



03-01-17 A09:33 IN

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration  
BUDGET OFFICE  
One Capitol Hill  
Providence, R.I. 02908-5886

MEMORANDUM

**To:** The Honorable Marvin L. Abney  
Chairman, House Finance Committee

The Honorable Daniel Da Ponte  
Chairman, Senate Finance Committee

**From:** Thomas A. Mullaney *Thomas A. Mullaney*  
Executive Director/State Budget Officer

**Date:** February 28, 2017

**Subject:** Amendment to Article 22 of the FY 2018 Appropriations Act  
(17-H-5175)

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The Governor requests that several amendments be made to Article 22, entitled "Relating to Lead Poisoning Prevention," including adding a new Section 1, renumbering all following sections and making technical corrections to drafting errors in renumbered Sections 5, 6, 8 and 10. The changes requested are explained below and the amended sections are attached with highlighted changes.

The new Section 1 amends Section 42-128-2 of the General Laws to establish an annual transfer of an amount of not less than five hundred and ninety thousand dollars (\$590,000) from the Housing Resources Commission's restricted receipt account to the Department of Health's lead screening restricted receipt account, which is established in Section 23-24.6-10.

In renumbered Section 8, Section 44-25-1 of the General Laws has been amended so that current law is restored to maintain the transfer of thirty cents (\$0.30) per two dollars and thirty cents (\$2.30) of the Real Estate Conveyance Tax to the Housing Resources Commission.

These first two amendments are requested to establish a more static dollar amount to fund the Lead Poisoning Prevention program at the Health Department. Since the Real Estate Conveyance Tax is variable in its collections and the lead program at the Health Department will have more stable costs, such as personnel, we did not want the lead program to have shortfalls in some years and surpluses in others. Our revised proposal would establish a floor of funding to be transferred annually from the Housing Resources Commission's restricted receipt account to the Health Department.

In renumbered Section 5, under 23-24.6-10, language is added to clearly indicate the desired establishment of a restricted receipt account within the General Fund for Lead Screening.

TDD#: 277-1227



- In Section 6, under 23-24.6-15.1, the words “in force” were a typo and should be deleted at the end of item (d).
- In Section 6, under 23-24.6-28(c)(2), “mitigation” and “clearance exam showing that lead hazards are mitigated” have been replaced with “lead safe standard in the form of a lead safe certificate” for clarification.
- In Section 10, RIGL 45-24.3-10 “hazard mitigation” in subsection (4) and “mitigation” in subsection (5) have been replaced with the correct term, “lead safe.”

If you have any questions regarding these amendments, please feel free to call me or my staff at 222-6300.

TAM-Amend 9

Attachment

cc: Sharon Reynolds Ferland, House Fiscal Advisor  
Stephen Whitney, Senate Fiscal Advisor  
Michael DiBiase, Director of Administration  
Jonathan Womer, Director, Office of Management and Budget  
Gregory Stack, Supervising Budget Analyst



ARTICLE 22

RELATING TO LEAD POISONING PREVENTION PROGRAMS

1 SECTION 1. Section 42-128-2 of the General Laws in Chapter 42-128 entitled "Rhode Island  
2 Housing Resources Act of 1998" is hereby amended to read as follows:

3 **42-128-2 Rhode Island housing resources agency created.** There is created within the executive  
4 department a housing resources agency with the following purposes, organization, and powers:

5 (1) Purposes:

6 (i) To provide coherence to the housing programs of the state of Rhode Island and its departments,  
7 agencies, commissions, corporations, and subdivisions.

8 (ii) To provide for the integration and coordination of the activities of the Rhode Island housing  
9 and mortgage finance corporation and the Rhode Island housing resources commission.

10 (2) Coordinating committee – Created – Purposes and powers:

11 (i) The coordinating committee of the housing resources agency shall be comprised of the  
12 chairperson of the Rhode Island housing and mortgage finance corporations; the chairperson of the Rhode  
13 Island housing resources commission; the director of the department of administration, or the designee of  
14 the director; and the executive director of the Rhode Island housing and mortgage finance corporation. The  
15 chairperson of the Rhode Island housing resources commission shall be chairperson of the coordinating  
16 committee.

17 (ii) The coordinating committee shall develop and shall implement, with the approval of the Rhode  
18 Island housing and mortgage finance corporation and the Rhode Island housing resources commission, a  
19 memorandum of agreement describing the fiscal and operational relationship between the Rhode Island  
20 housing and mortgage finance corporation and the Rhode Island housing resources commission and shall  
21 define which programs of federal assistance will be applied for on behalf of the state by the Rhode Island  
22 housing and mortgage finance corporation and the Rhode Island housing resources commission.

1           ~~(3) There is hereby established a restricted receipt account within the general fund of the state.~~  
2 ~~Funds from this account shall be used to provide for the lead hazard abatement program, housing rental~~  
3 ~~subsidy, with priority given to homeless veterans and homeless prevention assistance and housing retention~~  
4 ~~assistance with priority to veterans. An amount of no less than five hundred ninety thousand dollars~~  
5 ~~(\$590,000) shall be transferred annually from this account to the department of health's lead screening~~  
6 ~~restricted receipt account as established in § 23-24.6-10.~~

7           SECTION 2. Chapter 42-128.1 of the General Laws entitled "Lead Hazard Mitigation" is hereby  
8 repealed in its entirety.

9           ~~**42-128.1-1 Short title.** This chapter may be cited and shall be known as the "Lead Hazard~~  
10 ~~Mitigation Act."~~

11           ~~**42-128.1-2 Legislative findings.** 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 housing~~  
14 ~~stock;~~

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

17           ~~(4) During the 1990's meeting department of health lead hazard abatement standards has ranged~~  
18 ~~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 of~~  
20 ~~incentives available for rental property owners in Rhode Island resulted in few properties being improved~~  
21 ~~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 for lead~~  
23 ~~hazard control that apply to housing that is federally assisted and require inspections with dust testing.~~

24           ~~**42-128.1-3 Legislative purposes.** In order to promote the prevention of childhood lead poisoning~~  
25 ~~in Rhode Island, it is the purpose of this chapter:~~

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

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

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

6           ~~**42-128.1-4 Definitions.** The following definitions shall apply in the interpretation and enforcement~~  
7 ~~of this chapter:~~

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

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

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

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

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

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

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

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

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

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

14           ~~(iii) Maintenance of "lead hazard control." "Lead hazard control" means those portions of the lead-~~  
15 ~~hazard mitigation standard pertaining to repair of deteriorating paint; correction of dust generating~~  
16 ~~conditions; provision of cleanable surfaces; and correction of soil lead hazards that can be identified by~~  
17 ~~visual inspection as provided for in subdivision (9)(ii) or through inspections conducted in accordance with~~  
18 ~~chapter 24.2 of title 45, "Minimum Housing Standards", and chapter 24.3 of title 45, "Housing Maintenance~~  
19 ~~and Occupancy Code".~~

