

1 ~~(\$50.00)~~ two hundred dollars (\$200.00), or by imprisonment not longer than thirty (30) days, or
2 by both the fine and imprisonment.

3 SECTION 9. This article shall take effect as of July 1, 2017.

4 ARTICLE 22

5 RELATING TO LEAD POISONING PREVENTION PROGRAMS

6 SECTION 1. Chapter 42-128.1 of the General Laws entitled "Lead Hazard Mitigation" is
7 hereby repealed in its entirety.

8 ~~42-128.1-1. Short title.~~

9 ~~This chapter may be cited and shall be known as the "Lead Hazard Mitigation Act."~~

10 ~~42-128.1-2. Legislative findings.~~

11 ~~The general assembly finds and declares that:~~

12 ~~(1) Rhode Island's rental housing stock is older and lead hazards are widespread;~~

13 ~~(2) There has been an insufficient level of lead hazard abatement in Rhode Island's rental~~
14 ~~housing stock;~~

15 ~~(3) Children in Rhode Island, especially in older urban communities, have been victims~~
16 ~~of lead poisoning at disproportionately high rates;~~

17 ~~(4) During the 1990's meeting department of health lead hazard abatement standards has~~
18 ~~ranged between seven thousand dollars (\$7,000) and fifteen thousand dollars (\$15,000) per unit;~~

19 ~~(5) The combination of the high cost of meeting the abatement standards and the system~~
20 ~~of incentives available for rental property owners in Rhode Island resulted in few properties being~~
21 ~~improved to state standards as a consequence of voluntary activity by property owners; and~~

22 ~~(6) The US Department of Housing and Urban Development has promulgated regulations~~
23 ~~for lead hazard control that apply to housing that is federally assisted and require inspections with~~
24 ~~dust testing.~~

25 ~~42-128.1-3. Legislative purposes.~~

26 ~~In order to promote the prevention of childhood lead poisoning in Rhode Island, it is the~~
27 ~~purpose of this chapter:~~

28 ~~(1) To increase the supply of rental housing in Rhode Island in which lead hazards are, at~~
29 ~~a minimum, mitigated;~~

30 ~~(2) To improve public awareness of lead issues and to educate both property owners and~~
31 ~~tenants about practices that can reduce the incidence of lead poisoning;~~

32 ~~(3) To resolve disjointed insurance practices arising from lead liabilities exclusions.~~

33 ~~42-128.1-4. Definitions.~~

34 ~~The following definitions shall apply in the interpretation and enforcement of this~~

1 ~~chapter:~~

2 ~~(1) "At risk occupant" means a person under six (6) years of age, or a pregnant woman,~~
3 ~~who has been a legal inhabitant in a dwelling unit for at least thirty (30) days; provided, however,~~
4 ~~that a guest of any age shall not be considered an occupant for the purposes of this chapter.~~

5 ~~(2) "Designated person" means either: (i) A property owner, or the agent of the property~~
6 ~~owner, who has completed a housing resources commission approved awareness seminar on lead~~
7 ~~hazards and their control; or (ii) A person trained and certified as either a lead hazard mitigation~~
8 ~~inspector, an environmental lead inspector, or a lead hazard inspection technician.~~

9 ~~(3) "Dwelling" or "dwelling unit" means an enclosed space used for living and sleeping~~
10 ~~by human occupants as a place of residence, including, but not limited to: a house, an apartment,~~
11 ~~or condominium, but, for the purpose of this chapter, shall not include hotels or "temporary~~
12 ~~housing".~~

13 ~~(4) "Elderly housing" means a federal, state, or local program that is specifically designed~~
14 ~~and operated to assist elderly persons, sixty two (62) years of age, or older, as set forth in a~~
15 ~~regulatory agreement or zoning ordinance.~~

16 ~~(5) "Environmental lead poisoning level" means a confirmed, venous blood lead level as~~
17 ~~defined pursuant to § 23-24.6-4.~~

18 ~~(6) "Lead abated" means a dwelling and premises that are lead free or lead safe, as those~~
19 ~~terms are defined in chapter 24.6 of title 23.~~

20 ~~(7) "Lead Free" means that a dwelling, dwelling unit, or premises contains no lead, or~~
21 ~~contains lead in amounts less than the maximum acceptable environmental lead levels established~~
22 ~~by regulation by the Rhode Island department of health.~~

23 ~~(8) "Lead hazard mitigation standards" means standards adopted by the housing~~
24 ~~resources commission for a dwelling unit and associated common areas that provide for:~~

25 ~~(i) A continuing and ongoing responsibility for lead hazard control that includes: (A)~~
26 ~~Repair of deteriorated paint; (B) Correction of dust generating conditions, such as friction or~~
27 ~~impact areas; (C) Provision of cleanable surfaces to eliminate harmful dust loading; (D)~~
28 ~~Correction of soil lead hazards; (E) Safe work practices;~~

29 ~~(ii) At unit turnover: (A) The provision of information on lead hazards and their~~
30 ~~avoidance and control to tenants; (B) Documentation of lead hazard mitigation compliance; (C)~~
31 ~~An explicit process for notification by tenants to property owners of instances of deterioration in~~
32 ~~conditions effecting lead hazards; and~~

33 ~~(iii) Maintenance of "lead hazard control." "Lead hazard control" means those portions of~~
34 ~~the lead hazard mitigation standard pertaining to repair of deteriorating paint; correction of dust-~~

1 ~~generating conditions; provision of cleanable surfaces; and correction of soil lead hazards that can~~
2 ~~be identified by visual inspection as provided for in subdivision (9)(ii) or through inspections~~
3 ~~conducted in accordance with chapter 24.2 of title 45, "Minimum Housing Standards", and~~
4 ~~chapter 24.3 of title 45, "Housing Maintenance and Occupancy Code".~~

5 ~~(9) "Lead hazard mitigation compliance" means an independent, clearance inspection and~~
6 ~~certificate, as specified in this subdivision, undertaken to determine whether the lead hazard~~
7 ~~mitigation measures have been completed. Said inspection shall be valid for two (2) years, or~~
8 ~~until the next turnover of the dwelling unit, whichever period is longer. The requirements for a~~
9 ~~clearance review inspection shall be met either by an independent clearance inspection or a visual~~
10 ~~inspection as set forth in this subdivision:~~

11 ~~(i) An "independent clearance inspection" means an inspection performed by a person~~
12 ~~who is not the property owner or an employee of the property owner and who is authorized by the~~
13 ~~housing resources commission to conduct independent clearance inspections, which shall include:~~
14 ~~(A) A visual inspection to determine that the lead hazard controls have been met, and (B) Dust~~
15 ~~testing in accordance with rules established by the department of health and consistent with~~
16 ~~federal standards. A certificate of conformance shall be issued by the person who conducted the~~
17 ~~inspection on the passage of the visual inspection and the required dust testing. An independent~~
18 ~~clearance inspection shall be required at unit turnover or once in a twenty-four month (24) period,~~
19 ~~whichever period is the longer. If the tenancy of an occupant is two (2) years or greater, the~~
20 ~~certificate of conformance shall be maintained by a visual inspection as set forth in paragraph (ii)~~
21 ~~of this subdivision.~~

22 ~~(ii) A "visual inspection" means a visual inspection by a property owner or designated~~
23 ~~person to determine that the lead hazard controls have been met. If the designated person~~
24 ~~concluded that the lead hazard controls specified in this chapter have been met, the designated~~
25 ~~person may complete an Affidavit of Completion of Visual Inspection. The affidavit shall be~~
26 ~~valid upon its being notarized within thirty (30) days after the completion of the visual inspection~~
27 ~~and shall set forth:~~

28 ~~(A) The date and location that the designated person took the lead hazard control~~
29 ~~awareness seminar;~~

30 ~~(B) The date and findings of the lead hazard evaluation;~~

31 ~~(C) The date and description of the lead hazard control measures undertaken;~~

32 ~~(D) The date of the visual inspection; and~~

33 ~~(E) The name and signature of the designated person and date of the Affidavit of~~
34 ~~Completion of Visual Inspection.~~

1 ~~An Affidavit of Completion of Visual Inspection shall be valid for two (2) years after the~~
2 ~~date it was notarized, or until unit turnover, whichever time period is the longer, and shall be kept~~
3 ~~by the property owner for a minimum of five (5) years.~~

4 ~~(iii) Presumptive compliance. A property owner of ten (10) or more dwelling units shall~~
5 ~~be eligible to obtain a certificate of presumptive compliance from the housing resources~~
6 ~~commission provided that the following conditions are met:~~

7 ~~(A) The dwelling units were constructed after 1960 or after 1950 on federally owned or~~
8 ~~leased lands;~~

9 ~~(B) There are no major, outstanding minimum housing violations on the premises;~~

10 ~~(C) The property owner has no history of repeated lead poisonings; and~~

11 ~~(D) Independent clearance inspections have been conducted on at least five percent (5%)~~
12 ~~of the dwelling units, not less than two (2) dwelling units and at least ninety percent (90%) of the~~
13 ~~independent clearance inspections were passed. "Repeated lead poisoning", for purposes of this~~
14 ~~paragraph, shall mean a lead poisoning rate of less than one half percent (.5%) per dwelling unit~~
15 ~~year, with dwelling unit years being calculated by multiplying the number of dwelling units~~
16 ~~owned by the property owner by the number of years of ownership since 1992. Major minimum~~
17 ~~housing violations shall be defined by rule by the housing resources commission. The housing~~
18 ~~resources commission shall not arbitrarily withhold its approval of applications for presumptive~~
19 ~~compliance. A certificate of presumptive compliance shall be deemed to be satisfactory for~~
20 ~~purposes of demonstrating compliance with the requirements of this chapter. If a unit qualifies for~~
21 ~~a presumptive compliance certificate, by itself having passed an independent clearance inspection~~
22 ~~at least once, that unit's compliance may be maintained by a visual inspection as set forth in this~~
23 ~~chapter.~~

24 ~~(10) "Lead hazard mitigation inspector" means either a person approved by the housing~~
25 ~~resources commission to perform independent clearance inspections under this chapter or~~
26 ~~inspections required by 24 C.F.R., Part 35, Subpart M [24 C.F.R. 35.1200 et seq.], or approved by~~
27 ~~the department of health to conduct inspections pursuant to chapter 24.6 of title 23.~~

28 ~~Lead hazard mitigation inspectors performing independent clearance inspections shall~~
29 ~~not have any interest, financial or otherwise, direct or indirect, or engage in any business or~~
30 ~~employment with regards to:~~

31 ~~(a) The dwelling unit that is the subject of an independent clearance inspection; or~~

32 ~~(b) The contractor performing lead hazard control work in the dwelling unit; or~~

33 ~~(c) The laboratory that is used to analyze environmental lead samples for the independent~~
34 ~~clearance inspection unless the lead hazard mitigation inspector discloses his or her relationship~~

1 ~~with the laboratory to the person requesting the inspection and on the inspection report.~~

2 ~~Employees of public agencies and quasi-public agencies that hold a financial interest in~~
3 ~~the property may perform independent clearance inspections.~~

4 ~~(11) "Lead poisoned" means a confirmed venous blood lead level established by the~~
5 ~~department of health pursuant to § 23-24.6-4(1).~~

6 ~~(12) "Lead Safe" means that a dwelling, dwelling unit, or premises has undergone~~
7 ~~sufficient, lead-hazard reduction to ensure that no significant, environment lead hazard is present~~
8 ~~and includes, but is not limited to, covering and encapsulation and is evidenced by a lead-safe~~
9 ~~certificate issued by the department of health.~~

10 ~~(13) "Property owner" means any person who, alone or jointly or severally with others:~~

11 ~~(i) Shall have legal title to any dwelling, dwelling unit, or structure, with or without~~
12 ~~accompanying actual possession of it; or~~

13 ~~(ii) Shall have charge, care, or control of any dwelling, dwelling unit, or structure as~~
14 ~~owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the~~
15 ~~owner. Any person representing the actual owner shall be bound to comply with the provisions of~~
16 ~~this chapter, and of rules and regulations adopted pursuant to this chapter, to the same extent as if~~
17 ~~that person were the owner.~~

18 ~~(iii) Notwithstanding the foregoing, no holder of a mortgage or other lien holder who, in~~
19 ~~enforcing a security interest, acquires title by foreclosure or deed in lieu of foreclosure shall be~~
20 ~~considered a property owner for purposes of this chapter, if the holder transfers the title within~~
21 ~~one year after the date the title is acquired; provided, however, if the mortgagee or lien holder,~~
22 ~~subsequent to acquiring title, is notified of a lead hazard under chapter 24.6 of title 23 or § 42-~~
23 ~~128.1-8(a)(5), then and in that event, the mortgagee or lien holder shall take any steps to reduce~~
24 ~~the lead hazard that shall be required under the provisions of chapter 24.6 of title 23 or this~~
25 ~~chapter, as applicable.~~

26 ~~(14) "Temporary housing" means any seasonal place of residence that is rented for no~~
27 ~~more than one hundred (100) days per calendar year to the same tenant, where no lease renewal~~
28 ~~or extension can occur, and any emergency shelter intended for night to night accommodation.~~

29 ~~(15) "Tenant turnover" means the time at which all existing occupants vacate a unit and~~
30 ~~all new occupants move into the unit.~~

31 ~~**42-128.1-5. Housing resources commission — Powers and duties with respect to lead**~~
32 ~~**hazard mitigation.**~~

33 ~~(a) General powers and duties. The housing resources commission shall implement and~~
34 ~~put into full force and effect the powers, duties, and responsibilities assigned to it by this chapter,~~

1 ~~and shall serve as the lead state agency for lead hazard mitigation, planning, education, technical~~
2 ~~assistance, and coordination of state projects and state financial assistance to property owners for~~
3 ~~lead hazard mitigation.~~

4 ~~(b) Regulatory guidelines. In developing and promulgating rules and regulations as~~
5 ~~provided for in this chapter, the housing resources commission shall consider, among other~~
6 ~~things: (1) the effect on efforts to reduce the incidence of lead poisoning, (2) the ease and cost of~~
7 ~~implementation, (3) the impact on the ability to conduct real estate transactions fairly and~~
8 ~~expeditiously, (4) consistency with federal standards, such that the differences between basic~~
9 ~~federal standards and Rhode Island standards for lead hazard mitigation are, to the extent~~
10 ~~practicable, minimized, and (5) the direction of effort to locations and housing types, which due~~
11 ~~to age, condition, and prior history of lead poisoning are more likely to the location of lead~~
12 ~~poisoning. Said regulations shall include a definition of "turnover" of a dwelling unit and a means~~
13 ~~for tenants to voluntarily notify property owners of the legal tenancy of an "at risk" occupant.~~

