of the department of correction.
- (7) A decision of the Indiana economic development corporation, the office of tourism development, the department of environmental management, the tourist information and grant fund review committee (before the repeal of the statute that created the tourist information and grant fund review committee), the Indiana finance authority, the corporation for

innovation development, or the lieutenant governor that concerns a grant, loan, bond, tax incentive, or financial guarantee.

(8) A decision to issue or not issue a complaint, summons, or similar accusation.

(9) A decision to initiate or not initiate an inspection, investigation, or other similar inquiry that will be conducted by the agency, another agency, a political subdivision, including a prosecuting attorney, a court, or another person.

(10) A decision concerning the conduct of an inspection, investigation, or other similar inquiry by an agency.

(11) The acquisition, leasing, or disposition of property or procurement of goods or services by contract.

(12) Determinations of the department of workforce development under IC 22-4-18-1(g)(1) or IC 22-4-41.

(13) A decision under IC 9-30-12 of the bureau of motor vehicles to suspend or revoke a driver's license, a driver's permit, a vehicle title, or a vehicle registration of an individual who presents a dishonored check.

(14) An action of the department of financial institutions under IC 28-1-3.1 or a decision of the department of financial institutions to act under IC 28-1-3.1.

(15) A determination by the NVRA official under IC 3-7-11 concerning an alleged violation of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.

(16) Imposition of a civil penalty under IC 4-20.5-6-8 if the rules of the Indiana department of administration provide an administrative appeals process.

(17) A determination of status as a member of or participant in an environmental performance based program developed and implemented under IC 13-27-8.

As added by P.L.18-1986, SEC.1. Amended by P.L.29-1988, SEC.1; P.L.3-1989, SEC.23; P.L.35-1989, SEC.1; P.L.1-1990, SEC.34; P.L.23-1990, SEC.1; P.L.11-1990, SEC.103; P.L.10-1991, SEC.6; P.L.2-1991, SEC.20; P.L.11-1991, SEC.20; P.L.12-1995, SEC.95; P.L.21-1995, SEC.8; P.L.2-1996, SEC.211; P.L.172-1999, SEC.10; P.L.4-2005, SEC.19; P.L.229-2005, SEC.1; P.L.235-2005, SEC.60; P.L.1-2006, SEC.70; P.L.161-2006, SEC.1; P.L.100-2006, SEC.1; P.L.1-2007, SEC.16; P.L.6-2012, SEC.16.

IC 4-21.5-2-6

Inapplicability to certain formulation, issuance, and administrative review

Sec. 6. This article does not apply to the formulation, issuance, or administrative review (but does apply to the judicial review and civil enforcement) of any of the following:

(1) Except as provided in IC 12-17.2-4-18.7 and IC 12-17.2-5-18.7, determinations by the division of family resources and the department of child services.

(2) Determinations by the alcohol and tobacco commission.

(3) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers.

As added by P.L.18-1986, SEC.1. Amended by P.L.2-1992, SEC.37; P.L.23-1992, SEC.1; P.L.1-1993, SEC.20; P.L.204-2001, SEC.5; P.L.198-2001, SEC.2; P.L.1-2002, SEC.9; P.L.241-2003, SEC.1; P.L.234-2005, SEC.1; P.L.219-2007, SEC.4.