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

25           ~~(i) An "independent clearance inspection" means an inspection performed by a person who is not~~  
26 ~~the property owner or an employee of the property owner and who is authorized by the housing resources~~



1 ~~commission to conduct independent clearance inspections, which shall include: (A) A visual inspection to~~  
2 ~~determine that the lead hazard controls have been met, and (B) Dust testing in accordance with rules~~  
3 ~~established by the department of health and consistent with federal standards. A certificate of conformance~~  
4 ~~shall be issued by the person who conducted the inspection on the passage of the visual inspection and the~~  
5 ~~required dust testing. An independent clearance inspection shall be required at unit turnover or once in a~~  
6 ~~twenty four month (24) period, whichever period is the longer. If the tenancy of an occupant is two (2)~~  
7 ~~years or greater, the certificate of conformance shall be maintained by a visual inspection as set forth in~~  
8 ~~paragraph (ii) of this subdivision.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) The laboratory that is used to analyze environmental lead samples for the independent clearance  
2 inspection unless the lead hazard mitigation inspector discloses his or her relationship with the laboratory  
3 to the person requesting the inspection and on the inspection report.

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

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

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

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

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

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

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

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

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

6           ~~**42-128.1-5 Housing resources commission— Powers and duties with respect to lead hazard**~~  
7 ~~**mitigation.**~~ ~~(a) *General powers and duties.*~~ The housing resources commission shall implement and put  
8 into full force and effect the powers, duties, and responsibilities assigned to it by this chapter, and shall  
9 serve as the lead state agency for lead hazard mitigation, planning, education, technical assistance, and  
10 coordination of state projects and state financial assistance to property owners for lead hazard mitigation.

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

20           ~~(c) *Comprehensive strategic plan.*~~ In order to establish clear goals for increasing the availability of  
21 housing in which lead hazards have been mitigated, to provide performance measures by which to assess  
22 progress toward achieving the purposes of this chapter, and to facilitate coordination among state agencies  
23 and political subdivisions with responsibilities for housing and housing quality for lead poisoning reduction  
24 and for the availability of insurance coverage described in this chapter, the housing resources commission  
25 established by chapter 128 of this title shall adopt by April 1, 2003, a four (4) year, comprehensive strategic

1 plan for reducing the incidence of childhood lead poisoning, for increasing the supply of lead-safe housing,  
2 and for assuring that pre-1978 in rental housing throughout the state lead hazards have been mitigated.

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

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

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

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

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

13 ~~(v) Financing lead abatement efforts in Rhode Island, including, but not limited to, assistance to~~  
14 ~~low and moderate income property owners, education and outreach, and enforcement by state and local~~  
15 ~~officials;~~

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

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

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

1        ~~42-128.1-6 Education.~~ (a) In order to achieve the purposes of this chapter, a statewide,  
2 multifaceted, ongoing educational program designed to meet the needs of tenants, property owners, realtors  
3 and real estate agents, insurers and insurance agents, local building officials, and health providers and  
4 caregivers is hereby established.

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

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

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

16        (2) Establish guidelines and a trainer's manual for a not more than three (3) hours lead hazard  
17 control awareness seminar for rental property owners or designated persons, which shall be forwarded to  
18 all public and private colleges and universities in Rhode Island, to other professional training facilities, and  
19 to professional associations and community organizations with a training capacity, with the stipulation this  
20 seminar be offered for a maximum fee of fifty dollars (\$50.00) per participant. The housing resources  
21 commission shall approve the proposals to offer the seminar from institutions, provided those proposals are  
22 consistent with the guidelines. An electronic version of this awareness seminar shall be created and  
23 approved by the housing resources commission for computer Internet access. Said awareness seminar shall  
24 also be produced and made available in both VHS and DVD format for rental or purchase at a reasonable  
25 cost not to exceed five dollars (\$5.00) for the rental version and fifteen dollars (\$15.00) for the purchased  
26 version. Said seminar shall be available to tenants, property owners and other interested parties.

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

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

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

14           ~~(e) The housing resources commission, in conjunction with the department of health, is hereby~~  
15 ~~authorized to develop, offer, engage in, contract for and/or provide any other educational or informational~~  
16 ~~programs that they may deem necessary to accomplish the purposes of this chapter, including, but not~~  
17 ~~limited to: programs to assist families to find housing that is lead free, lead safe or lead hazard mitigated or~~  
18 ~~abated; to train lead hazard mitigation inspectors and local building officials and persons engaged in~~  
19 ~~renovating and/or improving housing about controlling or mitigating lead hazards in pre 1978 housing.~~  
20 ~~Said programs shall provide information about lead hazard mitigation requirements at retail hardware and~~  
21 ~~paint stores and home improvement centers, including, as a minimum, signs of sufficient size with large~~  
22 ~~enough lettering to be easily seen and read, which contains the following language:~~

23           ~~WARNING~~

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

1           ~~42-128.1-7 Lead hazard mitigation.~~ The housing resources commission shall adopt, no later than  
2 April 1, 2003, rules:

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

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

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

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

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

17          42-128.1-8 Duties of property owners of pre 1978 rental dwellings. (a) Property owners of pre-  
18 1978 rental dwellings, which have not been made lead safe or have not been lead hazard abated shall comply  
19 with all the following requirements:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

3 ~~Nothing contained herein shall be construed to prevent an owner who is seeking to obtain lead liability~~  
4 ~~insurance coverage in the policy from complying with the provisions of this chapter, by securing and~~  
5 ~~maintaining a valid and in force letter of compliance or conformance in force.~~

6 ~~**42-128.1-9 Insurance coverage.** (a) The department of business regulation shall, by January 1,~~  
7 ~~2003, establish a uniform policy with regard to exclusion for lead poisoning and shall adopt any rules and~~  
8 ~~requirements that may be necessary to assure the availability of insurance coverage for losses and damages~~  
9 ~~caused by lead poisoning, in accordance with the provisions of this chapter, which policy and rules shall~~  
10 ~~apply to liability coverage available to property owners. The department of business regulation shall have~~  
11 ~~the authority and is empowered, consistent with the requirements of chapter 35 of this title, to promulgate~~  
12 ~~rules and regulations, which shall enable it to compile and analyze data and to make determinations with~~  
13 ~~regard to the availability of and rates for lead liability coverage.~~