14 ~~(c) Comprehensive strategic plan. In order to establish clear goals for increasing the~~
15 ~~availability of housing in which lead hazards have been mitigated, to provide performance~~
16 ~~measures by which to assess progress toward achieving the purposes of this chapter, and to~~
17 ~~facilitate coordination among state agencies and political subdivisions with responsibilities for~~
18 ~~housing and housing quality for lead poisoning reduction and for the availability of insurance~~
19 ~~coverage described in this chapter, the housing resources commission established by chapter 128~~
20 ~~of this title shall adopt by April 1, 2003, a four (4) year, comprehensive strategic plan for~~
21 ~~reducing the incidence of childhood lead poisoning, for increasing the supply of lead safe~~
22 ~~housing, and for assuring that pre-1978 in rental housing throughout the state lead hazards have~~
23 ~~been mitigated.~~

24 ~~(1) Plan elements. The plan as a minimum shall include elements pertaining to:~~

25 ~~(i) Educating people with regard to lead hazards and how they can be avoided, mitigated,~~
26 ~~and/or abated;~~

27 ~~(ii) Programs to assist low and moderate income owners of property to eliminate lead~~
28 ~~hazards and to achieve lead safe conditions;~~

29 ~~(iii) Coordination of the enforcement of laws pertaining to lead hazard control, mitigation~~
30 ~~and abatement including the Lead Poisoning Prevention Act, chapter 24.6 of title 23, and~~
31 ~~minimum housing codes and standards;~~

32 ~~(iv) Coordination of efforts with local governments and other agencies to improve~~
33 ~~housing conditions;~~

34 ~~(v) Financing lead abatement efforts in Rhode Island, including, but not limited to,~~

1 ~~assistance to low and moderate income property owners, education and outreach, and~~
2 ~~enforcement by state and local officials;~~

3 ~~(vi) An assessment of the availability of insurance for lead hazard liability, which shall be~~
4 ~~designed and implemented in cooperation with the department of business regulation.~~

5 ~~(2) Implementation program. The comprehensive strategic plan shall include an~~
6 ~~implementation program, which shall include performance measurers and a program of specific~~
7 ~~activities that are proposed to be undertaken to accomplish the purposes of this chapter and to~~
8 ~~achieve goals and elements set forth by the plan. The implementation program shall be updated~~
9 ~~annually according to a schedule set forth in the plan.~~

10 ~~(3) Reporting. The commission shall report annually to the governor and the general~~
11 ~~assembly, no later than March of each year, on the progress made in achieving the goals and~~
12 ~~objectives set forth in the plan, which report may be integrated with or issued in conjunction with~~
13 ~~the report of the commission on environmental lead submitted pursuant to § 23-24.6-6.~~

14 ~~**42-128.1-6. Education.**~~

15 ~~(a) In order to achieve the purposes of this chapter, a statewide, multifaceted, ongoing~~
16 ~~educational program designed to meet the needs of tenants, property owners, realtors and real~~
17 ~~estate agents, insurers and insurance agents, local building officials, and health providers and~~
18 ~~caregivers is hereby established.~~

19 ~~(b) The governor, in conjunction with the department of health and the housing resources~~
20 ~~commission, shall sponsor a series of public service announcements on radio, television, and print~~
21 ~~media about the nature of lead hazards, the importance of lead hazard control and mitigation, and~~
22 ~~the purposes and responsibilities set forth in this chapter. In developing and coordinating this~~
23 ~~public information initiative the sponsors shall seek the participation and involvement of private~~
24 ~~industry organizations, including those involved in real estate, insurance, mortgage banking, and~~
25 ~~pediatrics.~~

26 ~~(c) Within sixty (60) days after the regulations set forth in § 42-128.1-7 for lead hazard~~
27 ~~control and mitigation go into effect, the housing resources commission in conjunction with the~~
28 ~~department of health shall:~~

29 ~~(1) Create culturally and linguistically appropriate material outlining the rights and~~
30 ~~responsibilities of parties affected by this chapter;~~

31 ~~(2) Establish guidelines and a trainer's manual for a not more than three (3) hours lead~~
32 ~~hazard control awareness seminar for rental property owners or designated persons, which shall~~
33 ~~be forwarded to all public and private colleges and universities in Rhode Island, to other~~
34 ~~professional training facilities, and to professional associations and community organizations~~

1 ~~with a training capacity, with the stipulation this seminar be offered for a maximum fee of fifty~~
2 ~~dollars (\$50.00) per participant. The housing resources commission shall approve the proposals to~~
3 ~~offer the seminar from institutions, provided those proposals are consistent with the guidelines.~~
4 ~~An electronic version of this awareness seminar shall be created and approved by the housing~~
5 ~~resources commission for computer Internet access. Said awareness seminar shall also be~~
6 ~~produced and made available in both VHS and DVD format for rental or purchase at a reasonable~~
7 ~~cost not to exceed five dollars (\$5.00) for the rental version and fifteen dollars (\$15.00) for the~~
8 ~~purchased version. Said seminar shall be available to tenants, property owners and other~~
9 ~~interested parties.~~

10 ~~(3) Adopt rules for the dissemination of information about the requirements of this~~
11 ~~chapter to all prospective owners of pre-1978 dwellings during the real estate transaction,~~
12 ~~settlement, or closing;~~

13 ~~(4) Solicit requests, to the extent that these partnerships are not already established, to~~
14 ~~enter into ongoing, funded partnerships, to provide specific counseling information services to~~
15 ~~tenants and affected parties on their rights and responsibilities with regard to lead hazards and~~
16 ~~lead poisoning.~~

17 ~~(d) The department of business regulation shall, with regard to its responsibilities for the~~
18 ~~profession of real estate brokers and salespersons, adopt rules, with the concurrence of the~~
19 ~~housing resources commission and the department of health which shall be effective not later than~~
20 ~~June 30, 2004: (1) requiring proof of reasonable familiarity with the knowledge of duties and~~
21 ~~responsibilities under the provisions of the Lead Poisoning Prevention Act, chapter 24.6 of title~~
22 ~~23, and this chapter, for the licensure or renewal of licenses of real estate brokers and~~
23 ~~salespersons in accordance with § 5-20.5-6 after July 1, 2004; and (2) providing, pursuant to § 5-~~
24 ~~20.5-18, an educational program for real estate brokers and salespersons regarding such duties~~
25 ~~and responsibilities.~~

26 ~~(e) The housing resources commission, in conjunction with the department of health, is~~
27 ~~hereby authorized to develop, offer, engage in, contract for and/or provide any other educational~~
28 ~~or informational programs that they may deem necessary to accomplish the purposes of this~~
29 ~~chapter, including, but not limited to: programs to assist families to find housing that is lead-free,~~
30 ~~lead-safe or lead hazard mitigated or abated; to train lead hazard mitigation inspectors and local~~
31 ~~building officials and persons engaged in renovating and/or improving housing about controlling~~
32 ~~or mitigating lead hazards in pre-1978 housing. Said programs shall provide information about~~
33 ~~lead hazard mitigation requirements at retail hardware and paint stores and home improvement~~
34 ~~centers, including, as a minimum, signs of sufficient size with large enough lettering to be easily~~

1 ~~seen and read, which contains the following language:~~

2 ~~WARNING~~

3 ~~Use of abrasive material (sandpaper, steel wool, drill disks and pads, etc.) in your home~~
4 ~~to remove paint may increase the risk of childhood lead poisoning. For more information please~~
5 ~~contact the Rhode Island housing resources commission or department of health.~~

6 ~~**42-128.1-7. Lead hazard mitigation.**~~

7 ~~The housing resources commission shall adopt, no later than April 1, 2003, rules:~~

8 ~~(1) For housing constructed prior to 1978, which require property owners to certify at the~~
9 ~~time of transfer that the dwelling and/or premises meet the requirements for lead hazard~~
10 ~~mitigation or lead hazard abatement, or that the party or parties acquiring the property are notified~~
11 ~~of the potential lead hazards, and at the time of rental of units that the requirements for meeting~~
12 ~~the appropriate standards have been met;~~

13 ~~(2) For a lead hazard mitigation standard;~~

14 ~~(3) For any training, certification or licensing necessary to carry out the provisions of this~~
15 ~~chapter; and~~

16 ~~(4) For a process to receive, investigate, and decide whether the correction of a lead~~
17 ~~hazard, pursuant to § 42-128.1-8(a)(3) and (d) was satisfactory. These rules shall establish an~~
18 ~~expeditious procedure to determine whether the allegation of unsatisfactory correction has merit.~~
19 ~~The process may be integrated with or make use of the technical assistance service provided for~~
20 ~~in § 42-128.1-13.~~

21 ~~(5) For a process to grant a variance to subsections 42-128.1-8(a)(3), (a)(5), and (b),~~
22 ~~where there exists a hardship as to financing lead hazard mitigation, or where materials,~~
23 ~~personnel, or weather delays the mitigation completion.~~

24 ~~**42-128.1-8. Duties of property owners of pre-1978 rental dwellings.**~~

25 ~~(a) Property owners of pre-1978 rental dwellings, which have not been made lead safe or~~
26 ~~have not been lead hazard abated shall comply with all the following requirements:~~

27 ~~(1) Learn about lead hazards by taking a lead hazard awareness seminar, himself or~~
28 ~~herself or through a designated person;~~

29 ~~(2) Evaluate the dwelling unit and premises for lead hazards consistent with the~~
30 ~~requirements for a lead hazard control evaluation;~~

31 ~~(3) Correct identified lead hazards by meeting and maintaining the lead hazard mitigation~~
32 ~~standard;~~

33 ~~(4) Provide tenants: (i) basic information about lead hazard control; (ii) a copy of the~~
34 ~~independent clearance inspection; and (iii) information about how to give notice of deteriorating~~

1 ~~conditions;~~

2 ~~(5) Correct lead hazards within thirty (30) days after notification from the tenant of a~~
3 ~~dwelling unit with an at risk occupant, or as provided for by § 34-18-22.~~

4 ~~(b) New property owners of a pre-1978 rental dwelling that is occupied by an at risk~~
5 ~~occupant shall have up to sixty (60) days to meet requirements for lead hazard mitigation, if those~~
6 ~~requirements were not met by the previous owner at the time of transfer, provided that the new~~
7 ~~property owner has the property visually inspected within thirty (30) business days after assuming~~
8 ~~ownership to determine conformity with the lead hazard control standard.~~

9 ~~(c) The requirements for lead hazard mitigation shall apply to the first change in~~
10 ~~ownership or tenancy after November 1, 2005; provided further, that unless requested and agreed~~
11 ~~to by an at risk occupant, meeting the lead hazard mitigation standard shall not be construed to~~
12 ~~authorize a property owner to compel or cause a person, who is in tenancy on January 1, 2004,~~
13 ~~and remains in tenancy continuously thereafter, to vacate a rental unit temporarily or otherwise.~~

14 ~~(d) If the tenant receives no response to the notification to the property owner of~~
15 ~~deteriorating conditions affecting lead hazards, if the response is in the tenant's opinion~~
16 ~~unsatisfactory, or if the remedy performed is in the tenant's opinion unsatisfactory, the tenant may~~
17 ~~request a review of the matter by the housing resources commission. After its review of the~~
18 ~~matter, the housing resources commission shall either send notice to the property owner in which~~
19 ~~notice shall be issued in a manner substantially similar to a notice of violation issued by the~~
20 ~~director pursuant to the Housing Maintenance Code, chapter 24.3 of title 45, or promptly inform~~
21 ~~the tenant of the reasons why the notice is not being issued.~~

22 ~~(e) Notwithstanding the foregoing, the provisions of this chapter shall not apply to~~
23 ~~common areas in condominium complexes that are owned and operated by condominium~~
24 ~~associations, or to pre-1978 rental dwelling units that are:~~

25 ~~(1) Lead safe or lead free; or~~

26 ~~(2) Temporary housing; or~~

27 ~~(3) Elderly housing; or~~

28 ~~(4) Comprised of two (2) or three (3) units, one of which is occupied by the property~~
29 ~~owner; or~~

30 ~~The department of health shall report to the legislature annually on the number of~~
31 ~~children who are lead poisoned in any of the exempted dwelling units as referred to in subdivision~~
32 ~~(e)(4) of this section.~~

33 ~~Nothing contained herein shall be construed to prevent an owner who is seeking to obtain~~
34 ~~lead liability insurance coverage in the policy from complying with the provisions of this chapter,~~

1 ~~by securing and maintaining a valid and in force letter of compliance or conformance in force.~~

2 ~~**42-128.1-9. Insurance coverage.**~~

3 ~~(a) The department of business regulation shall, by January 1, 2003, establish a uniform~~
4 ~~policy with regard to exclusion for lead poisoning and shall adopt any rules and requirements that~~
5 ~~may be necessary to assure the availability of insurance coverage for losses and damages caused~~
6 ~~by lead poisoning, in accordance with the provisions of this chapter, which policy and rules shall~~
7 ~~apply to liability coverage available to property owners. The department of business regulation~~
8 ~~shall have the authority and is empowered, consistent with the requirements of chapter 35 of this~~
9 ~~title, to promulgate rules and regulations, which shall enable it to compile and analyze data and to~~
10 ~~make determinations with regard to the availability of and rates for lead liability coverage.~~

11 ~~(b) Except as otherwise provided by this chapter, no insurance company licensed or~~
12 ~~permitted by the department of business regulation to provide liability coverage to rental property~~
13 ~~owners shall exclude, after October 31, 2005, coverage for losses or damages caused by lead~~
14 ~~poisoning. The department of business regulation shall not permit, authorize or approve any~~
15 ~~exclusion for lead poisoning, except as specifically provided for by this chapter, that was not in~~
16 ~~effect as of January 1, 2000, and all previously approved exclusions shall terminate October 31,~~
17 ~~2005. As of November 1, 2005, coverage for lead poisoning shall be included in the policy or~~
18 ~~offered by endorsement, as set forth in this section.~~

19 ~~(c) All insurers issuing commercial lines insurance policies and personal lines insurance~~
20 ~~policies covering pre-1978 rental housing in compliance with: (i) the requirements of this chapter~~
21 ~~for lead hazard mitigation; (ii) with the requirements of chapter 24.6 of title 23 for lead safe~~
22 ~~housing, within the state of Rhode Island; or (iii) relying on a valid certificate of compliance or~~
23 ~~conformance shall, effective November 1, 2005, include in the policy coverage for liability for~~
24 ~~injury, damage, or death resulting from occurrences of lead poisoning in an amount equal to and~~
25 ~~no less than the underlying policy limits for personal injury/bodily injury coverage provided~~
26 ~~under the policy so issued to a residential rental property owner. The property owner shall, if~~
27 ~~requested by the insurer, present to the insurance company, either: (1) proof of certificate of~~
28 ~~compliance of an independent clearance inspection and of any affidavit of visual inspection~~
29 ~~required to maintain the validity of the independent clearance inspection; (2) proof of meeting the~~
30 ~~mitigation standard in the form of a clearance exam showing that lead hazards are mitigated; or~~
31 ~~(3) proof of abatement. This proof shall be prima facie evidence of compliance with the~~
32 ~~requirements of this chapter. In any subsequent renewal, the insurer may require any continuing~~
33 ~~proof whenever the certificate is expiring, has expired, or is otherwise invalidated.~~