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

21 ~~(c) All insurers issuing commercial lines insurance policies and personal lines insurance policies~~  
22 ~~covering pre 1978 rental housing in compliance with: (i) the requirements of this chapter for lead hazard~~  
23 ~~mitigation; (ii) with the requirements of chapter 24.6 of title 23 for lead safe housing, within the state of~~  
24 ~~Rhode Island; or (iii) relying on a valid certificate of compliance or conformance shall, effective November~~  
25 ~~1, 2005, include in the policy coverage for liability for injury, damage, or death resulting from occurrences~~  
26 ~~of lead poisoning in an amount equal to and no less than the underlying policy limits for personal~~

1 ~~injury/bodily injury coverage provided under the policy so issued to a residential rental property owner.~~  
2 ~~The property owner shall, if requested by the insurer, present to the insurance company, either: (1) proof of~~  
3 ~~certificate of compliance of an independent clearance inspection and of any affidavit of visual inspection~~  
4 ~~required to maintain the validity of the independent clearance inspection; (2) proof of meeting the mitigation~~  
5 ~~standard in the form of a clearance exam showing that lead hazards are mitigated; or (3) proof of abatement.~~  
6 ~~This proof shall be prima facie evidence of compliance with the requirements of this chapter. In any~~  
7 ~~subsequent renewal, the insurer may require any continuing proof whenever the certificate is expiring, has~~  
8 ~~expired, or is otherwise invalidated.~~

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

1 ~~and non-renewal of that coverage if the property is not found to be in compliance with the lead law within~~  
2 ~~ninety (90) days of the date of issuance of the notice by the director, or the housing resources commission,~~  
3 ~~as applicable.~~

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

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

9 ~~(2) That consideration is given to:~~

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

11 ~~(ii) A reasonable margin for profits and contingencies;~~

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

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

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

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

22 ~~(g) All endorsements, rates, forms and rules for lead liability coverage approved by the department~~  
23 ~~of business regulation to be effective on or after July 1, 2004 are hereby extended to be effective November~~  
24 ~~1, 2005. Prior to November 1, 2005, insurers and advisory organizations shall continue to utilize all~~  
25 ~~endorsements, rates, forms and rules in effect on June 30, 2004 for lead liability coverage. The department~~  
26 ~~shall not approve any new endorsements, rates, forms or rules for lead liability coverage in pre-1978~~

1 residential rental properties unless the filings are submitted in accordance with the provisions of this act.  
2 The department is hereby authorized to promulgate reasonable rules and regulations to carry out the  
3 provisions of this section.

4 ~~**42-128.1 10 Right to housing where lead hazards are corrected.**~~ (a) Pregnant women and  
5 families with children under six (6) years of age shall be deemed to have a right to housing in which lead  
6 hazards have been mitigated or abated.

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

14 ~~**42-128.1 11 Enforcement.**~~ (a) The standards for lead hazard control and for lead hazard mitigation  
15 in pre 1978 housing shall be considered basic housing standards and shall be enforceable through the  
16 provisions of this chapter and through procedures established in chapter 24.2 of title 45 and chapter 24.3 of  
17 title 45.

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

23 (1) The ordinances, rules, and regulations for "Minimum Housing Standards" adopted pursuant to  
24 § 45-24.2-3 shall, on or before November 1, 2005, include provisions for lead hazard control.

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

4           ~~**42-128.1-12-Independent evaluation.** In order to assure the effectiveness of the lead hazard~~  
5 ~~awareness mitigation program established by this chapter and to recommend any changes, which may be~~  
6 ~~necessary to appropriate, the auditor general shall:~~

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

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

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

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

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

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

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

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

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

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

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

19           ~~**42-128.1-13 Rhode Island lead hazard technical assistance service.** (a) *Establishment and*~~  
20 ~~*purposes.* (1) The Rhode Island housing resources commission shall establish a "Rhode Island lead hazard~~  
21 ~~technical assistance service" program for the purposes of providing technical assistance to property owners~~  
22 ~~to achieve compliance with this chapter and the Lead Poisoning Prevention Act, chapter 24.6 of title 23.~~

23           ~~(2) The services of the program shall subject to appropriation, include, but shall not be limited to:~~  
24 ~~evaluation of the need for lead hazard mitigation in a dwelling; review of independent inspection results;~~  
25 ~~identification of and arranging funding for conduction lead hazard abatement and mitigation, and supplying~~

1 ~~any materials, assistance, and services that may be needed by property owners to achieve compliance with~~  
2 ~~this chapter and the Lead Poisoning Prevention Act in an affordable manner.~~

3 ~~(b) Historic properties. On or before November 1, 2005, the housing resources commission, in~~  
4 ~~conjunction with the historic preservation and heritage Commission, shall initiate the following activities~~  
5 ~~to assist owners of historic properties to comply with the provisions of this chapter: (i) provide technical~~  
6 ~~assistance; (ii) identify financial resources available for compliance; and (iii) seek additional resources for~~  
7 ~~this purpose.~~

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

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

15 SECTION 3. Section 5-20.5-6 in of the General Laws in Chapter 20.5-6 entitled “Real Estate  
16 Brokers and Salespersons” is hereby amended to read as follows:

17 **§ 5-20.5-6 Duration of licenses – Rules and regulations – Suspension or revocation of licenses.**

18 (a) If the director is satisfied that the applicant is competent and trustworthy and is reasonably familiar with  
19 the statutes and law relating to real estate, he or she shall issue to the applicant a license to act as a real  
20 estate broker or a real estate salesperson. The director shall promulgate rules and regulations mandating the  
21 term of license for each category of license issued pursuant to this chapter. No license shall remain in force  
22 for a period in excess of three (3) years. Any fee for the initial issuance of a license or for renewal of a  
23 license issued pursuant to this chapter is determined by multiplying the current annual fee by the term of  
24 years of the license or renewal. The fee for the total number of years of the initial license or of the renewal  
25 shall be paid in full prior to the issuance of the respective license. The license shall be renewed upon  
26 payment of the renewal fee, and proof of completion of any continuing education requirements as set forth



1 in the rules and regulations issued by the department of business regulation. Any license issued or renewed  
 2 may be suspended or revoked by the director, for cause, prior to the expiration date. The director shall issue  
 3 reasonable rules and regulations with the consent of the majority of the Rhode Island real estate commission  
 4 governing the conduct of licensed real estate brokers and salespersons, these rules and regulations shall be  
 5 designed to implement the laws and policies of this state and to protect the interests of the public.

6 (b) Any rules or regulations promulgated with regard to the requirement of continuing education  
 7 for the renewal of any real estate broker's and/or salesperson's license whose application for an initial  
 8 broker's and/or salesperson's license is approved within one hundred eighty (180) days of the expiration  
 9 date of his or her initial license is not subject to the continuing education requirement at the time of his or  
 10 her first renewal. The director, after a due and proper hearing, may suspend, revoke, or refuse to renew any  
 11 license upon proof that it was obtained by fraud or misrepresentation or that the holder of the license has  
 12 been guilty of fraud or misrepresentation or criminal acts in the performance of his or her functions, or upon  
 13 proof that the holder of the license has violated this statute or any rule or regulation issued pursuant to this  
 14 statute.

15 (c) The director shall, for licenses issued or renewed after July 1, 2004, require proof of, reasonable  
 16 familiarity with and knowledge of duties and responsibilities established by the Lead Poisoning Prevention  
 17 Act, chapter 24.6 of title 23 of the general laws, ~~and the Lead Hazard Mitigation Act, chapter 128.1 of title~~  
 18 ~~42 of the general laws.~~ Notwithstanding the provisions of subsection (b) above, the requirements of this  
 19 subsection shall apply to first renewals when licenses were initially issued before July 1, 2004. This  
 20 subsection shall be put into force and effect by the director in the manner set forth in ~~chapter 128.1 of title~~  
 21 ~~42~~ 24.6 of title 23 and with the advice of the Rhode Island Real Estate Commission.

22 SECTION ~~4~~. Section 5-20.8-11 of the General Laws in Chapter 20.8-11 entitled "Real Estate Sales  
 23 Disclosures" is hereby amended to read as follows:

24 **§ 5-20.8-11 Lead inspection requirement.** (a) Every contract for the purchase and sale of  
 25 residential real estate (1-4 family) built prior to 1978 located in the state shall provide that potential  
 26 purchasers be permitted a ten (10) day period, unless the parties mutually agree upon a different period of

1 time, to conduct a risk assessment or inspection for the presence of lead exposure hazards before becoming  
2 obligated under the contract to purchase.

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

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

11 (d) Failure to include the purchase and sale agreement provision required in subsection (a) of this  
12 section, failure to provide inspection results pursuant to § 23-24.6-16(a), or inspection results which show  
13 a lead exposure hazard as defined at § 23-24.6-4~~(12)~~(13) entitle the purchaser to void the purchase and sale  
14 agreement by providing notice, in writing, to the seller prior to the transfer of the title at closing.

15 SECTION 5. 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, 23-24.6-  
16 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, 23-24.6-26, and  
17 23-24.6-27 of the General Laws in Chapter 23-24.6 entitled "Lead Poisoning Prevention Act" are hereby  
18 amended to read as follows:

19 **23-24.6-2 Legislative findings.** The general assembly finds, upon the report of the environmental  
20 lead task force and the reports, hearings, and records of its own committees and of federal agencies  
21 including the environmental protection agency and centers for disease control, that:

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

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

4 (3) Childhood lead poisoning is completely preventable.

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

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

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

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

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

18 (6)(9) The enactment and enforcement of this chapter is essential to the public interest. It is intended  
19 that the provisions of this chapter be liberally construed to effectuate its purposes.

20 (7)(10) The magnitude of the childhood lead poisoning in Rhode Island's older homes and urban  
21 areas is a result of approved use of lead based materials over an extended period in public buildings and  
22 systems and private housing that a comprehensive approach is necessary to alleviate the cause, identify and  
23 treat the children, rehabilitate the affected housing where young children reside, and dispose of the  
24 hazardous material. Rhode Island presently does not have the public or the private resources to handle the  
25 total problem, requiring prioritizing on a need basis.

26 **23-24.6-3 Declaration of purposes.** The purposes of this chapter are:

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

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

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

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

8 ~~(3)~~(5) to define the role of the department of health as the lead state agency charged with: (i)  
9 defining lead poisoning, (ii) establishing programs for screening persons, especially children under the age  
10 of six (6) years, who are at risk of lead poisoning, (iii) setting standards for eliminating and reducing lead  
11 hazards in buildings and premises, including dwellings where a child under the age of six (6) years who has  
12 been lead poisoned resides, (iv) providing information to the public and segments thereof about the risks of  
13 lead poisoning, and (v) initiating enforcement actions against persons who violate the provisions of this  
14 chapter or regulations promulgated pursuant to this chapter. The goal of this chapter is to reduce the  
15 incidence of childhood lead poisoning in Rhode Island to the greatest extent feasible.

16 **23-24.6-4 Definitions.** For the purposes of this chapter:

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

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

23 ~~(2)~~(3) "Comprehensive environmental lead inspection" means the inspection of any structure or  
24 premises for the presence of lead in various media and includes sampling as may be necessary or expedient  
25 in order to determine compliance in the structure or premises with standards for being lead safe or lead free.

26 ~~(3)~~(4) "Department" means the state department of health.

1           (4)(5) "Director" means the director of health.

2           (5)(6) "Dwelling" means any enclosed space which is wholly or partly used or intended to be used  
3 for living or sleeping by human occupants.

4           (6)(7) "Dwelling unit" means any room or group of rooms located within a dwelling and forming  
5 a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking,  
6 and eating.

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

10           (7)(9) "Environment intervention blood lead level" means a confirmed concentration, in a person  
11 under six (6) years of age, of lead in whole blood of greater than or equal to ~~twenty (20) micrograms per~~  
12 ~~deciliter for a single test or for fifteen (15) to nineteen (19) micrograms per deciliter for two (2) tests taken~~  
13 ~~at least three (3) months apart or as defined by the department~~ the reference level defined by the  
14 department's regulations consistent with regulations adopted by the U.S. Department of Housing and Urban  
15 Development.

16           (8)(10) "Environmental lead hazard reduction" means activities undertaken by or on behalf of a  
17 property owner in order to achieve lead free or lead safe status pursuant to the requirements of this chapter.

18           (9)(11) "Inspection" means the inspection, other than a comprehensive environmental lead  
19 inspection, of any structure or premises undertaken to determine compliance with the requirements of this  
20 chapter or with orders issued pursuant to this chapter.

21           (10)(12) "Insurer" means every medical service corporation, hospital service corporation, health  
22 maintenance organization, or other insurance company offering and/or insuring health services; the term  
23 includes any entity defined as an insurer under § 42-62-4.

24           (11)(13) "Lead contractor" means any person or entity engaged in lead hazard reduction as a  
25 business ~~includes consultants who design, perform, oversee, or evaluate lead hazard reduction projects~~

1 ~~undertaken pursuant to the requirements of this chapter.~~ and licensed pursuant to the department's  
2 regulations.