34 ~~(d) For residential rental properties that have not been brought into compliance with the~~

1 ~~requirements for lead hazard mitigation pursuant to this chapter or for lead hazard reduction~~
2 ~~pursuant to chapter 24.6 of title 23 or which do not have a valid certificate of compliance or~~
3 ~~conformance, effective November 1, 2005, for residential rental property owners who own or~~
4 ~~owned a substantial legal or equitable interest in one property and have had no more than one un-~~
5 ~~remediated dwelling unit at which a child was poisoned prior to November 1, 2005, and for~~
6 ~~residential property owners who own or owned more than one property and have had no more~~
7 ~~than two (2) un-remediated dwelling units at which a child was poisoned prior to November 1,~~
8 ~~2005, an insurance company, which provides liability insurance to a residential rental property~~
9 ~~owner, shall either offer lead liability coverage for bodily injury, which shall be equal to the~~
10 ~~underlying limits of liability coverage for the property, by endorsement, or shall assist the insured~~
11 ~~in placing lead liability coverage through the program commonly known as the Rhode Island~~
12 ~~FAIR Plan either directly or through one of the insurance company's agents or brokers, and the~~
13 ~~Rhode Island FAIR Plan shall make available liability coverage for damages caused by lead~~
14 ~~poisoning to the class of property owners described in this subsection. If the insured seeks lead~~
15 ~~liability coverage with the FAIR Plan, the FAIR Plan may use reasonable underwriting~~
16 ~~guidelines, as approved by the department of business regulation, to underwrite the property. Any~~
17 ~~property owner, who fails to remediate a property, after a notice of violation subsequent to~~
18 ~~October 31, 2005, and any property which is not remediated after notice of a violation subsequent~~
19 ~~to October 31, 2005, shall not be eligible to receive an offer of coverage and shall be subject to~~
20 ~~cancellation and non-renewal of that coverage if the property is not found to be in compliance~~
21 ~~with the lead law within ninety (90) days of the date of issuance of the notice by the director, or~~
22 ~~the housing resources commission, as applicable.~~

23 ~~(e) Rates for lead poisoning liability coverage, as specified in subsections (c) and (d) of~~
24 ~~this section, shall be approved by the department of business regulation, notwithstanding any~~
25 ~~limits on rate approval authority established by the provisions of chapter 65 of title 27 and subject~~
26 ~~to the provisions of §§ 27-44-6 and 27-44-7, using the following standards:~~

- 27 ~~(1) That they are not excessive, inadequate, or unfairly discriminatory;~~
- 28 ~~(2) That consideration is given to:~~
 - 29 ~~(i) Past and prospective loss experience within the state of Rhode Island;~~
 - 30 ~~(ii) A reasonable margin for profits and contingencies;~~
 - 31 ~~(iii) Past and prospective expenses specifically applicable to the state of Rhode Island;~~
 - 32 ~~(iv) Any other data, including data compiled in other states, especially regarding~~
33 ~~experience data for lead liability coverage, that the department may deem necessary; and~~
 - 34 ~~(v) Past history of the owner with regard to lead poisoning or any associated violations.~~

1 ~~(f) The department of business regulation shall have the authority and is empowered,~~
2 ~~consistent with the requirements of chapter 35 of this title, to promulgate rules and regulations to~~
3 ~~enable it to compile and analyze data and to make determinations with regard to the availability~~
4 ~~of and rates for lead liability coverage. In order to effect the purposes of this section insurers shall~~
5 ~~file, on or before October 1, 2004, the proposed language of endorsements for lead liability~~
6 ~~coverage and the proposed rates for that coverage with the department.~~

7 ~~(g) All endorsements, rates, forms and rules for lead liability coverage approved by the~~
8 ~~department of business regulation to be effective on or after July 1, 2004 are hereby extended to~~
9 ~~be effective November 1, 2005. Prior to November 1, 2005, insurers and advisory organizations~~
10 ~~shall continue to utilize all endorsements, rates, forms and rules in effect on June 30, 2004 for~~
11 ~~lead liability coverage. The department shall not approve any new endorsements, rates, forms or~~
12 ~~rules for lead liability coverage in pre 1978 residential rental properties unless the filings are~~
13 ~~submitted in accordance with the provisions of this act. The department is hereby authorized to~~
14 ~~promulgate reasonable rules and regulations to carry out the provisions of this section.~~

15 ~~**42-128.1-10. Right to housing where lead hazards are corrected.**~~

16 ~~(a) Pregnant women and families with children under six (6) years of age shall be deemed~~
17 ~~to have a right to housing in which lead hazards have been mitigated or abated.~~

18 ~~(b) Injunctive Relief. Effective November 1, 2005, if the property owner of a rental~~
19 ~~dwelling fails to comply with such standards for lead hazard mitigation, or abatement, as~~
20 ~~applicable, a right of private action shall exist that allows households that include an at risk~~
21 ~~occupant to seek injunctive relief from a court with jurisdiction against the property owner in the~~
22 ~~form of a court order to compel compliance with requirements for lead hazard control or~~
23 ~~mitigation. A person who prevails is entitled to an award of the costs of the litigation and~~
24 ~~reasonable attorneys' fees in an amount to be fixed by the court. Cases brought before the court~~
25 ~~under this section shall be granted an accelerated hearing.~~

26 ~~**42-128.1-11. Enforcement.**~~

27 ~~(a) The standards for lead hazard control and for lead hazard mitigation in pre 1978~~
28 ~~housing shall be considered basic housing standards and shall be enforceable through the~~
29 ~~provisions of this chapter and through procedures established in chapter 24.2 of title 45 and~~
30 ~~chapter 24.3 of title 45.~~

31 ~~(b) Minimum Housing Standards and Housing Maintenance and Occupancy Code. In~~
32 ~~order to establish consistency between state and local programs pertaining to enforcement of~~
33 ~~standards for housing and housing occupancy and to provide for broadly available, multiple~~
34 ~~means of identifying instances of noncompliance with this chapter and enforcing the requirements~~

1 of this chapter, the following provisions regarding Minimum Housing Standards and Housing
2 Maintenance and Occupancy Code shall be effective:

3 (1) ~~The ordinances, rules, and regulations for "Minimum Housing Standards" adopted~~
4 ~~pursuant to § 45-24.2-3 shall, on or before November 1, 2005, include provisions for lead hazard~~
5 ~~control.~~

6 (2) ~~The Housing Maintenance and Occupancy Code, established by chapter 24.3 of title~~
7 ~~23, shall, effective November 1, 2005, include provisions consistent with a continuing and~~
8 ~~ongoing responsibility for lead hazard mitigation as required by the department of health~~
9 ~~standards.~~

10 ~~**42-128.1-12. Independent evaluation.**~~

11 ~~In order to assure the effectiveness of the lead hazard awareness mitigation program~~
12 ~~established by this chapter and to recommend any changes, which may be necessary to~~
13 ~~appropriate, the auditor general shall:~~

14 (1)(i) ~~Conduct a performance audit for the period ending December 31, 2003, of the~~
15 ~~duties and responsibilities assigned to the state agencies and to political subdivisions by this~~
16 ~~chapter and by the Lead Poisoning Prevention Act, chapter 24.6 of title 23, and of the~~
17 ~~effectiveness of this chapter in meeting its purposes. The auditor general may contract with~~
18 ~~independent firms and organizations with expertise in lead poisoning prevention and lead hazard~~
19 ~~mitigation to assist with the evaluation of matters set forth in this subsection.~~

20 (ii) ~~The auditor general's report shall be submitted to the governor, the speaker of the~~
21 ~~house, the president of the senate, the chairperson of the housing resources commission and the~~
22 ~~director of health, on or before March 31, 2005, and shall contain, as appropriate,~~
23 ~~recommendations: (A) to make the programs established by this chapter and by the Lead~~
24 ~~Poisoning Prevention Act more effective in achieving their respective purposes; and (B) to~~
25 ~~address any unreasonable hardships caused by this chapter or likely to be caused by this chapter~~
26 ~~with its full implementation July 1, 2005.~~

27 (iii) ~~The performance audit required by this subdivision shall, in addition to the~~
28 ~~examination of effectiveness of administration and the efficiency and adequacy of state agencies~~
29 ~~and political subdivisions in the performance of their duties under this chapter and the Lead~~
30 ~~Poisoning Prevention Act, include consideration of the following matters:~~

31 (A) ~~The number and type and date of public service announcements required by § 42-~~
32 ~~128.1-6(1);~~

33 (B) ~~The availability and distribution of education materials specified by § 42-128.1-~~
34 ~~6(2)(i);~~

1 ~~(C) The number, date and location of lead hazard awareness seminars and the number of~~
2 ~~persons who have participated in those seminars;~~

3 ~~(D) The number of "mitigation inspectors," average length of time necessary to conduct~~
4 ~~the inspections, the cost of meeting standards per inspection, and the availability of inspectors to~~
5 ~~conduct the inspections, at a reasonable cost needed in the various geographic areas of the state;~~

6 ~~(E) The availability of programs to assist property owners, especially low and moderate~~
7 ~~income property owners;~~

8 ~~(2) Conduct a performance audit for the period ending June 30, 2007, of the duties and~~
9 ~~responsibilities, as assigned by this chapter, to state agencies and political subdivisions and of the~~
10 ~~effectiveness of this chapter in meeting its purposes, especially with regard to increasing the~~
11 ~~supply of housing in which lead hazards have been mitigated and in reducing the incidence and~~
12 ~~severity of lead poisoning in Rhode Island. The auditor general may contract with independent~~
13 ~~firms and organizations with expertise in lead poisoning prevention and lead hazard mitigation to~~
14 ~~assist with the evaluation of matters set forth in this chapter. The auditor general's report shall be~~
15 ~~submitted to the governor, the speaker of the house, the president of the senate, the chairperson of~~
16 ~~the housing resources commission and the director of health, on or before January 1, 2008, and~~
17 ~~shall contain, as appropriate, recommendations:~~

18 ~~(i) to make the programs established by this chapter more effective in achieving the~~
19 ~~respective purposes; and~~

20 ~~(ii) to redress any unreasonable hardships caused by this chapter or likely to be caused by~~
21 ~~this chapter.~~

22 ~~**42-128.1-13. Rhode Island lead hazard technical assistance service.**~~

23 ~~(a) Establishment and purposes. (1) The Rhode Island housing resources commission~~
24 ~~shall establish a "Rhode Island lead hazard technical assistance service" program for the purposes~~
25 ~~of providing technical assistance to property owners to achieve compliance with this chapter and~~
26 ~~the Lead Poisoning Prevention Act, chapter 24.6 of title 23.~~

27 ~~(2) The services of the program shall subject to appropriation, include, but shall not be~~
28 ~~limited to: evaluation of the need for lead hazard mitigation in a dwelling; review of independent~~
29 ~~inspection results; identification of and arranging funding for conduction lead hazard abatement~~
30 ~~and mitigation, and supplying any materials, assistance, and services that may be needed by~~
31 ~~property owners to achieve compliance with this chapter and the Lead Poisoning Prevention Act~~
32 ~~in an affordable manner.~~

33 ~~(b) Historic properties. On or before November 1, 2005, the housing resources~~
34 ~~commission, in conjunction with the historic preservation and heritage Commission, shall initiate~~

1 ~~the following activities to assist owners of historic properties to comply with the provisions of~~
2 ~~this chapter: (i) provide technical assistance; (ii) identify financial resources available for~~
3 ~~compliance; and (iii) seek additional resources for this purpose.~~

4 ~~(e) Cooperation with Rhode Island housing and mortgage finance corporation. The~~
5 ~~housing resources commission is hereby authorized to cooperate with the Rhode Island housing~~
6 ~~and mortgage finance corporation in putting the provisions of this section into effect, and the~~
7 ~~Rhode Island housing and mortgage finance corporation is hereby authorized to exercise its~~
8 ~~powers under § 42-55-5.1 to provide for the implementation of this section.~~

9 ~~(d) Exercise of powers. The housing resources commission is hereby expressly~~
10 ~~authorized to exercise any or all of its general powers set forth in § 42-128-7 to accomplish the~~
11 ~~purpose of this section.~~

12 SECTION 2. Section 5-20.5-6 in of the General Laws in Chapter 20.5-6 entitled “Real
13 Estate Brokers and Salespersons” is hereby amended to read as follows:

14 **5-20.5-6. Duration of licenses – Rules and regulations – Suspension or revocation of**
15 **licenses.**

16 (a) If the director is satisfied that the applicant is competent and trustworthy and is
17 reasonably familiar with the statutes and law relating to real estate, he or she shall issue to the
18 applicant a license to act as a real estate broker or a real estate salesperson. The director shall
19 promulgate rules and regulations mandating the term of license for each category of license
20 issued pursuant to this chapter. No license shall remain in force for a period in excess of three (3)
21 years. Any fee for the initial issuance of a license or for renewal of a license issued pursuant to
22 this chapter is determined by multiplying the current annual fee by the term of years of the license
23 or renewal. The fee for the total number of years of the initial license or of the renewal shall be
24 paid in full prior to the issuance of the respective license. The license shall be renewed upon
25 payment of the renewal fee, and proof of completion of any continuing education requirements as
26 set forth in the rules and regulations issued by the department of business regulation. Any license
27 issued or renewed may be suspended or revoked by the director, for cause, prior to the expiration
28 date. The director shall issue reasonable rules and regulations with the consent of the majority of
29 the Rhode Island real estate commission governing the conduct of licensed real estate brokers and
30 salespersons, these rules and regulations shall be designed to implement the laws and policies of
31 this state and to protect the interests of the public.

32 (b) Any rules or regulations promulgated with regard to the requirement of continuing
33 education for the renewal of any real estate broker's and/or salesperson's license whose
34 application for an initial broker's and/or salesperson's license is approved within one hundred

1 eighty (180) days of the expiration date of his or her initial license is not subject to the continuing
2 education requirement at the time of his or her first renewal. The director, after a due and proper
3 hearing, may suspend, revoke, or refuse to renew any license upon proof that it was obtained by
4 fraud or misrepresentation or that the holder of the license has been guilty of fraud or
5 misrepresentation or criminal acts in the performance of his or her functions, or upon proof that
6 the holder of the license has violated this statute or any rule or regulation issued pursuant to this
7 statute.

8 (c) The director shall, for licenses issued or renewed after July 1, 2004, require proof of,
9 reasonable familiarity with and knowledge of duties and responsibilities established by the Lead
10 Poisoning Prevention Act, chapter 24.6 of title 23 of the general laws, ~~and the Lead Hazard~~
11 ~~Mitigation Act, chapter 128.1 of title 42 of the general laws~~. Notwithstanding the provisions of
12 subsection (b) above, the requirements of this subsection shall apply to first renewals when
13 licenses were initially issued before July 1, 2004. This subsection shall be put into force and
14 effect by the director in the manner set forth in ~~chapter 128.1 of title 42~~ [24.6 of title 23](#) and with
15 the advice of the Rhode Island Real Estate Commission.