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

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

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

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

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

1           (17)(19) "Owner" means any person who, alone or jointly or severally with others:

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

4           (ii) Shall have charge, care, or control of any dwelling or dwelling unit as owner or agent of the  
5 owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any person representing  
6 the actual owner shall be bound to comply with the provisions of this chapter and with rules and regulations  
7 adopted pursuant to this chapter to the same extent as if that person were the owner. An agent of the owner  
8 excludes real estate and property management functions where the agent is only responsible for the property  
9 management and does not have authority to fund capital and/or major property rehabilitation on behalf of  
10 the owner.

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

13           (18)(20) "Person" means any individual, firm, corporation, association, or partnership and includes  
14 municipal and state agencies.

15           (19)(21) "Premises" means a platted lot or part thereof or unplatted lot or parcel of land, or plot of  
16 land, occupied by a dwelling or structure and includes any building, accessory structure, or other structure  
17 thereon which is or will be frequently used by children under the age of six (6) years.

18           (20)(22) "Program" means the comprehensive environmental lead program established by this  
19 chapter.

20           (21)(23) "State inspector" means the director, his or her designee, or any inspector employed by  
21 the department of health who is authorized by the director to conduct comprehensive environmental lead  
22 inspections and/or other inspections for the department.

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

1           **23-24.6-5 Environmental lead program.** (a) There is established within the department of health  
2 an environmental lead program which shall be responsible for creating a coordinated and comprehensive  
3 program for lead poisoning prevention, including screening and detection, education, lead hazard reduction,  
4 and enforcement. The program shall exercise any and all authorities of the department which may be  
5 necessary and appropriate, including but not limited to promulgating and enforcing regulations, which  
6 regulations shall set forth a general framework for actions to be taken in response to childhood lead  
7 poisoning at different blood lead levels.

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

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

15           **23-24.6-6 Interagency coordinating council coordination on environmental lead.** (a) ~~There is~~  
16 ~~established an~~ The department is authorized to oversee interagency coordination activities coordinating  
17 ~~council on environmental lead; by the department of health shall include: consisting of six (6) members.~~

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

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

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

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



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

10 (e) ~~The members of the council shall be as follows:~~

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

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

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

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

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

21 **23-24.6-7 Screening by health care providers.** (a) The department shall promulgate regulations  
22 establishing the means by which and the intervals at which children under six (6) years of age shall be  
23 screened for lead poisoning. The department is also authorized to require screening for lead poisoning in  
24 other high risk groups.

25 (b) Each physician registered or licensed by Rhode Island or any agency of Rhode Island shall  
26 screen children under six (6) years of age for lead poisoning at the intervals and using the methods specified

1 in the regulations adopted pursuant to subsection (a). Each licensed, registered or approved health care  
2 facility serving children under six (6) years of age, including but not limited to hospitals, clinics, and health  
3 maintenance organizations, shall take appropriate steps to ensure that their patients receive screening for  
4 lead poisoning at the intervals and using the methods specified in these regulations.

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

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

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

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

21 **23-24.6-10 Lead screening restricted receipt account.** The director shall establish procedures for  
22 lead screening, laboratory testing, and reimbursement. The state laboratory services shall be billed to and  
23 reimbursed by insurers. Fees shall be set based upon the rates paid by the insurers to private laboratories  
24 for blood lead analysis. All reimbursement fees paid to the department shall be deposited into a restricted  
25 receipt account within the general fund. ~~General revenue appropriations~~ Appropriations for the lead  
26 screening program shall be used for:

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

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

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

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

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

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

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

25 **23-24.6-11 Reporting of cases of lead poisoning.** Any physician registered or licensed by Rhode  
26 Island or any agency of Rhode Island or any employee of a licensed, registered, or approved health care

1 facility or employee of a licensed health care facility acting within the scope of his/her practice in making  
2 the diagnosis of childhood lead poisoning shall report that diagnosis to the ~~director~~ department within ten  
3 (10) business days of the diagnosis.

4 **23-24.6-14 Inspection of child care facilities.** The director shall promulgate regulations requiring  
5 that as a condition of licensure all ~~preschools, day care facilities, nursery schools, group family child care~~  
6 homes, family child care homes, child care centers, residential facilities, and public and private elementary  
7 ~~schools and schoolyards, and public playgrounds, and shelters and foster homes serving children under the~~  
8 age of six (6) years in Rhode Island:

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

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

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

13 **23-24.6-15 Inspections of rental property.** (a) The director shall, ~~in conjunction with the housing~~  
14 ~~resources commission,~~ promulgate regulations to certify lead safe compliance for all residential rental units  
15 and permit state lead inspectors or licensed by the department to conduct such lead inspections as may be  
16 appropriate in response to any complaint to the department ~~or the housing resources commission,~~ by an  
17 occupant or the parent or guardian of any child under the age of six (6) years who is an occupant renting or  
18 leasing a dwelling, dwelling unit, or premises of the existence of a lead exposure hazard for a child under  
19 the age of six (6) years in that dwelling, dwelling unit, or premises. These regulations will allow for response  
20 to the complaints to be prioritized based upon the age of the structure and the nature and degree of hazard  
21 present.

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

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

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

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

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

13 **23-24.6-16 Notice prior to residential property transfer.** (a) The department shall issue  
14 regulations for the disclosure of lead exposure hazards and potential lead exposure hazards in a residential  
15 dwelling, dwelling unit, or premise that is offered for sale or lease. These regulations, at the minimum, shall  
16 incorporate the requirements of § 1018 of the federal Residential Lead-Based Paint Hazard Reduction Act  
17 of 1992 (PL 102-550), 42 U.S.C. § 4852d, ~~shall not be inconsistent with the requirements for lead hazard~~  
18 ~~mitigation established pursuant to the provisions of chapter 128.1 of title 42,~~ and shall additionally require  
19 an owner of a residential dwelling, dwelling unit, or premise offered for sale or lease to provide copies of  
20 any outstanding notice of violation and of results of any lead inspection performed in the dwelling, dwelling  
21 unit, or premise and copies of educational materials developed by the department, including information  
22 about the requirements of this section and programs that provide financial assistance for comprehensive  
23 environmental lead inspections or lead hazard reduction.

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

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

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

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

12        ~~(e)~~(f) The department shall establish and maintain a registry of ~~real estate for which a~~  
13 ~~comprehensive environmental lead inspection has been performed.~~ lead safe certificates. The registry shall  
14 be cross-indexed by the owners' name, street address, as well as the assessor's lot and plat number for the  
15 applicable city or town.

16        **23-24.6-17 Lead hazard reduction.** (a) The director shall promulgate lead hazard reduction  
17 regulations. These regulations shall:

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

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

23        (3) Require owners to make all reasonable efforts to ensure that occupants are not present during  
24 the lead hazard reduction; variances may be granted according to regulations; provided, that the owners are  
25 not responsible for providing alternative housing. If the occupants refuse to vacate the premises after all  
26 reasonable efforts by the owner to ensure compliance within this section, then the owners are exempt from

1 any liability arising out of the occupants' noncompliance. If the occupants are required to vacate the  
2 premises for a three (3) day period or longer, there shall be a pro-rata adjustment or abatement of the rent  
3 during the period of lead hazard reduction;

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

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

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

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

19 ~~(2) "Innocent owner" status, and the limits on liability set forth in this subsection, shall not apply~~  
20 ~~to any incident of childhood lead poisoning reported to the department on or after November 1, 2005, and~~  
21 ~~liability for lead poisonings after November 1, 2005, but shall include such correction of lead hazards as~~  
22 ~~may be required by this chapter.~~

23 ~~(e)(b)~~ The owner of any dwelling, dwelling unit, or premises who fails to provide for lead hazard  
24 reduction as required by department regulations shall be issued a notice of violation by the director in the  
25 manner provided by the Housing Maintenance and Occupancy Code, chapter 24.3 of title 45. In addition to  
26 any other enforcement authority granted under this chapter, the department shall have the authority to utilize

1 pertinent provisions of that code in enforcing this section in the same manner as an enforcing officer under  
 2 the code, including but not limited to the provisions of §§ 45-24.3-17 – 45-24.3-21, except that the director  
 3 or his or her designee may provide a reasonable time up to ninety (90) days for the correction of any  
 4 violation alleged and, except where there exists a hardship as to financing the lead hazard reduction, or  
 5 where material, personnel, or weather delays the reduction completion. Except as herein provided, if after  
 6 ninety (90) days following the date of issuance of a notice of violation by the department, the owner has  
 7 failed to correct the lead hazards, the department shall issue a second notice of violation.

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

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

13 **23-24.6-18 Revisions to Minimum Housing Standards and Housing Maintenance and**  
 14 **Occupancy Code.** (a) The standards for lead compliance in pre-1978 housing shall be considered basic  
 15 housing standards and shall be enforceable through the provisions of this chapter and through procedures  
 16 established in chapter 24.2 of title 45 and chapter 24.3 of title 45.

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

22 (1) The ordinances, rules, and regulations for "Minimum Housing Standards" adopted pursuant to  
 23 § 45-24.2-3 shall include provisions for lead hazard reduction.

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



1           (c) The rules and regulations for the state building code promulgated pursuant chapter 27.3 of title  
2 23, shall not conflict with the requirements in this chapter regarding the construction, rehabilitation, or  
3 maintenance of existing buildings.

4           (d) Nothing in this chapter shall alter the responsibilities of owners and occupants, or the authority  
5 of enforcing officers, under the Housing Maintenance and Occupancy Code, chapter 24.3 of title 45.

6           **23-24.6-20 Licensure of environmental lead inspectors and lead contractors, supervisors, and**  
7 **workers.** (a) The department shall provide for the certification of training programs for ~~environmental~~ lead  
8 inspectors and for lead contractors, supervisors, workers, and other persons engaged in ~~environmental~~ lead-  
9 hazard reduction pursuant to the provisions of this chapter. The department shall establish standards and  
10 specifications for training courses including, at a minimum, the required length of different training  
11 programs, mandatory topics of instruction, and required qualifications for training programs and instructors.  
12 Hands on instruction shall be a component of the required training.

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

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

- 20           (i) Compliance with the lead-hazard reduction regulations in § 23-24.6-17; and
- 21           (ii) Required training of ~~environmental~~ lead inspectors and of lead contractors, supervisors,  
22 workers, and other persons engaged in ~~environmental~~ lead-hazard reduction in subjects including, but not  
23 limited to, safe work practices, instruction in health risks, precautionary measures, protective equipment,  
24 and other practices, including practices to prevent contamination of the residential premises, ambient  
25 discharges and ground contamination, respiratory protection, new lead-hazard reduction techniques and  
26 technologies, applicable federal and state regulation, and hands-on instruction for equipment and techniques

1 to be used; a 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 training  
3 course shall also be required;

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

6 (c) No person shall enter into, engage in, or conduct comprehensive ~~environmental~~ lead inspections  
7 or ~~environmental~~ lead-hazard reduction activities covered by department regulations without having  
8 successfully completed a certified training program and without having been licensed by the department.  
9 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 and  
11 periodically update lists of all licensed inspectors, contractors, supervisors, workers', and other persons who  
12 perform ~~environmental~~ lead-hazard reduction in Rhode Island and make those lists available to interested  
13 parties and the public.

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

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

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

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

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

9 **23-24.6-23 Compliance and enforcement.** (a) Except as provided in this chapter, the inspection,  
10 enforcement, and penalties for violations of the provisions of this chapter shall be in accordance with the  
11 provisions and procedures set forth in §§ 23-1-19 – 23-1-25. In addition to the provisions for enforcement  
12 of this section found elsewhere in this chapter, there shall be the following powers of enforcement, which  
13 shall be in addition to other provisions of the general laws pertaining to enforcement of the laws of this  
14 state and shall not be deemed to limit or replace such other provisions. The provisions of this section shall  
15 be liberally construed and shall be considered an essential responsibility of the state to protect public health  
16 and welfare.

17 (b) The department shall establish a comprehensive integrated enforcement program, which shall  
18 be designed: (1) to assure that enforcement is certain, predictable, and effective as a means of reducing the  
19 incidence of childhood lead poisoning; (2) to direct enforcement efforts to places, areas, and types of  
20 structures where there is a high incidence of childhood lead poisoning; and (3) to identify and give priority  
21 to addresses where there are multiple instances of childhood lead poisoning and to identify and as consistent  
22 with law to provide for the prosecution of persons at whose properties there have been multiple instances  
23 of childhood lead poisoning and lead hazards have not been corrected. In order to effectuate the provisions  
24 of this subsection, the department of health: (i) shall maintain a list as a public document of the addresses  
25 of properties that are not lead safe and in which more than three (3) children lived at the time their blood  
26 was tested for lead concentration and at least two (2) of these children were lead poisoned, (ii) shall maintain

1 a database with the names and addresses of owners of rental housing at the time any child residing in the  
2 rental housing was tested positive for lead poisoning for which a second notice of violation has been issued  
3 and lead hazards have not been corrected as required pursuant to the provisions of this chapter, which  
4 database shall be public and provided to government and nonprofit agencies that are attempting to prevent  
5 lead poisoning or to enforce lead poisoning regulations, and (iii) shall notify the attorney general of all  
6 second notices of violation, issued pursuant to the provisions of § 23-24.6-17, to which there has not been  
7 a response meeting the requirements of law within thirty (30) days after the notice.