16 SECTION 3. Section 5-20.8-11 of the General Laws in Chapter 20.8-11 entitled “Real
17 Estate Sales Disclosures” is hereby amended to read as follows:

18 **5-20.8-11. Lead inspection requirement.**

19 (a) Every contract for the purchase and sale of residential real estate (1-4 family) built
20 prior to 1978 located in the state shall provide that potential purchasers be permitted a ten (10)
21 day period, unless the parties mutually agree upon a different period of time, to conduct a risk
22 assessment or inspection for the presence of lead exposure hazards before becoming obligated
23 under the contract to purchase.

24 (b) Failure to include the provision required in subsection (a) of this section in the
25 purchase and sale agreement for residential real estate does not create any defect in title;
26 provided, that each violation of this section by the seller or his or her agent is subject to a civil
27 penalty of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

28 (c) Failure to provide inspection results and/or educational materials pursuant to
29 department regulations required by § 23-24.6-16(a) does not create any defect in title; provided,
30 that each violation of this section by the seller or his or her agent is subject to a civil penalty of
31 not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

32 (d) Failure to include the purchase and sale agreement provision required in subsection
33 (a) of this section, failure to provide inspection results pursuant to § 23-24.6-16(a), or inspection
34 results which show a lead exposure hazard as defined at § 23-24.6-4~~(12)~~[\(13\)](#) entitle the purchaser

1 to void the purchase and sale agreement by providing notice, in writing, to the seller prior to the
2 transfer of the title at closing.

3 SECTION 4. Sections 23-24.6-2, 23-24.6-3, 23-24.6-4, 23-24.6-5, 23-24.6-6, 23-24.6-7,
4 23-24.6-11, 23-24.6-14, 23-24.6-15, 23-24.6-16, 23-24.6-17, 23-24.6-18, 23-24.6-20, 23-24.6-23,
5 23-24.6-26, and 23-24.6-27 of the General Laws in Chapter 23-24.6 entitled "Lead Poisoning
6 Prevention Act" are hereby amended to read as follows:

7 **23-24.6-2. Legislative findings.**

8 The general assembly finds, upon the report of the environmental lead task force and the
9 reports, hearings, and records of its own committees and of federal agencies including the
10 environmental protection agency and centers for disease control, that:

11 (1) Environmental exposures to even low levels of lead increase a child's risks of
12 developing permanent learning disabilities, reduced concentration and attentiveness and behavior
13 problems, problems which may persist and adversely affect the child's chances for success in
14 school and life.

15 (2) Childhood lead poisoning is caused by environmental exposure to lead. The most
16 significant sources of environmental lead are lead based paint in older housing and house dust
17 and soil contaminated by this paint.

18 (3) Childhood lead poisoning is completely preventable.

19 (4) Rhode Island does not currently have ~~a comprehensive strategy~~ a centralized authority
20 in place for preventing childhood lead poisoning. As a result, ~~tens of~~ thousands of Rhode Island's
21 children are poisoned by lead at levels believed to be harmful ~~with most of these poisoned~~
22 ~~children going undiagnosed and untreated.~~

23 (5) Childhood lead poisoning is dangerous to the public health, safety, and general
24 welfare of the people and necessitates excessive and disproportionate expenditure of public funds
25 for health care and special education, causing a drain upon public revenue.

26 (6) There has been an insufficient level of lead hazard abatement in Rhode Island's rental
27 housing stock.

28 (7) A consolidated approach under the department of health combined with current
29 financing options for property owners will increase compliance and reduce the incidents of
30 childhood lead poisoning.

31 (8) The US Department of Housing and Urban Development has promulgated regulations
32 for lead hazard control that apply to housing that is federally assisted and require inspections with
33 dust testing.

34 ~~(6)~~(9) The enactment and enforcement of this chapter is essential to the public interest. It

1 is intended that the provisions of this chapter be liberally construed to effectuate its purposes.

2 ~~(7)~~(10) The magnitude of the childhood lead poisoning in Rhode Island's older homes
3 and urban areas is a result of approved use of lead based materials over an extended period in
4 public buildings and systems and private housing that a comprehensive approach is necessary to
5 alleviate the cause, identify and treat the children, rehabilitate the affected housing where young
6 children reside, and dispose of the hazardous material. Rhode Island presently does not have the
7 public or the private resources to handle the total problem, requiring prioritizing on a need basis.

8 **23-24.6-3. Declaration of purposes.**

9 The purposes of this chapter are:

10 (1) to protect the public health and public interest by establishing a comprehensive
11 program to reduce exposure to environmental lead and prevent childhood lead poisoning, the
12 most severe environmental health problem in Rhode Island; and

13 (2) to establish rigorous, systematic enforcement of requirements for the reduction of lead
14 hazards in properties where children have been lead poisoned; and

15 (3) to increase the supply of housing stock in Rhode Island which is at a minimum lead
16 safe, and

17 (4) to resolve disjointed insurance practices arising from lead liabilities exclusions; and

18 ~~(3)~~(5) to define the role of the department of health as the lead state agency charged with:
19 (i) defining lead poisoning, (ii) establishing programs for screening persons, especially children
20 under the age of six (6) years, who are at risk of lead poisoning, (iii) setting standards for
21 eliminating and reducing lead hazards in buildings and premises, including dwellings where a
22 child under the age of six (6) years who has been lead poisoned resides, (iv) providing
23 information to the public and segments thereof about the risks of lead poisoning, and (v) initiating
24 enforcement actions against persons who violate the provisions of this chapter or regulations
25 promulgated pursuant to this chapter. The goal of this chapter is to reduce the incidence of
26 childhood lead poisoning in Rhode Island to the greatest extent feasible.

27 **23-24.6-4. Definitions.**

28 For the purposes of this chapter:

29 (1) "At-risk occupant" means a person under six (6) years of age, or a pregnant woman,
30 who has been a legal inhabitant in a dwelling unit for at least thirty (30) days; provided, however,
31 that a guest of any age shall not be considered an occupant for the purposes of this chapter.

32 (2) "Childhood lead poisoning" means a confirmed venous blood lead level, measured in
33 micrograms of lead per deciliter of whole blood, established by rule by the Rhode Island
34 department of health based on the best available information about the effects of elevated blood

1 lead levels.

2 ~~(2)~~(3) "Comprehensive environmental lead inspection" means the inspection of any
3 structure or premises for the presence of lead in various media and includes sampling as may be
4 necessary or expedient in order to determine compliance in the structure or premises with
5 standards for being lead safe or lead free.

6 ~~(3)~~(4) "Department" means the state department of health.

7 ~~(4)~~(5) "Director" means the director of health.

8 ~~(5)~~(6) "Dwelling" means any enclosed space which is wholly or partly used or intended
9 to be used for living or sleeping by human occupants.

10 ~~(6)~~(7) "Dwelling unit" means any room or group of rooms located within a dwelling and
11 forming a single habitable unit with facilities which are used or intended to be used for living,
12 sleeping, cooking, and eating.

13 (8) "Housing for the elderly or persons with disabilities" means any residential housing
14 which is either reserved for persons sixty-two (62) years of age or older or persons with
15 disabilities at the time of initial occupancy.

16 ~~(7)~~(9) "Environment intervention blood lead level" means a confirmed concentration, in a
17 person under six (6) years of age, of lead in whole blood ~~of greater than or equal to twenty (20)~~
18 ~~micrograms per deciliter for a single test or for fifteen (15) to nineteen (19) micrograms per~~
19 ~~deciliter for two (2) tests taken at least three (3) months apart or as defined by the department~~ the
20 reference level defined by the department's regulations consistent with regulations adopted by the
21 U.S. Department of Housing and Urban Development.

22 ~~(8)~~(10) "Environmental lead hazard reduction" means activities undertaken by or on
23 behalf of a property owner in order to achieve lead free or lead safe status pursuant to the
24 requirements of this chapter.

25 ~~(9)~~(11) "Inspection" means the inspection, other than a comprehensive environmental
26 lead inspection, of any structure or premises undertaken to determine compliance with the
27 requirements of this chapter or with orders issued pursuant to this chapter.

28 ~~(10)~~(12) "Insurer" means every medical service corporation, hospital service corporation,
29 health maintenance organization, or other insurance company offering and/or insuring health
30 services; the term includes any entity defined as an insurer under § 42-62-4.

31 ~~(11)~~(13) "Lead contractor" means any person or entity engaged in lead hazard reduction
32 as a business ~~includes consultants who design, perform, oversee, or evaluate lead hazard~~
33 ~~reduction projects undertaken pursuant to the requirements of this chapter.~~ and licensed pursuant
34 to the department's regulations.

1 ~~(12)~~(14) "Lead exposure hazard" means a condition that presents a clear and significant
2 health risk to occupants of the dwelling, dwelling unit, or premises, particularly where there are
3 children under the age of six (6) years.

4 ~~(13)~~(15) "Lead free" means ~~that a dwelling, dwelling unit, or premises~~ a medium either
5 contains no lead or contains lead in amounts less than the maximum acceptable environmental
6 lead levels established by department's ~~of health~~ rules and regulations.

7 ~~(14)~~(16) "Lead hazard reduction" means ~~any action or actions designed to reduce~~
8 ~~exposure to toxic levels of lead which impose an unacceptable risk of exposure in any dwelling or~~
9 ~~dwelling unit, where a child under the age of six (6) years, with environmental intervention blood~~
10 ~~lead level or greater resides, or on any premises and may include, but is not limited to: repair,~~
11 ~~enclosure, encapsulation, or removal of lead based paint and/or lead contaminated dust, soil or~~
12 ~~drinking water; relocation of occupants; and cleanup measures or ongoing maintenance measures,~~
13 ~~which may include activities and/or measures that do not present an undue risk to children under~~
14 ~~age six (6) and can be performed by, or on behalf of, the property owner, without the person~~
15 ~~performing such activities being licensed or certified~~ lead abatement, interim controls, or a
16 combination of the two, intended to correct lead hazards identified in a lead inspection report or
17 standard treatments to remove lead-based paint and/or minimize lead exposure, which may
18 include measures to reduce the concentration of lead in paint, dust, soil, or drinking water, using
19 approved treatments and work methods specified in the department's rules and regulations.

20 ~~(15)~~(17) "Lead safe" means ~~that a dwelling, dwelling unit, or premises~~ a medium has
21 undergone sufficient lead hazard reduction to ensure that no significant environmental lead
22 hazard is present and includes but is not limited to covering and encapsulation.

23 ~~(16)~~(18) "Occupant" means any person who legally resides in, or regularly uses, a
24 dwelling, dwelling unit, or structure; provided, however, that a guest of any age shall not be
25 considered an occupant for the purposes of this chapter.

26 ~~(17)~~(19) "Owner" means any person who, alone or jointly or severally with others:

27 (i) Shall have legal title to any dwelling or dwelling unit with or without accompanying
28 actual possession of it, or

29 (ii) Shall have charge, care, or control of any dwelling or dwelling unit as owner or agent
30 of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any
31 person representing the actual owner shall be bound to comply with the provisions of this chapter
32 and with rules and regulations adopted pursuant to this chapter to the same extent as if that person
33 were the owner. An agent of the owner excludes real estate and property management functions
34 where the agent is only responsible for the property management and does not have authority to

1 fund capital and/or major property rehabilitation on behalf of the owner.

2 (iii) For purposes of publicly owned property only, the owner shall be defined to be the
3 chief executive officer of the municipal or state agency which owns, leases, or controls the use of
4 the property.

5 ~~(18)~~(20) "Person" means any individual, firm, corporation, association, or partnership and
6 includes municipal and state agencies.

7 ~~(19)~~(21) "Premises" means a platted lot or part thereof or unplatted lot or parcel of land,
8 or plot of land, occupied by a dwelling or structure and includes any building, accessory structure,
9 or other structure thereon which is or will be frequently used by children under the age of six (6)
10 years.

11 ~~(20)~~(22) "Program" means the comprehensive environmental lead program established by
12 this chapter.

13 ~~(21)~~(23) "State inspector" means the director, his or her designee, or any inspector
14 employed by the department ~~of health~~ who is authorized by the director to conduct
15 comprehensive environmental lead inspections and/or other inspections for the department.

16 (24) "Temporary housing" means any place of residence that is rented for no more than
17 one hundred (100) consecutive days per calendar year to the same tenant, where no lease renewal
18 or extension can occur, and any emergency shelter intended for night-to-night accommodation.

19 **23-24.6-5. Environmental lead program.**

20 (a) There is established within the department ~~of health~~ an environmental lead program
21 which shall be responsible for creating a coordinated and comprehensive program for lead
22 poisoning prevention, including screening and detection, education, lead hazard reduction, and
23 enforcement. The program shall exercise any and all authorities of the department which may be
24 necessary and appropriate, including but not limited to promulgating and enforcing regulations,
25 which regulations shall set forth a general framework for actions to be taken in response to
26 childhood lead poisoning at different blood lead levels.

27 (b) The department shall develop an educational program regarding environmental lead
28 exposures ~~and~~, lead poisoning, and strategies for lead hazard reduction.

29 (c) The department shall promulgate regulations for acceptable environmental lead levels
30 in dwellings, where a child under the age of six (6) years with environmental intervention blood
31 lead level or greater resides, and in buildings or properties frequently used by children under the
32 age of six (6) years, including standards for lead on painted surfaces and surface coatings,
33 drinking water, household dusts, and soil.

34 **23-24.6-6. Interagency coordinating council coordination on environmental lead.**

1 (a) ~~There is established an~~ The department is authorized to oversee interagency
2 coordination activities ~~coordinating council~~ on environmental lead; ~~by the department of health~~
3 ~~shall include: consisting of six (6) members.~~

4 (b) The purpose of ~~the council~~ which shall be as follows:

5 (1) To coordinate the activities of its member agencies with respect to: (i) environmental
6 lead policy; (ii) the development of educational materials; (iii) drafting regulations which have as
7 their purpose reducing or preventing lead poisoning; and (iv) enforcement of laws, regulations,
8 and ordinances pertaining to lead poisoning and lead poisoning prevention.

9 (2) To recommend the adoption of policies with regard to the detection and elimination of
10 the hazards to the public posed by exposure to lead in the environment;

11 (3) To recommend the adoption of policies with regard to the screening and treatment of
12 individuals suffering from elevated exposures to environmental lead; and

13 (4) To report on or before March 1 of each year to the governor, speaker of the house and
14 the president of the senate on both the progress of the comprehensive environmental lead program
15 and recommendations for any needed changes in legislation, which report shall at a minimum: (i)
16 provide by city and town, the incidence and levels of lead poisoning; (ii) describe educational
17 programs; (iii) summarize regulations adopted pursuant to the provisions of this chapter ~~and~~
18 ~~chapter 128.1 of title 42~~, and state the number of enforcement actions pursuant to this chapter
19 initiated, the number completed or closed due to successful remediation of lead hazards, the
20 number completed or closed for other reasons (which reasons shall be explained), and the number
21 that remain open (including information on how long such actions have been open and the
22 reasons they have not been completed).