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

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

13 (2) To bring any actions that may be necessary or appropriate to secure the performance by state  
14 agencies and political subdivisions the duties assigned to them by this section;

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

19 (4) To establish guidelines to prevent retaliatory actions by property owners against tenants on the  
20 basis of complaints or notices of violations arising from this chapter ~~and chapter 128.1 of title 42~~, or based  
21 on the presence of a pregnant woman or child under age six (6) who in any manner seeks to enforce their  
22 right to housing in which lead hazards have been corrected in accordance with this chapter ~~or chapter 128.1~~  
23 ~~of title 42~~. These guidelines shall define retaliatory actions, including, but not limited to, arbitrary  
24 termination of tenancy or other form of constructive eviction, arbitrary refusal to renew a lease, or arbitrary  
25 and unreasonable increase in rent or decrease in services to which the tenant is entitled, for all tenants,  
26 whether or not they have leases or are tenants at will. It shall be unlawful to take retaliatory actions against

1 tenants arising from enforcement of the provisions of this chapter ~~or chapter 128.1~~ of title 42; this  
2 prohibition against retaliatory actions applies whether or not the tenant has a lease. Damages and remedies  
3 for retaliatory actions under this paragraph shall be as provided for in chapter 18 of title 34.

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

7 (d) *Receivership of properties not meeting standards.* Following the second notice of violation,  
8 issued by the department of ~~health~~ pursuant to the provisions of § 45-24.3-17(e) for failure to meet the  
9 applicable lead hazard reduction for rental dwellings occupied by a pregnant woman or a child under the  
10 age of six (6) years unless the violations alleged to exist are corrected or a plan for correction has been  
11 approved by the department, the unit may be considered abandoned and a public nuisance, which is a  
12 menace to public health, as the term "abandon" or "abandonment" and "public nuisance" defined by § 34-  
13 44-2. In those instances the department of ~~health~~, the attorney general, a nonprofit corporation as provided  
14 for in § 34-44-3, or the city or town in which the unit is located shall have the specific power to request the  
15 court to appoint a receiver for the property, the court in such instances may specifically authorize the  
16 receiver to apply for loans, grants and other forms of funding necessary to correct lead hazards and meet  
17 lead ~~mitigation~~ hazard reduction standards, and to hold the property for any period of time that the funding  
18 source may require to assure that the purposes of the funding have been met.

19 (e) *High risk premises and dwellings.* (1) The department of health shall notify the property owner  
20 where both the following conditions have been met: (i) there have been three (3) or more at risk children  
21 under the age of six (6) years with at least environmental intervention blood levels and (ii) fifty percent  
22 (50%) of children under the age of six (6) years from the premises who have been tested have had at least  
23 environmental intervention blood lead levels, that the premises present a high risk of lead poisoning.

24 (2) A property owner who receives notice that the premises are high risk: (i) shall have thirty (30)  
25 days in which to conduct a comprehensive lead inspection that shows that lead hazards have been corrected  
26 to the lead safe standard, or (ii) shall present a compliance schedule to the department of health to meet the

1 ~~lead safe standard, which compliance schedule shall be subject to approval by the department of health and~~  
2 ~~shall provide for achieving the lead hazard reduction within ninety (90) days. The requirements of the~~  
3 ~~compliance schedule shall be deemed to have been met if a comprehensive lead inspection shows that the~~  
4 ~~lead safe standard has been met at the premises.~~

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

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

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

20 ~~(6) Any property owner who receives notice that a dwelling unit is high risk and who has~~  
21 ~~substantially completed the required remediation as determined by the department may become reclassified~~  
22 ~~from "high risk" to "abatement in progress" contingent upon adherence to the approved compliance~~  
23 ~~schedule for the remaining remediation efforts.~~

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

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

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

11           **§ 23-24.6-26 Rules and regulations.** The director is authorized to adopt, modify, or repeal and  
12           promulgate rules and regulations as are in accord with the purposes of §§ 23-24.6-1 – 23-24.6-2728, and  
13           shall be subject to the Administrative Procedures Act, chapter 35 of title 42. All rules and regulations  
14           promulgated by the director shall provide for the use of "lead safe" reduction as the preferred method where  
15           possible to meet the requirements of this chapter. The rules shall provide for notification, pursuant to the  
16           provisions of § 23-24.6-12, to occupants of a premise, of lead-hazards following a comprehensive  
17           environmental lead inspection at the premises when there is a reasonable likelihood that given the age, type,  
18           and condition of the premises that significant lead-hazards are present in other dwelling units. The rules  
19           shall also specify the required frequency for all refresher training courses.

20           **23-24.6-27 Administrative fines.** (a) In addition to any other enforcement authority granted under  
21           this chapter, whenever on the basis of any information, the department determines that a person has violated,  
22           or is in 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 regarding  
23           lead hazard reduction, or § 23-24.6-20 regarding licensure, any rule or regulation promulgated pursuant to  
24           any of these sections, or any orders issued under any of these sections, rules, or regulations, the director  
25           may issue an order fining the person an amount not to exceed five thousand dollars (\$5,000) per day for  
26           each current or past violation, requiring compliance immediately or within a specified time period, or both.

1 Each day of continued violation may be considered a separate violation. Each violation in any premises  
2 may be considered a separate violation.

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

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

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

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

24 (g) The director shall issue regulations to implement this section. At a minimum, the regulations  
25 shall set forth how long after receiving any order from the director or any other notice of a violation a person  
26 has to comply with the law before civil fines will be assessed, the circumstances in which no grace period



1 will apply, the circumstances in which any grace period may be extended, and the procedure and times  
2 frames to request an extension. The regulations shall also include a penalty matrix to be used as a guide in  
3 the calculation of a fine levied pursuant to this section.

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

6 SECTION 6. Chapter 23-24.6 of the General Laws entitled "Lead Poisoning Prevention Act" is  
7 hereby amended by adding thereto the following sections:

8 23-24.6-15.1 Duties of rental property owners. (a) Property owners of pre-1978 rental dwellings,  
9 shall comply with all the following requirements:

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

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

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

15 (i) Basic information about lead exposure hazards;

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

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

18 (iv) Contact information provided by the department.

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

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

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

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

3 (1) Temporary housing;

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

5 (3) Zero-bedroom units.