23 ~~(c) The members of the council shall be as follows:~~

24 ~~(1) There shall be five (5) ex officio members: the director, the director of environmental~~
25 ~~management, the director of human services, the attorney general, and the executive director of~~
26 ~~the housing resources commission or their designees.~~

27 ~~(2) There shall be one local government official, who shall have knowledge of lead~~
28 ~~hazard reduction programs at the local level, appointed by the president of the Rhode Island~~
29 ~~League of Cities and Towns.~~

30 ~~(3) [Deleted by P.L. 2002, ch. 187, § 2 and by P.L. 2002, ch. 188, § 2.]~~

31 ~~(d) The members shall elect from among their members a chairperson, a vice chairperson,~~
32 ~~and secretary.~~

33 ~~(e) The council shall meet at the call of the chairperson, but not less than quarterly. The~~
34 ~~director shall provide any meeting and hearing rooms and secretarial staff that the council may~~

1 ~~require.~~

2 **23-24.6-7. Screening by health care providers.**

3 (a) The department shall promulgate regulations establishing the means by which and the
4 intervals at which children under six (6) years of age shall be screened for lead poisoning. The
5 department is also authorized to require screening for lead poisoning in other high risk groups.

6 (b) Each physician registered or licensed by Rhode Island or any agency of Rhode Island
7 shall screen children under six (6) years of age for lead poisoning at the intervals and using the
8 methods specified in the regulations adopted pursuant to subsection (a). Each licensed, registered
9 or approved health care facility serving children under six (6) years of age, including but not
10 limited to hospitals, clinics, and health maintenance organizations, shall take appropriate steps to
11 ensure that their patients receive screening for lead poisoning at the intervals and using the
12 methods specified in these regulations.

13 (c) All health care programs funded in whole or in part with state money and having child
14 health components shall include, require, and/or provide for screening children under six (6)
15 years of age for lead poisoning at the intervals and using the methods specified in the regulations
16 promulgated under this section.

17 (d) The provisions of this section shall not apply if the parents of the child object to the
18 child undergoing blood lead screening on the grounds that the screening conflicts with their
19 religious tenets and practices.

20 (e) All blood samples taken by physicians or other health care providers licensed in
21 Rhode Island or by licensed, registered, or approved health care facilities in Rhode Island from
22 children under the age of six (6) years for the purpose of screening for blood lead level shall be
23 sent ~~the state laboratory in~~ [to a laboratory certified, licensed, and/or approved by](#) the department
24 ~~of health~~ for laboratory analysis.

25 (f) The department shall, at least annually, analyze and summarize all of the lead
26 screening information provided by physicians, health care facilities, and laboratories and provide
27 this information to all other local and state agencies involved with case management and lead
28 hazard reduction. An analysis and summary of the data shall also be made available, at least
29 annually, to the health care community, to the general assembly, and the general public in a
30 format that is easily understandable to non-technical readers.

31 **23-24.6-10. Lead screening restricted receipt account.**

32 The director shall establish procedures for lead screening, laboratory testing, and
33 reimbursement. The state laboratory services shall be billed to and reimbursed by insurers. Fees
34 shall be set based upon the rates paid by the insurers to private laboratories for blood lead

1 analysis. All reimbursement fees paid to the department shall be deposited into the general fund.

2 ~~General revenue appropriations~~ Appropriations for the lead screening program shall be used for:

3 (1) Administration of the comprehensive environmental lead program, including
4 performance of environmental lead inspections by state inspectors for enforcement purposes, and
5 development, administration, and coordination of a comprehensive educational program on
6 environmental lead exposures and lead poisoning;

7 (2) Provision of comprehensive environmental lead inspections and technical assistance
8 on appropriate environmental lead hazard reduction to families of significantly lead poisoned
9 Rhode Island children and to families of uninsured and underinsured lead poisoned Rhode Island
10 children on a priority basis by blood lead level; regulations clearly identifying the blood lead
11 level corresponding to significant lead poisoning and the mechanism for prioritizing by blood
12 lead level shall be promulgated;

13 (3) Provision of comprehensive environmental lead inspections and technical assistance
14 on appropriate environmental lead hazard reduction to preschools, day care facilities, nursery
15 schools, public and private elementary schools, and foster homes and shelters serving children
16 under the age of six (6) years;

17 (4) Provision of funds to the department of environmental management for enforcement
18 of fugitive dust regulations designed to reduce or eliminate the hazards caused by removal of
19 leaded paint from the exterior of structures;

20 (5) Administration of a childhood blood lead testing program by the department's
21 division of laboratories, including processing, analyzing, and reporting childhood blood lead
22 samples;

23 (6) Provision of the necessary blood lead screening and follow up blood lead testing for
24 uninsured and underinsured preschool children in Rhode Island; and

25 (7) Development of a data management system which can be used to track cases of lead
26 poisoning to ensure that they receive timely and appropriate medical treatment, to monitor homes
27 for environmental lead inspections and lead hazard reduction, and to investigate the extent of
28 childhood lead poisoning in Rhode Island.

29 **23-24.6-11. Reporting of cases of lead poisoning.**

30 Any physician ~~registered or licensed by Rhode Island or any agency of Rhode Island or~~
31 ~~any employee of a licensed, registered, or approved health care facility~~ or employee of a licensed
32 health care facility acting within the scope of his/her practice in making the diagnosis of
33 childhood lead poisoning shall report that diagnosis to the ~~director~~ department within ten (10)
34 business days of the diagnosis.

1 **23-24.6-14. Inspection of child care facilities.**

2 The director shall promulgate regulations requiring that as a condition of licensure all
3 ~~preschools, day care facilities, nursery schools,~~group family child care homes, family child care
4 homes, child care centers, residential facilities, and public and private elementary schools ~~and~~
5 ~~schoolyards, and public playgrounds, and shelters and foster homes~~ serving children under the
6 age of six (6) years in Rhode Island:

7 (1) Receive comprehensive environmental lead inspections at specified intervals; and

8 (2) Demonstrate that they are either lead free or lead safe.

9 ~~(b) The director, shall, using state inspectors, conduct comprehensive environmental lead~~
10 ~~inspections for all these facilities at the specified intervals.~~

11 **23-24.6-15. Inspections of rental property.**

12 (a) The director shall, ~~in conjunction with the housing resources commission,~~ promulgate
13 regulations to certify lead safe compliance for all residential rental units and permit state lead
14 ~~inspectors~~ or licensed by the department to conduct such lead inspections as may be appropriate
15 in response to any complaint to the department ~~or the housing resources commission,~~ by an
16 occupant or the parent or guardian of any child under the age of six (6) years who is an occupant
17 renting or leasing a dwelling, dwelling unit, or premises of the existence of a lead exposure
18 hazard for a child under the age of six (6) years in that dwelling, dwelling unit, or premises.
19 These regulations will allow for response to the complaints to be prioritized based upon the age of
20 the structure and the nature and degree of hazard present.

21 (b) Whenever a comprehensive environmental lead inspection or other inspection has
22 been performed either pursuant to a complaint or otherwise, the owner and/or any real estate
23 agent or property manager involved in renting or leasing the dwelling, dwelling unit, or premises
24 shall provide the results of the inspection to occupants pursuant to regulations promulgated by the
25 department, as follows:

26 (1) Those persons occupying the dwelling, dwelling unit, or premises at the time the
27 inspection is performed shall be notified of the results within ~~five (5) business~~ seven (7) calendar
28 days after the owner receives the results;

29 (2) All persons who are prospective occupants shall be notified of the inspection results if
30 a significant lead hazard exists, before any lease is signed or before occupancy begins in cases
31 where no lease is signed;

32 (3) ~~This notice provision terminates with the~~ Upon performance of the necessary lead
33 reduction actions required to reach at least the "lead safe" level, the ~~department~~ lead inspector
34 shall provide the owner with a ~~certification of lead reduction~~ lead safe certificate for the dwelling.

1 (c) Failure to provide inspection results and/or educational materials pursuant to this
2 chapter shall subject the lessor or his or her agent to a civil penalty of not less than one hundred
3 dollars (\$100) nor more than five hundred dollars (\$500) for each violation.

4 **23-24.6-16. Notice prior to residential property transfer.**

5 (a) The department shall issue regulations for the disclosure of lead exposure hazards and
6 potential lead exposure hazards in a residential dwelling, dwelling unit, or premise that is offered
7 for sale or lease. These regulations, at the minimum, shall incorporate the requirements of § 1018
8 of the federal Residential Lead-Based Paint Hazard Reduction Act of 1992 (PL 102-550), 42
9 U.S.C. § 4852d, ~~shall not be inconsistent with the requirements for lead hazard mitigation~~
10 ~~established pursuant to the provisions of chapter 128.1 of title 42,~~ and shall additionally require
11 an owner of a residential dwelling, dwelling unit, or premise offered for sale or lease to provide
12 copies of any outstanding notice of violation and of results of any lead inspection performed in
13 the dwelling, dwelling unit, or premise and copies of educational materials developed by the
14 department, including information about the requirements of this section and programs that
15 provide financial assistance for comprehensive environmental lead inspections or lead hazard
16 reduction.

17 (b) The department shall prepare written materials concerning environmental lead
18 exposures and lead hazards which shall be made available to real estate brokers and agents. The
19 materials shall also be made available to the general public by the department.

20 (c) The department of business regulation shall, with regard to its responsibilities for the
21 profession of real estate brokers and salespersons, adopt rules, with the concurrence of the
22 department: (1) requiring proof of reasonable familiarity with the knowledge of duties and
23 responsibilities under the provisions of this chapter for the licensure or renewal of licenses of real
24 estate brokers and salespersons in accordance with § 5-20.5-6; and (2) providing, pursuant to § 5-
25 20.5-18, an educational program for real estate brokers and salespersons regarding such duties
26 and responsibilities.

27 ~~(d)~~ (d) The duties required under this section are not exclusive and do not replace or alter
28 any duty imposed upon the owner to perform lead hazard reduction as required by this chapter.

29 ~~(e)~~ (e) In no instance shall the receipt of the disclosures required by this section operate as
30 or be construed as a bar to relief or in any manner be used as an affirmative defense for an owner,
31 operator, or real estate agent in any statutory or common law action.

32 ~~(f)~~ (f) The department shall establish and maintain a registry of ~~real estate for which a~~
33 ~~comprehensive environmental lead inspection has been performed.~~ lead safe certificates. The
34 registry shall be cross-indexed by the owners' name, street address, as well as the assessor's lot

1 and plat number for the applicable city or town.

2 **23-24.6-17. Lead hazard reduction.**

3 (a) The director shall promulgate lead hazard reduction regulations. These regulations
4 shall:

5 (1) Specify the circumstances under which owners of dwellings, dwelling units, or
6 premises must undertake lead hazard reduction in order to remedy conditions that present a clear
7 and significant health risk to occupants of the dwelling, dwelling unit, or premises;

8 (2) Define lead hazard reduction with respect to both the sources of lead that must be
9 treated and acceptable and unacceptable treatment methods;

10 (3) Require owners to make all reasonable efforts to ensure that occupants are not present
11 during the lead hazard reduction; variances may be granted according to regulations; provided,
12 that the owners are not responsible for providing alternative housing. If the occupants refuse to
13 vacate the premises after all reasonable efforts by the owner to ensure compliance within this
14 section, then the owners are exempt from any liability arising out of the occupants'
15 noncompliance. If the occupants are required to vacate the premises for a three (3) day period or
16 longer, there shall be a pro-rata adjustment or abatement of the rent during the period of lead
17 hazard reduction;

18 (4) Specify containment and clean up measures to be taken as part of lead hazard
19 reduction activities;

20 (5) Contain measures to protect the occupational safety and health of lead inspectors,
21 contractors, supervisors, workers, and other persons who perform lead hazard reduction which
22 may be more, but not less, stringent than applicable federal standards; and

23 (6) Specify the circumstances under which owners of dwellings, dwelling units, or
24 premises must undertake lead hazard reduction or control to at least the lead safe level ~~of~~ to
25 protect occupants and neighbors.

26 ~~(b)(1) Until November 1, 2005, the owner of any dwelling, dwelling unit, or premises~~
27 ~~shall be considered as an "innocent owner", and liability as to lead poisoning is limited to the~~
28 ~~reduction of any lead hazard as determined by a comprehensive environmental lead inspection~~
29 ~~within the requirements of the Housing Maintenance and Occupancy Code, chapter 24.3 of title~~
30 ~~45. The "innocent owner" provision will cease upon the owner's unreasonable failure to correct~~
31 ~~any lead paint violation within ninety (90) days of notice as provided in that chapter. Provided,~~
32 ~~any owner who has received notices on three (3) or more properties shall be presumed to be an~~
33 ~~unreasonable failure to correct.~~

34 ~~(2) "Innocent owner" status, and the limits on liability set forth in this subsection, shall~~

~~not apply to any incident of childhood lead poisoning reported to the department on or after November 1, 2005, and liability for lead poisonings after November 1, 2005, but shall include such correction of lead hazards as may be required by this chapter.~~

(b) The owner of any dwelling, dwelling unit, or premises who fails to provide for lead hazard reduction as required by department regulations shall be issued a notice of violation by the director in the manner provided by the Housing Maintenance and Occupancy Code, chapter 24.3 of title 45. In addition to any other enforcement authority granted under this chapter, the department shall have the authority to utilize pertinent provisions of that code in enforcing this section in the same manner as an enforcing officer under the code, including but not limited to the provisions of §§ 45-24.3-17 – 45-24.3-21, except that the director or his or her designee may provide a reasonable time up to ninety (90) days for the correction of any violation alleged and, except where there exists a hardship as to financing the lead hazard reduction, or where material, personnel, or weather delays the reduction completion. Except as herein provided, if after ninety (90) days following the date of issuance of a notice of violation by the department, the owner has failed to correct the lead hazards, the department shall issue a second notice of violation.

(c)(1) One or more lead paint waste depositories shall be established and be in operation by January 1, 1993. The department of environmental management shall work with the solid waste management corporation to promulgate regulations governing these lead paint waste depositories.

(2) Each lead paint waste depository may set fees to cover the costs of lead paint waste storage, reduction, consolidation, incineration, and/or out of state disposal.

23-24.6-18. Revisions to Minimum Housing Standards and Housing Maintenance and Occupancy Code.

(a) The standards for lead compliance in pre-1978 housing shall be considered basic housing standards and shall be enforceable through the provisions of this chapter and through procedures established in chapter 24.2 of title 45 and chapter 24.3 of title 45.

(b) Minimum Housing Standards and Housing Maintenance and Occupancy Code. In order to establish consistency between state and local programs pertaining to enforcement of standards for housing and housing occupancy and to provide for broadly available, multiple means of identifying instances of noncompliance with this chapter and enforcing the requirements of this chapter, the following provisions regarding Minimum Housing Standards and Housing Maintenance and Occupancy Code shall be effective:

(1) The ordinances, rules, and regulations for "Minimum Housing Standards" adopted

1 [pursuant to § 45-24.2-3 shall include provisions for lead hazard reduction.](#)

2 [\(2\) The Housing Maintenance and Occupancy Code, established by chapter 24.3 of title](#)
3 [45, shall include provisions consistent with a continuing and ongoing responsibility for lead](#)
4 [compliance as required by the department's standards.](#)

5 [\(c\) The rules and regulations for the state building code promulgated pursuant chapter](#)
6 [27.3 of title 23, shall not conflict with the requirements in this chapter regarding the construction,](#)
7 [rehabilitation, or maintenance of existing buildings.](#)

8 [\(d\) Nothing in this chapter shall alter the responsibilities of owners and occupants, or the](#)
9 [authority of enforcing officers, under the Housing Maintenance and Occupancy Code, chapter](#)
10 [24.3 of title 45.](#)

11 **23-24.6-20. Licensure of ~~environmental~~ lead inspectors and lead contractors,**
12 **supervisors, and workers.**

13 (a) The department shall provide for the certification of training programs for
14 ~~environmental~~ lead inspectors and for lead contractors, supervisors, workers, and other persons
15 engaged in ~~environmental~~ lead-hazard reduction pursuant to the provisions of this chapter. The
16 department shall establish standards and specifications for training courses including, at a
17 minimum, the required length of different training programs, mandatory topics of instruction, and
18 required qualifications for training programs and instructors. Hands on instruction shall be a
19 component of the required training.

20 (b) The department shall establish procedures and issue regulations requiring the
21 licensure of ~~environmental~~ lead inspectors, lead contractors, supervisors, workers, and other
22 persons engaged in ~~environmental~~—lead inspection and/or hazard reduction pursuant to the
23 provisions of this chapter. These regulations:

24 (1) Shall prescribe the requirements for licensure and the conditions and restrictions
25 governing the renewal, revocation, and suspension of licenses. Requirements for licensure and for
26 renewal of licensure shall include, but not be limited to, the following:

27 (i) Compliance with the lead-hazard reduction regulations in § 23-24.6-17; and

28 (ii) Required training of ~~environmental~~ lead inspectors and of lead contractors,
29 supervisors, workers, and other persons engaged in ~~environmental~~ lead-hazard reduction in
30 subjects including, but not limited to, safe work practices, instruction in health risks,
31 precautionary measures, protective equipment, and other practices, including practices to prevent
32 contamination of the residential premises, ambient discharges and ground contamination,
33 respiratory protection, new lead-hazard reduction techniques and technologies, applicable federal
34 and state regulation, and hands-on instruction for equipment and techniques to be used; a

1 minimum of twenty (20) hours of training shall be required as a condition of licensure for
2 workers; additional hours of training shall be required for supervisors and contractors; a refresher
3 training course shall also be required;

4 (2) May provide for Rhode Island to reciprocally license persons certified and/or licensed
5 by other states with comparable requirements.

6 (c) No person shall enter into, engage in, or conduct comprehensive ~~environmental~~ lead
7 inspections or ~~environmental~~ lead-hazard reduction activities covered by department regulations
8 without having successfully completed a certified training program and without having been
9 licensed by the department. Each trained and licensed person shall be issued a photo identity card.

10 (d) The department shall, ~~in conjunction with the housing resources commission,~~ develop
11 and periodically update lists of all licensed inspectors, contractors, supervisors, workers', and
12 other persons who perform ~~environmental~~ lead-hazard reduction in Rhode Island and make those
13 lists available to interested parties and the public.

14 (e)(1) The department shall enforce the provisions of this section as appropriate and shall
15 have all necessary powers for enforcement.

16 (2) The department may revoke, suspend, cancel, or deny any license, at any time, in
17 accordance with chapter 35 of title 42 if it believes that the terms or conditions of these are being
18 violated, or that the holder of, or applicant for, license has violated any regulation of the
19 department or any other state law or regulation. Any person aggrieved by a determination by the
20 department to issue, deny, revoke, or suspend any license may request an adjudicatory hearing.

21 (3) When any person violates the terms or conditions of any license issued under this
22 section or any state law or regulation, the director shall have the power by written notice to order
23 the violator to cease and desist immediately. The department may file a written complaint with
24 the district court in the jurisdiction in which the violation occurred. Punishment by an
25 administrative fine pursuant to § 23-24.6-27 may be in addition to the suspension of any license.

26 (4) Any state inspector may issue an immediate cease-work order to any person who
27 violates the terms or conditions of any license issued under this section, or any provision of this
28 chapter, or any regulation or order issued under this chapter, if the violation will endanger or
29 materially impair the health or well-being of any occupant, any ~~environmental~~ lead inspector, or
30 any contractor, supervisor, worker, or other person engaged in ~~environmental~~ lead-hazard
31 reduction.

32 (f) Nothing in this section shall be construed to limit the authority of the department of
33 health, the department of labor and training, or the department of environmental management
34 under the provisions of any other law.

1 **23-24.6-23. Compliance and enforcement.**

2 (a) Except as provided in this chapter, the inspection, enforcement, and penalties for
3 violations of the provisions of this chapter shall be in accordance with the provisions and
4 procedures set forth in §§ 23-1-19 – 23-1-25. In addition to the provisions for enforcement of this
5 section found elsewhere in this chapter, there shall be the following powers of enforcement,
6 which shall be in addition to other provisions of the general laws pertaining to enforcement of the
7 laws of this state and shall not be deemed to limit or replace such other provisions. The provisions
8 of this section shall be liberally construed and shall be considered an essential responsibility of
9 the state to protect public health and welfare.

10 (b) The department shall establish a comprehensive integrated enforcement program,
11 which shall be designed: (1) to assure that enforcement is certain, predictable, and effective as a
12 means of reducing the incidence of childhood lead poisoning; (2) to direct enforcement efforts to
13 places, areas, and types of structures where there is a high incidence of childhood lead poisoning;
14 and (3) to identify and give priority to addresses where there are multiple instances of childhood
15 lead poisoning and to identify and as consistent with law to provide for the prosecution of persons
16 at whose properties there have been multiple instances of childhood lead poisoning and lead
17 hazards have not been corrected. In order to effectuate the provisions of this subsection, the
18 department ~~of health~~: (i) shall maintain a list as a public document of the addresses of properties
19 that are not lead safe and in which more than three (3) children lived at the time their blood was
20 tested for lead concentration and at least two (2) of these children were lead poisoned, (ii) shall
21 maintain a database with the names and addresses of owners of rental housing at the time any
22 child residing in the rental housing was tested positive for lead poisoning for which a second
23 notice of violation has been issued and lead hazards have not been corrected as required pursuant
24 to the provisions of this chapter, which database shall be public and provided to government and
25 nonprofit agencies that are attempting to prevent lead poisoning or to enforce lead poisoning
26 regulations, and (iii) shall notify the attorney general of all second notices of violation, issued
27 pursuant to the provisions of § 23-24.6-17, to which there has not been a response meeting the
28 requirements of law within thirty (30) days after the notice.

29 (c) The attorney general shall maintain an office of lead advocate, which office shall
30 have, in addition to any other powers that the attorney general may assign to it, the power:

31 (1) To investigate any alleged failures to comply with the lead hazard reduction, to
32 initiate either a civil or criminal cause of action, or both, to compel compliance via injunctive
33 relief and/or impose penalties and fines, as appropriate;

34 (2) To bring any actions that may be necessary or appropriate to secure the performance

1 by state agencies and political subdivisions the duties assigned to them by this section;

2 (3) To notify in writing on behalf of the attorney general any person, who has received a
3 second notice of violation issued by the department ~~of health~~ and has not responded consistent
4 with the requirements of law within thirty (30) days, of the person's obligations under law and the
5 potential penalties for continued violations; and

6 (4) To establish guidelines to prevent retaliatory actions by property owners against
7 tenants on the basis of complaints or notices of violations arising from this chapter ~~and chapter~~
8 ~~128.1 of title 42~~, or based on the presence of a pregnant woman or child under age six (6) who in
9 any manner seeks to enforce their right to housing in which lead hazards have been corrected in
10 accordance with this chapter ~~or chapter 128.1 of title 42~~. These guidelines shall define retaliatory
11 actions, including, but not limited to, arbitrary termination of tenancy or other form of
12 constructive eviction, arbitrary refusal to renew a lease, or arbitrary and unreasonable increase in
13 rent or decrease in services to which the tenant is entitled, for all tenants, whether or not they
14 have leases or are tenants at will. It shall be unlawful to take retaliatory actions against tenants
15 arising from enforcement of the provisions of this chapter ~~or chapter 128.1 of title 42~~; this
16 prohibition against retaliatory actions applies whether or not the tenant has a lease. Damages and
17 remedies for retaliatory actions under this paragraph shall be as provided for in chapter 18 of title
18 34.

19 (5) No provision of this chapter shall derogate the common law or any statutory authority
20 of the attorney general, nor shall any provision be construed as a limitation on the common law or
21 statutory authority of the attorney general.

22 *(d) Receivership of properties not meeting standards.* Following the second notice of
23 violation, issued by the department ~~of health~~ pursuant to the provisions of § 45-24.3-17(e) for
24 failure to meet the applicable lead hazard reduction for rental dwellings occupied by a pregnant
25 woman or a child under the age of six (6) years unless the violations alleged to exist are corrected
26 or a plan for correction has been approved by the department, the unit may be considered
27 abandoned and a public nuisance, which is a menace to public health, as the term "abandon" or
28 "abandonment" and "public nuisance" defined by § 34-44-2. In those instances the department ~~of~~
29 ~~health~~, the attorney general, a nonprofit corporation as provided for in § 34-44-3, or the city or
30 town in which the unit is located shall have the specific power to request the court to appoint a
31 receiver for the property, the court in such instances may specifically authorize the receiver to
32 apply for loans, grants and other forms of funding necessary to correct lead hazards and meet lead
33 ~~mitigation~~ hazard reduction standards, and to hold the property for any period of time that the
34 funding source may require to assure that the purposes of the funding have been met.

1 ~~(e) High risk premises and dwellings. (1) The department of health shall notify the~~
2 ~~property owner where both the following conditions have been met: (i) there have been three (3)~~
3 ~~or more at risk children under the age of six (6) years with at least environmental intervention~~
4 ~~blood levels and (ii) fifty percent (50%) of children under the age of six (6) years from the~~
5 ~~premises who have been tested have had at least environmental intervention blood lead levels,~~
6 ~~that the premises present a high risk of lead poisoning.~~

7 ~~(2) A property owner who receives notice that the premises are high risk: (i) shall have~~
8 ~~thirty (30) days in which to conduct a comprehensive lead inspection that shows that lead hazards~~
9 ~~have been corrected to the lead safe standard, or (ii) shall present a compliance schedule to the~~
10 ~~department of health to meet the lead safe standard, which compliance schedule shall be subject~~
11 ~~to approval by the department of health and shall provide for achieving the lead hazard reduction~~
12 ~~within ninety (90) days. The requirements of the compliance schedule shall be deemed to have~~
13 ~~been met if a comprehensive lead inspection shows that the lead safe standard has been met at the~~
14 ~~premises.~~

15 ~~(3) A property owner who fails to meet the requirements of subdivision (2) of this~~
16 ~~subsection shall be notified that the premises are declared unsafe for habitation by children under~~
17 ~~six (6). A list of property owners so notified and of addresses of premises for which the notice has~~
18 ~~been given shall be a public record.~~

19 ~~(4) A copy of this notice shall be sent to the town clerk or recorder of deeds in the city or~~
20 ~~town where the property is located, to be recorded pursuant to the provisions of chapter 13 of title~~
21 ~~34. The property owner, so notified, shall post and maintain a warning at the primary entrance to~~
22 ~~the premises and to each dwelling unit therein declaring that the unit is unsafe for children under~~
23 ~~six (6) years of age. If the property owner shall fail to make or maintain the posting herein~~
24 ~~required, the department of health shall post the premises as provided for in § 23-24.6-12(2).~~

25 ~~(5) Any property owner who receives notice that a dwelling unit is high risk and who~~
26 ~~fails to abate lead hazards in accordance with a compliance schedule as provided in subdivision~~
27 ~~(2) of this subsection and there is a subsequent instance of an at risk occupant with an~~
28 ~~environmental intervention blood lead level, which is attributable in whole or in part to conditions~~
29 ~~in the dwelling unit, shall be deemed to have committed a criminal offense and may be punished~~
30 ~~by imprisonment for not more than five (5) years and/or by a fine of not more than twenty~~
31 ~~thousand dollars (\$20,000).~~

32 ~~(6) Any property owner who receives notice that a dwelling unit is high risk and who has~~
33 ~~substantially completed the required remediation as determined by the department may become~~
34 ~~reclassified from "high risk" to "abatement in progress" contingent upon adherence to the~~

1 ~~approved compliance schedule for the remaining remediation efforts.~~

2 (e) Pregnant women and families with children under six (6) years of age shall be deemed
3 to have a right to lead safe housing.

4 (f) Injunctive Relief. If the property owner of a rental dwelling fails to comply with such
5 standards for lead hazard reduction, or abatement, as applicable, a right of private action shall
6 exist that allows households that include an at-risk occupant to seek injunctive relief from a court
7 with jurisdiction against the property owner in the form of a court order to compel compliance
8 with requirements for lead hazard reduction. A person who prevails is entitled to an award of the
9 costs of the litigation and reasonable attorneys' fees in an amount to be fixed by the court. Cases
10 brought before the court under this section shall be granted an accelerated hearing.

11 (g) Nothing in this section shall be deemed to limit or impair the existing rights of parties
12 to take action to compel property owners to improve or maintain property under common law or
13 pursuant to any of the general laws of the state of Rhode Island.

14 **23-24.6-26. Rules and regulations.**

15 The director is authorized to adopt, modify, or repeal and promulgate rules and
16 regulations as are in accord with the purposes of §§ 23-24.6-1 – 23-24.6-~~27~~28, and shall be
17 subject to the Administrative Procedures Act, chapter 35 of title 42. All rules and regulations
18 promulgated by the director shall provide for the use of "lead safe" reduction as the preferred
19 method where possible to meet the requirements of this chapter. The rules shall provide for
20 notification, pursuant to the provisions of § 23-24.6-12, to occupants of a premise, of lead-
21 hazards following a comprehensive environmental lead inspection at the premises when there is a
22 reasonable likelihood that given the age, type, and condition of the premises that significant lead-
23 hazards are present in other dwelling units. The rules shall also specify the required frequency for
24 all refresher training courses.