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

9 **23-24.6-28 Insurance coverage.** (a) The department of business regulation shall have the authority  
10 and is empowered, consistent with the requirements of chapter 35 of title 42, to promulgate rules and  
11 regulations, which shall enable it to compile and analyze data and to make determinations with regard to  
12 the availability of and rates for lead liability coverage.

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

20 (c) All insurers issuing commercial lines insurance policies and personal lines insurance policies  
21 covering pre-1978 rental housing in compliance with: (i) the requirements of this chapter for lead hazard  
22 reduction; (ii) with the requirements of chapter 24.6 of title 23 for lead safe housing, within the state of  
23 Rhode Island; or (iii) relying on a valid certificate of compliance or conformance shall, effective November  
24 1, 2005, include in the policy coverage for liability for injury, damage, or death resulting from occurrences  
25 of lead poisoning in an amount equal to and no less than the underlying policy limits for personal  
26 injury/bodily injury coverage provided under the policy so issued to a residential rental property owner.

1 The property owner shall, if requested by the insurer, present to the insurance company, either: (1) proof of  
2 certificate of compliance of an independent clearance inspection and of any affidavit of visual inspection  
3 required to maintain the validity of the independent clearance inspection; (2) proof of meeting the lead safe  
4 standard in the form of a lead safe certificate; or (3) proof of abatement. This proof shall be prima facie  
5 evidence of compliance with the requirements of this chapter. In any subsequent renewal, the insurer may  
6 require any continuing proof whenever the certificate is expiring, has expired, or is otherwise invalidated.

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

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

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

6 (2) That consideration is given to:

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

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

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

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

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

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

19 (g) All endorsements, rates, forms and rules for lead liability coverage approved by the department  
20 of business regulation to be effective on or after July 1, 2004 are hereby extended to be effective November  
21 1, 2005. Prior to November 1, 2005, insurers and advisory organizations shall continue to utilize all  
22 endorsements, rates, forms and rules in effect on June 30, 2004 for lead liability coverage. The department  
23 of business regulation shall not approve any new endorsements, rates, forms or rules for lead liability  
24 coverage in pre-1978 residential rental properties unless the filings are submitted in accordance with the  
25 provisions of this act. The department of business regulation is hereby authorized to promulgate reasonable  
26 rules and regulations to carry out the provisions of this section.

1 SECTION ~~7~~. Section 42-14-16 of the General Laws in Chapter 42-14 entitled "Department of  
2 Business Regulation" is hereby amended to read as follows:

3 **42-14-16 Insurance – Administrative penalties.** (a) Whenever the director shall have cause to  
4 believe that a violation of title 27 and/or chapter 24.6 of title 23 and/or chapters 14, 14.5, or 62 ~~or 128.1~~ of  
5 title 42 or the regulations promulgated thereunder has occurred by a licensee, or any person or entity  
6 conducting any activities requiring licensure under title 27, the director may, in accordance with the  
7 requirements of the Administrative Procedures Act, chapter 35 of this title:

8 (1) Revoke or suspend a license;

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

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

12 (4) Require the licensee or person or entity conducting any activities requiring licensure under title  
13 27 to take such actions as are necessary to comply with title 27 and/or chapters 14, 14.5, or 62, ~~or 128.1~~ of  
14 title 42, or the regulations thereunder; or

15 (5) Any combination of the above penalties.

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

17 SECTION ~~8~~. Section 44-25-1 of the General Laws in Chapter 44-25 entitled "Real Estate  
18 Conveyance Tax" is hereby amended to read as follows:

19 **44-25-1 Tax imposed – Payment – Burden.** (a) There is imposed, on each deed, instrument, or  
20 writing by which any lands, tenements, or other realty sold is granted, assigned, transferred, or conveyed  
21 to, or vested in, the purchaser or purchasers, or any other person or persons, by his or her or their direction,  
22 or on any grant, assignment, transfer, or conveyance or such vesting, by such persons which has the effect  
23 of making any real estate company an acquired real estate company, when the consideration paid exceeds  
24 one hundred dollars (\$100), a tax at the rate of two dollars and thirty cents (\$2.30) for each five hundred  
25 dollars (\$500) or fractional part of it which is paid for the purchase of property or the interest in an acquired  
26 real estate company (inclusive of the value of any lien or encumbrance remaining at the time of the sale,

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

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

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

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

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

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

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

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

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

20 SECTION 9. Section 45-24.2-7 of the General Laws in Chapter 45-24.2 entitled "Minimum  
 21 Housing Standards" is hereby amended to read as follows:

22 **45-24.2-7 Penalties – District court jurisdiction – Providence housing court – Lead court**  
 23 **calendar – Municipal court of the town of North Providence – Review by Supreme Court.** (a) Failure  
 24 to comply with any ordinance, rule, or regulation passed pursuant either to the authority hereof or to any  
 25 special act governing minimum housing shall constitute a violation, as defined in § 11-1-2, punishable by  
 26 a fine of not more than five hundred dollars (\$500) for each violation, and each day's failure to comply with



1 any provision shall constitute a separate violation. The district court shall have exclusive original  
 2 jurisdiction of all violations as provided in § 12-3-1; provided, that in the city of Providence, the Providence  
 3 housing court shall have jurisdiction to try violations occurring within the city of Providence; provided,  
 4 further, that in the town of North Providence, the municipal court of the town of North Providence shall  
 5 have jurisdiction to try violations occurring within the town of North Providence, but only in the event that  
 6 the city shall by ordinance create a court for the purpose of exercising jurisdiction over minimum housing  
 7 standards. A party aggrieved by any judgment of the district court imposing a fine pursuant to this section  
 8 may seek review by the supreme court in accordance with § 12-22-1.1.

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

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

21 **45-24.3-10 General requirements relating to the safe and sanitary construction and**  
 22 **maintenance of parts of dwellings and dwelling units.** No person shall occupy, as owner or occupant, or  
 23 let to another for occupancy, any dwelling or dwelling unit, for the purpose of living, which does not comply  
 24 with the following requirements:

25 (1) Every foundation, floor, roof, ceiling, and exterior and interior wall must be reasonably  
 26 weathertight, watertight, and damp free, and shall be kept in sound condition and good repair. Floors,

1 interior walls, and ceilings must be sound and in good repair. All exterior wood surfaces, other than decay  
2 resistant woods, must be protected from the elements and decay by paint or other protective covering or  
3 treatment. Potentially hazardous materials will not be used where readily accessible to children. Walls must  
4 be capable of affording privacy for the occupants. Every premise must be graded, drained, free of standing  
5 water, and maintained in a clean, sanitary, and safe condition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 SECTION 11. This article shall take effect upon passage.