25 **23-24.6-27. Administrative fines.**

26 (a) In addition to any other enforcement authority granted under this chapter, whenever
27 on the basis of any information, the department determines that a person has violated, or is in
28 violation of § 23-24.6-12, 23-24.6-13, 23-24.6-14, 23-24.6-15, 23-24.6-15.1 or 23-24.6-17
29 regarding lead hazard reduction, or § 23-24.6-20 regarding licensure, any rule or regulation
30 promulgated pursuant to any of these sections, or any orders issued under any of these sections,
31 rules, or regulations, the director may issue an order fining the person an amount not to exceed
32 five thousand dollars (\$5,000) per day for each current or past violation, requiring compliance
33 immediately or within a specified time period, or both. Each day of continued violation may be
34 considered a separate violation. Each violation in any premises may be considered a separate

1 violation.

2 (b) In addition to any other enforcement authority granted under this chapter, whenever
3 on the basis of any information, the department determines that a person has violated, or is in
4 violation of, § 23-24.6-15 or § 23-24.6-15.1 regarding inspections, any rule or regulation
5 promulgated pursuant to that section, or any orders issued under that section's rules or
6 regulations, the director may issue an order civilly fining the person one hundred dollars (\$100)
7 per day for any current or past violation, requiring compliance immediately or within a specified
8 time period, or both. Each day of continued violation may be considered a separate violation.
9 Each violation in any premises may be considered a separate violation.

10 (c) Within thirty (30) days after any order issued pursuant to this section is served, the
11 order shall become final unless the person or persons named in the order request a hearing. Upon
12 that request, the director shall conduct a hearing as soon as reasonably possible.

13 (d) In connection with any proceeding under this section, the director may issue
14 subpoenas for attendance and testimony of witnesses and the production of papers, books,
15 documents, and other materials.

16 (e) If any person liable to pay any civil fine neglects or refuses to pay after demand, the
17 amount, together with interest and any other costs that may accrue, shall be a lien in favor of the
18 state upon only the real property of the person that is subject to the order only after the lien has
19 been entered and recorded in the city/town in which the property is situated.

20 (f) In determining the amount of any civil fine pursuant to this section, the director shall
21 consider the willfulness of the violation; the circumstances and severity of the violation; the
22 ability of the violator to comply; damage or injury to public health and welfare including elevated
23 blood levels of impacted children, environmental damage to the premises and neighborhood,
24 possible economic benefits realized by the violator; the costs incurred by the state; and any other
25 relevant factors.

26 (g) The director shall issue regulations to implement this section. At a minimum, the
27 regulations shall set forth how long after receiving any order from the director or any other notice
28 of a violation a person has to comply with the law before civil fines will be assessed, the
29 circumstances in which no grace period will apply, the circumstances in which any grace period
30 may be extended, and the procedure and times frames to request an extension. The regulations
31 shall also include a penalty matrix to be used as a guide in the calculation of a fine levied
32 pursuant to this section.

33 (h) Any fines levied pursuant to this section shall be done in lieu of any civil penalties
34 issued pursuant to § 45-24.3-18(a), and no housing authority shall issue any civil penalty for the

1 same violation.

2 SECTION 5. Chapter 23-24.6 of the General Laws entitled "Lead Poisoning Prevention
3 Act" is hereby amended by adding thereto the following sections:

4 **23-24.6-15.1. Duties of rental property owners.**

5 (a) Property owners of pre-1978 rental dwellings, shall comply with all the following
6 requirements:

7 (1) Dwelling units must be inspected by a licensed lead inspector;

8 (2) All painted surfaces must be assumed to contain lead unless determined otherwise by
9 a licensed lead inspector. Disturbing lead paint for any reason must be done in accordance with
10 the requirements set in regulation by the department;

11 (3) At rental unit turnover provide tenants with:

12 (i) Basic information about lead exposure hazards;

13 (ii) A copy of any inspection report and compliance certificate;

14 (iii) Information about how to give notice of deteriorating conditions; and

15 (iv) Contact information provided by the department.

16 (4) Correct lead hazards within thirty (30) days after notification from the tenant of a
17 dwelling unit with an at-risk occupant, or as provided for by § 34-18-22; and

18 (5) Maintain lead safe standards in dwelling units.

19 (b) New property owners of a pre-1978 rental dwelling that is occupied by an at-risk
20 occupant shall have up to sixty (60) days to meet requirements for lead hazard reduction, if those
21 requirements were not met by the previous owner at the time of transfer, provided that the new
22 property owner has the property visually inspected within thirty (30) business days after assuming
23 ownership to determine conformity with the lead hazard control standard.

24 (c) Notwithstanding the foregoing, the provisions of this section shall not apply to pre-
25 1978 rental dwelling units that are:

26 (1) Temporary housing;

27 (2) Housing for the elderly or persons with disabilities; or

28 (3) Zero-bedroom units.

29 (d) Nothing contained herein shall be construed to prevent an owner who is seeking to
30 obtain lead liability insurance coverage in the policy from complying with the provisions of this
31 chapter, by securing and maintaining a valid and in force letter of compliance or conformance in
32 force.

33 **23-24.6-28. Insurance coverage.**

34 (a) The department of business regulation shall have the authority and is empowered,

1 consistent with the requirements of chapter 35 of title 42, to promulgate rules and regulations,
2 which shall enable it to compile and analyze data and to make determinations with regard to the
3 availability of and rates for lead liability coverage.

4 (b) Except as otherwise provided by this chapter, no insurance company licensed or
5 permitted by the department of business regulation to provide liability coverage to rental property
6 owners shall exclude, after October 31, 2005, coverage for losses or damages caused by lead
7 poisoning. The department of business regulation shall not permit, authorize or approve any
8 exclusion for lead poisoning, except as specifically provided for by this chapter, that was not in
9 effect as of January 1, 2000, and all previously approved exclusions shall terminate October 31,
10 2005. As of November 1, 2005, coverage for lead poisoning shall be included in the policy or
11 offered by endorsement, as set forth in this section.

12 (c) All insurers issuing commercial lines insurance policies and personal lines insurance
13 policies covering pre-1978 rental housing in compliance with: (i) the requirements of this chapter
14 for lead hazard reduction; (ii) with the requirements of chapter 24.6 of title 23 for lead safe
15 housing, within the state of Rhode Island; or (iii) relying on a valid certificate of compliance or
16 conformance shall, effective November 1, 2005, include in the policy coverage for liability for
17 injury, damage, or death resulting from occurrences of lead poisoning in an amount equal to and
18 no less than the underlying policy limits for personal injury/bodily injury coverage provided
19 under the policy so issued to a residential rental property owner. The property owner shall, if
20 requested by the insurer, present to the insurance company, either: (1) proof of certificate of
21 compliance of an independent clearance inspection and of any affidavit of visual inspection
22 required to maintain the validity of the independent clearance inspection; (2) proof of meeting the
23 mitigation standard in the form of a clearance exam showing that lead hazards are mitigated; or
24 (3) proof of abatement. This proof shall be prima facie evidence of compliance with the
25 requirements of this chapter. In any subsequent renewal, the insurer may require any continuing
26 proof whenever the certificate is expiring, has expired, or is otherwise invalidated.

27 (d) For residential rental properties that have not been brought into compliance with the
28 requirements for lead hazard reduction pursuant to chapter 24.6 of title 23 or which do not have a
29 valid certificate of compliance or conformance, effective November 1, 2005, for residential rental
30 property owners who own or owned a substantial legal or equitable interest in one property and
31 have had no more than one un-remediated dwelling unit at which a child was poisoned prior to
32 November 1, 2005, and for residential property owners who own or owned more than one
33 property and have had no more than two (2) un-remediated dwelling units at which a child was
34 poisoned prior to November 1, 2005, an insurance company, which provides liability insurance to

1 a residential rental property owner, shall either offer lead liability coverage for bodily injury,
2 which shall be equal to the underlying limits of liability coverage for the property, by
3 endorsement, or shall assist the insured in placing lead liability coverage through the program
4 commonly known as the Rhode Island FAIR Plan either directly or through one of the insurance
5 company's agents or brokers, and the Rhode Island FAIR Plan shall make available liability
6 coverage for damages caused by lead poisoning to the class of property owners described in this
7 subsection. If the insured seeks lead liability coverage with the FAIR Plan, the FAIR Plan may
8 use reasonable underwriting guidelines, as approved by the department of business regulation, to
9 underwrite the property. Any property owner, who fails to remediate a property, after a notice of
10 violation subsequent to October 31, 2005, and any property which is not remediated after notice
11 of a violation subsequent to October 31, 2005, shall not be eligible to receive an offer of coverage
12 and shall be subject to cancellation and non-renewal of that coverage if the property is not found
13 to be in compliance with the lead law within ninety (90) days of the date of issuance of the notice
14 by the director, or the housing resources commission, as applicable.

15 (e) Rates for lead poisoning liability coverage, as specified in subsections (c) and (d) of
16 this section, shall be approved by the department of business regulation, notwithstanding any
17 limits on rate approval authority established by the provisions of chapter 65 of title 27 and subject
18 to the provisions of §§ 27-44-6 and 27-44-7, using the following standards:

19 (1) That they are not excessive, inadequate, or unfairly discriminatory;

20 (2) That consideration is given to:

21 (i) Past and prospective loss experience within the state of Rhode Island;

22 (ii) A reasonable margin for profits and contingencies;

23 (iii) Past and prospective expenses specifically applicable to the state of Rhode Island;

24 (iv) Any other data, including data compiled in other states, especially regarding
25 experience data for lead liability coverage, that the department may deem necessary; and

26 (v) Past history of the owner with regard to lead poisoning or any associated violations.

27 (f) The department of business regulation shall have the authority and is empowered,
28 consistent with the requirements of chapter 35 of title 42, to promulgate rules and regulations to
29 enable it to compile and analyze data and to make determinations with regard to the availability
30 of and rates for lead liability coverage. In order to effect the purposes of this section insurers shall
31 file, on or before October 1, 2004, the proposed language of endorsements for lead liability
32 coverage and the proposed rates for that coverage with the department of business regulation.

33 (g) All endorsements, rates, forms and rules for lead liability coverage approved by the
34 department of business regulation to be effective on or after July 1, 2004 are hereby extended to

1 be effective November 1, 2005. Prior to November 1, 2005, insurers and advisory organizations
2 shall continue to utilize all endorsements, rates, forms and rules in effect on June 30, 2004 for
3 lead liability coverage. The department of business regulation shall not approve any new
4 endorsements, rates, forms or rules for lead liability coverage in pre-1978 residential rental
5 properties unless the filings are submitted in accordance with the provisions of this act. The
6 department of business regulation is hereby authorized to promulgate reasonable rules and
7 regulations to carry out the provisions of this section.

8 SECTION 6. Section 42-14-16 of the General Laws in Chapter 42-14 entitled
9 “Department of Business Regulation” is hereby amended to read as follows:

10 **42-14-16. Insurance – Administrative penalties.**

11 (a) Whenever the director shall have cause to believe that a violation of title 27 and/or
12 chapter 24.6 of title 23 and/or chapters 14, 14.5, or 62 ~~or 128.1~~ of title 42 or the regulations
13 promulgated thereunder has occurred by a licensee, or any person or entity conducting any
14 activities requiring licensure under title 27, the director may, in accordance with the requirements
15 of the Administrative Procedures Act, chapter 35 of this title:

16 (1) Revoke or suspend a license;

17 (2) Levy an administrative penalty in an amount not less than one hundred dollars (\$100)
18 nor more than fifty thousand dollars (\$50,000);

19 (3) Order the violator to cease such actions;

20 (4) Require the licensee or person or entity conducting any activities requiring licensure
21 under title 27 to take such actions as are necessary to comply with title 27 and/or chapters 14,
22 14.5, or 62, ~~or 128.1~~ of title 42, or the regulations thereunder; or

23 (5) Any combination of the above penalties.

24 (b) Any monetary penalties assessed pursuant to this section shall be as general revenues.

25 SECTION 7. Section 44-25-1 of the General Laws in Chapter 44-25 entitled “Real Estate
26 Conveyance Tax” is hereby amended to read as follows:

27 **44-25-1. Tax imposed – Payment – Burden.**

28 (a) There is imposed, on each deed, instrument, or writing by which any lands,
29 tenements, or other realty sold is granted, assigned, transferred, or conveyed to, or vested in, the
30 purchaser or purchasers, or any other person or persons, by his or her or their direction, or on any
31 grant, assignment, transfer, or conveyance or such vesting, by such persons which has the effect
32 of making any real estate company an acquired real estate company, when the consideration paid
33 exceeds one hundred dollars (\$100), a tax at the rate of two dollars and thirty cents (\$2.30) for
34 each five hundred dollars (\$500) or fractional part of it which is paid for the purchase of property

1 or the interest in an acquired real estate company (inclusive of the value of any lien or
2 encumbrance remaining at the time of the sale, grant, assignment, transfer or conveyance or
3 vesting occurs, or in the case of an interest in an acquired real estate company, a percentage of the
4 value of such lien or encumbrance equivalent to the percentage interest in the acquired real estate
5 company being granted, assigned, transferred, conveyed or vested), which tax is payable at the
6 time of making, the execution, delivery, acceptance or presentation for recording of any
7 instrument affecting such transfer grant, assignment, transfer, conveyance or vesting. In the
8 absence of an agreement to the contrary, the tax shall be paid by the grantor, assignor, transferor
9 or person making the conveyance or vesting.

10 (b) In the event no consideration is actually paid for the lands, tenements, or realty, the
11 instrument or interest in an acquired real estate company of conveyance shall contain a statement
12 to the effect that the consideration is such that no documentary stamps are required.

13 (c) The tax administrator shall contribute to the distressed community relief program the
14 sum of thirty cents (\$.30) per two dollars and thirty cents (\$2.30) of the face value of the stamps
15 to be distributed pursuant to § 45-13-12, [to the department of health's lead screening restricted](#)
16 [receipts account as established in § 23-24.6-10 the sum of five cents \(\\$.05\) per two dollars and](#)
17 [thirty cents \(\\$2.30\) of the face value of the stamps](#), and to the housing resources commission
18 restricted receipts account the sum of ~~thirty~~ [twenty-five](#) cents (~~\$.30~~) ([\\$.25](#)) per two dollars and
19 thirty cents (\$2.30) of the face value of the stamps. Funds will be administered by the office of
20 housing and community development, through the housing resources commission. The state shall
21 retain sixty cents (\$.60) for state use. The balance of the tax shall be retained by the municipality
22 collecting the tax. Notwithstanding the above, in the case of the tax on the grant, transfer,
23 assignment or conveyance or vesting with respect to an acquired real estate company, the tax
24 shall be collected by the tax administrator and shall be distributed to the municipality where the
25 real estate owned by the acquired real estate company is located provided, however, in the case of
26 any such tax collected by the tax administrator, if the acquired real estate company owns property
27 located in more than one municipality, the proceeds of the tax shall be allocated amongst said
28 municipalities in the proportion the assessed value of said real estate in each such municipality
29 bears to the total of the assessed values of all of the real estate owned by the acquired real estate
30 company in Rhode Island. Provided, however, in fiscal years 2004 and 2005, from the proceeds
31 of this tax, the tax administrator shall deposit as general revenues the sum of ninety cents (\$.90)
32 per two dollars and thirty cents (\$2.30) of the face value of the stamps. The balance of the tax on
33 the purchase of property shall be retained by the municipality collecting the tax. The balance of
34 the tax on the transfer with respect to an acquired real estate company, shall be collected by the

1 tax administrator and shall be distributed to the municipality where the property for which interest
2 is sold is physically located. Provided, however, that in the case of any tax collected by the tax
3 administrator with respect to an acquired real estate company where the acquired real estate
4 company owns property located in more than one municipality, the proceeds of the tax shall be
5 allocated amongst the municipalities in proportion that the assessed value in any such
6 municipality bears to the assessed values of all of the real estate owned by the acquired real estate
7 company in Rhode Island.

8 (d) For purposes of this Section, the term "acquired real estate company" means a real
9 estate company that has undergone a change in ownership interest if (i) such change does not
10 affect the continuity of the operations of the company; and (ii) the change, whether alone or
11 together with prior changes has the effect of granting, transferring, assigning or conveying or
12 vesting, transferring directly or indirectly, 50% or more of the total ownership in the company
13 within a period of three (3) years. For purposes of the foregoing subsection (ii) hereof, a grant,
14 transfer, assignment or conveyance or vesting, shall be deemed to have occurred within a period
15 of three (3) years of another grant(s), transfer(s), assignment(s) or conveyance(s) or vesting(s) if
16 during the period the granting, transferring, assigning or conveying or party provides the
17 receiving party a legally binding document granting, transferring, assigning or conveying or
18 vesting said realty or a commitment or option enforceable at a future date to execute the grant,
19 transfer, assignment or conveyance or vesting.

20 (e) A real estate company is a corporation, limited liability company, partnership or other
21 legal entity which meets any of the following:

22 (i) Is primarily engaged in the business of holding, selling or leasing real estate, where
23 90% or more of the ownership of said real estate is held by 35 or fewer persons and which
24 company either (a) derives 60% or more of its annual gross receipts from the ownership or
25 disposition of real estate; or (b) owns real estate the value of which comprises 90% or more of the
26 value of the entity's entire tangible asset holdings exclusive of tangible assets which are fairly
27 transferrable and actively traded on an established market; or

28 (ii) 90% or more of the ownership interest in such entity is held by 35 or fewer persons
29 and the entity owns as 90% or more of the fair market value of its assets a direct or indirect
30 interest in a real estate company. An indirect ownership interest is an interest in an entity 90% or
31 more of which is held by 35 or fewer persons and the purpose of the entity is the ownership of a
32 real estate company.

33 (f) In the case of a grant, assignment, transfer or conveyance or vesting which results in a
34 real estate company becoming an acquired real estate company, the grantor, assignor, transferor,

1 or person making the conveyance or causing the vesting, shall file or cause to be filed with the
2 division of taxation, at least five (5) days prior to the grant, transfer, assignment or conveyance or
3 vesting, notification of the proposed grant, transfer, assignment, or conveyance or vesting, the
4 price, terms and conditions of thereof, and the character and location of all of the real estate assets
5 held by real estate company and shall remit the tax imposed and owed pursuant to subsection (a)
6 hereof. Any such grant, transfer, assignment or conveyance or vesting which results in a real
7 estate company becoming an acquired real estate company shall be fraudulent and void as against
8 the state unless the entity notifies the tax administrator in writing of the grant, transfer,
9 assignment or conveyance or vesting as herein required in subsection (f) hereof and has paid the
10 tax as required in subsection (a) hereof. Upon the payment of the tax by the transferor, the tax
11 administrator shall issue a certificate of the payment of the tax which certificate shall be
12 recordable in the land evidence records in each municipality in which such real estate company
13 owns real estate. Where the real estate company has assets other than interests in real estate
14 located in Rhode Island, the tax shall be based upon the assessed value of each parcel of property
15 located in each municipality in the state of Rhode Island.

16 SECTION 8. Section 45-24.2-7 of the General Laws in Chapter 45-24.2 entitled
17 “Minimum Housing Standards” is hereby amended to read as follows:

18 **45-24.2-7. Penalties – District court jurisdiction – Providence housing court – Lead**
19 **court calendar – Municipal court of the town of North Providence – Review by Supreme**
20 **Court.**

21 (a) Failure to comply with any ordinance, rule, or regulation passed pursuant either to the
22 authority hereof or to any special act governing minimum housing shall constitute a violation, as
23 defined in § 11-1-2, punishable by a fine of not more than five hundred dollars (\$500) for each
24 violation, and each day's failure to comply with any provision shall constitute a separate
25 violation. The district court shall have exclusive original jurisdiction of all violations as provided
26 in § 12-3-1; provided, that in the city of Providence, the Providence housing court shall have
27 jurisdiction to try violations occurring within the city of Providence; provided, further, that in the
28 town of North Providence, the municipal court of the town of North Providence shall have
29 jurisdiction to try violations occurring within the town of North Providence, but only in the event
30 that the city shall by ordinance create a court for the purpose of exercising jurisdiction over
31 minimum housing standards. A party aggrieved by any judgment of the district court imposing a
32 fine pursuant to this section may seek review by the supreme court in accordance with § 12-22-
33 1.1.

34 (b) The city council of the city of Providence may establish within its housing court a

1 separate calendar within the jurisdiction of the housing court to be known and referred to as the
2 "lead court calendar" for the hearing trial and disposition of actions involving lead within
3 buildings and on premises or property in the city of Providence, including, but not limited to,
4 actions brought pursuant to chapters 23-24.6 ("Lead Poisoning Prevention Act") ~~and/or 42-128.1~~
5 ~~("Lead Hazard Mitigation")~~. The jurisdiction of the "lead court calendar" of the Providence
6 housing court shall be concurrent with any other court or entity given jurisdiction to hear such
7 matters under the general laws. A justice of the lead court calendar may defer or order a case
8 removed to another court or forum of competent jurisdiction, including, but not limited to, an
9 appropriate administrative agency, if the judge determines that such other court or forum would
10 be a more appropriate court or forum to hear the matter involved.

11 SECTION 9. Section 45-24.3-10 of the General Laws in Chapter 45-24.3 entitled
12 "Housing Maintenance and Occupancy Code" is hereby amended to read as follows:

13 **45-24.3-10. General requirements relating to the safe and sanitary construction and**
14 **maintenance of parts of dwellings and dwelling units.**

15 No person shall occupy, as owner or occupant, or let to another for occupancy, any
16 dwelling or dwelling unit, for the purpose of living, which does not comply with the following
17 requirements:

18 (1) Every foundation, floor, roof, ceiling, and exterior and interior wall must be
19 reasonably weathertight, watertight, and damp free, and shall be kept in sound condition and good
20 repair. Floors, interior walls, and ceilings must be sound and in good repair. All exterior wood
21 surfaces, other than decay resistant woods, must be protected from the elements and decay by
22 paint or other protective covering or treatment. Potentially hazardous materials will not be used
23 where readily accessible to children. Walls must be capable of affording privacy for the
24 occupants. Every premise must be graded, drained, free of standing water, and maintained in a
25 clean, sanitary, and safe condition.

26 (2) Potentially hazardous material on the interior surfaces of any dwelling unit, rooming
27 house, rooming unit, or facility occupied by children is prohibited. The interior surfaces include,
28 but are not limited to, window sills, window frames, doors, door frames, walls, ceilings, stair-rails
29 and spindles, or other appurtenances.

30 (3) Lead-based substances are prohibited whenever circumstances present a clear and
31 significant health risk to the occupants of the property, as defined by regulations of the
32 department of health. Where required because of the tenancy of an at-risk occupant, lead hazards
33 must be mitigated ~~as provided for in chapter 128.1 of title 42~~ or abated pursuant to chapter 24.6 of
34 title 23.

1 (4) In each instance where there is reason to believe that lead-based substances are
2 present, the enforcing officer shall either ascertain whether the lead hazard mitigation standard
3 has been met, or confirm whether suspect substances are lead-based by arranging for a
4 comprehensive environmental lead inspection which conforms to department of health
5 regulations.

6 (5) In all instances where either compliance with mitigation standards cannot be
7 confirmed by the enforcement officer by review of certifications for the same or where substances
8 are confirmed to be lead-based by an environmental lead inspection, and there exists a lead
9 exposure hazard, the enforcing officer shall identify necessary lead hazard reductions that must be
10 taken pursuant to department of health regulations.

11 (6) In all instances where lead-based substances are identified on a dwelling, a dwelling
12 unit, or premises occupied by a child suffering from "lead poisoning", as defined in the Rhode
13 Island Lead Poisoning Prevention Act, §§ 23-24.6-1 through 23-24.6-~~26~~28, the enforcing officer
14 shall consider these instances under "emergencies", pursuant to § 45-24.3-21.

15 (7) During the portion of the year when there is a need for protection against mosquitoes,
16 flies, and other flying insects, every door, opening directly from a dwelling unit to outside space,
17 must have supplied properly fitting screens having at least sixteen (16) mesh and a self closing
18 device; and every window, door, or other device with openings to outdoor space, used or intended
19 to be used for ventilation, must be supplied with screens.

20 (8) Every window located at or near ground level, used or intended to be used for
21 ventilation, and every other opening located at or near ground level which might provide an entry
22 for rodents, must be supplied with adequate screens or other devices that will effectively prevent
23 their entrance.

24 (9) Every dwelling or accessory structure and the premises upon which they are located
25 shall be rodent-proofed and maintained to prevent rodents' harborage.

26 (10) All openings in the exterior walls, foundations, basement, ground or first floors, and
27 roofs which have a half-inch (1/2") diameter or more opening shall be rat-proofed in an approved
28 manner if they are within forty-eight inches (48") of the existing exterior ground level
29 immediately below those openings, or if they may be reached by rats from the ground by
30 climbing unguarded pipes, wires, cornices, stairs, roofs, and other items as trees or vines or by
31 burrowing.

32 (11) Skirting, lattice, or other non-rat-proofed enclosures displaying evidence of rat
33 harborage under a porch or any portions of a building must be rat-proofed at all locations where
34 evidence of burrowing or gnawing was found.

1 (12) In the event that occupancy usages would result in stacking or piling materials, the
2 materials be arranged to prohibit the creation of a harborage area. This can be accomplished by
3 orderly stacking and elevating so that there is a twelve inch (12") opening between the material
4 and the ground level. No stacking or piling of material shall take place against the exterior walls
5 of the structure.

6 (13) All doors, including swinging, sliding, and folding types, must be constructed so that
7 the space between the lower edge of the door and the threshold does not exceed three-eighths inch
8 (3/8"); provided, further, that the space between sections of folding and sliding doors when
9 closed does not exceed three-eighths inch (3/8").

10 (14) Basement floors and/or the floors and areas in contact with the soil, and located at a
11 maximum depth of four feet (4') or less from the grade line, must be paved with concrete or other
12 rat impervious material.

13 (15) Any materials used for rodent control must be acceptable to the appropriate
14 authority.

15 (16) All fences provided by the owner or agent on the premises, and/or all fences erected
16 or caused to be erected by an occupant, shall be constructed of manufactured metal fencing
17 material, wood, masonry, or other inert material. These fences must be maintained in good
18 condition. Wood materials shall be protected against decay by use of paint or other preservative.
19 The permissible height and other characteristics of all fences must conform to the appropriate
20 statutes, ordinances, and regulations of this state, and the corporate unit. Wherever any egress
21 from the dwelling opens into the fenced area, there must be a means of egress from the premises
22 to any public way adjacent to it.

23 (17) Accessory structures present or provided by the owner, agency, or tenant occupant
24 on the premises must be structurally sound, and maintained in good repair and free from insects
25 and rodents, or the structure shall be removed from the premises. The exterior of the structures
26 shall be made weather resistant through the use of decay-resistant materials or the use of paint or
27 other preservatives.

28 (18) Every plumbing fixture and all water and waste pipes must be properly installed and
29 maintained in good working condition.

30 (19) No owner, operator, or occupant shall cause any service, facility, equipment, or
31 utility, required under this chapter, to be removed from, or shut off from, or discontinued for any
32 occupied dwelling or dwelling unit let or occupied by him or her, except for a temporary
33 interruption that may be necessary while actual repairs or alterations are in process, or during
34 temporary emergencies when discontinuance of service is approved by the appropriate authority.

1 (20) All construction and materials, ways and means of egress, and all installation and
2 use of equipment must conform to applicable state and local laws dealing with fire protection.

3 SECTION 10. This article shall take effect upon passage.

4 **ARTICLE 23**

5 RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
6 HOSPITALS

7 SECTION 1. Individuals with Intellectual and Developmental Disabilities Direct Service
8 Professionals Workforce Crisis.

9 WHEREAS, An estimated 4,400 adults with intellectual and developmental disabilities
10 are supported by the state in community-based settings; direct service professionals (DSPs) and
11 job coaches, are trained staff that are engaged in activities of daily living and
12 community/employment support; these employees earn wages that place them and their families
13 below the poverty level; and

14 WHEREAS, the average DSP wage in Rhode Island is approximately \$11 per hour,
15 which is below the U.S. Department of Health and Human Services poverty threshold for a
16 family of 4; this workforce is often compelled to work many overtime hours or maintain a second
17 job to support their families; many have to rely on public benefits such as Medicaid and food
18 stamps, creating additional expenditures for state government; and

19 WHEREAS, RI has increased the minimum wage for the general workforce from \$7.40
20 in 2012 to \$9.60 in 2016, for a 30% increase in five years. During the corresponding period,
21 direct support professionals (DSP) and personal care attendants (PCA) have seen their combined
22 average wages move from \$10.65 to \$10.82, or increase by 1.6% over 5 years. Our neighboring
23 states of Massachusetts and Connecticut saw increases in the minimum wage of 20% (to \$10 in
24 2016) and 16% (to \$9.60 in 2016) respectively. Over the same 5-year period, these 2 states
25 increased their DSP/PCA wage by 7% (to \$13.02) and 8% (to \$12.19) respectively, compared
26 with RI's \$10.82 per hour wage. And, Massachusetts has committed to compensate their DSPs
27 with a \$15.00/hour wage by 2018, and

28 WHEREAS, The lack of adequate wages for DSP employees who perform the
29 challenging work of supporting persons with intellectual and developmental disabilities results in
30 high employee turnover, estimated at 33% in RI; higher wages are proven to reduce staff
31 turnover, improving stability and quality of services while reducing employer training costs; and

32 WHEREAS, Rising wages in several other sectors now mean, despite strenuous efforts to
33 recruit new DSP workers and job coaches, agencies are experiencing staff vacancy rates of up to
34 25%; excessive vacancies force employers to rely more on overtime, leading to staff burnout and