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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO HEALTH AND SAFETY - INDUSTRIAL PROPERTY REMEDIATION AND
REUSE ACT

Introduced By: Senator Juan M. Pichardo

Date Introduced: February 28, 2013

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-19.14-1 and 23-19.14-4 of the General Laws in Chapter 23-
2 19.14 entitled "Industrial Property Remediation and Reuse Act" are hereby amended to read as
3 follows:

4 **23-19.14-1. Legislative findings.** -- It is recognized and acknowledged by the general
5 assembly that:

6 (1) In Rhode Island, there are hundreds of sites that have varying degrees of
7 contamination from hazardous materials;

8 (2) The contamination is often an obstacle to redevelopment due to the liability relating
9 to the sites;

10 (3) Clean up standards and objectives must be consistent with a site's current and
11 reasonably expected future use;

12 (4) Financial institutions are often cautious or unwilling to lend to businesses that wish
13 to expand at or relocate to sites that have or are feared to be contaminated;

14 (5) Rhode Island's urban corridor contains many sites that have been found by federal or
15 state programs to be contaminated;

16 (6) The following cities and towns have numerous known sites: Cranston, East
17 Providence, Johnston, North Smithfield, Pawtucket, Providence, Warwick, West Warwick,
18 Woonsocket, and Central Falls. There are also many potential sites in these and other

1 municipalities that may have been contaminated by historical industrial activities;

2 (7) [Deleted by P.L. 2002, ch. 186, section 1.]

3 (8) Proper redevelopment and reuse of these properties would not only benefit the state's
4 economy and the employment of those who live in the urban corridor, but would also benefit the
5 state's environment; ~~and~~

6 (9) The redevelopment and reuse of these impacted sites will control and remove the
7 existing contamination and will reduce the artificial economic incentive to develop previously
8 undisturbed natural resources; and

9 (10) There exists the need for new or expanded school facilities, from time to time, in the
10 various Rhode Island locations and municipalities referenced above which could be furthered by
11 the reuse of the properties referenced above subject to the conformity of such properties to the
12 department of environmental management's residential direct exposure criteria regulations and
13 GB groundwater objectives which will serve to provide safety to school children attending such
14 schools.

15 **23-19.14-4. Objectives of environmental clean-up.** -- (a) The department of
16 environmental management will develop, maintain and publish numerical objectives for the most
17 commonly found hazardous substances. These objectives will be applicable for the clean-up of
18 contaminated properties to levels which are protective of human health and the environment
19 based on current and reasonably foreseeable future use of a property and the surrounding natural
20 resources.

21 To further ensure the safety of school children while attending school, the department of
22 environmental management, as set forth below, shall adopt standards for the properties used for
23 schools set forth in subsection (b) below that meet the standards set by the department of
24 environmental management for residential occupancy of such properties.

25 (b) (1) The construction of any new school building; or
26 (2) Construction of an addition to any existing school building; or
27 (3) Leasing of any portion of an existing building to serve as a school shall be prohibited
28 on any portion of a parcel of property for which, upon occupancy, volatile organic compounds
29 (VOC's) in ~~there exists an ongoing potential for hazardous materials and/or petroleum to migrate~~
30 ~~as vapors or gases into the building from~~ the subsurface of the parcel of property exceed
31 residential direct exposure criteria in soil or GB groundwater objectives in groundwater beneath
32 any proposed building except where engineered remedies and/or deed restrictions are employed
33 consistent with department of environmental management regulations permitting residential use.
34 In the event that engineered remedies and/or deed restrictions are employed to comply with these

1 standards, the department of environmental management may take such steps as it deems
2 reasonably necessary to mitigate the risk of, ~~including any potential~~ failure of such engineered
3 remedies ~~and/or deed restrictions, including requiring maintenance contracts and requiring~~
4 ~~ongoing financial assurances whether in the form of posted performance bond, pledge of cash~~
5 ~~reserves or otherwise to cover any potential failure of engineered remedies to address said vapors~~
6 ~~or gases.~~

7 (c) The construction of any school building, or construction of an addition to any
8 existing school building, or leasing of any portion of an existing building to serve as a school on
9 any portion of a parcel of property formerly used for industrial, manufacturing or landfill
10 purposes that is contaminated by hazardous materials, ~~other than on a parcel of property~~
11 ~~described in subsection (b) of this section,~~ shall be prohibited unless at least thirty (30) days prior
12 to selecting the location for construction or leasing the building the project sponsor undertakes all
13 of the following measures with ten (10) days prior written notice to the public of each measure
14 undertaken:

15 (1) Prepares and posts on the sponsor's website a written report that: (i) Projects the costs
16 to acquire or lease the property, and to cleanup and maintain the property in accordance with the
17 department of environmental management's Rules and Regulations for the Investigation and
18 Remediation of Hazardous Material Releases (the Remediation Regulations); (ii) Projects the
19 time period required to complete a cleanup of the property for school purposes prior to occupancy
20 by obtaining either a Letter of Compliance from the department of environmental management or
21 a determination by said department that the property is not jurisdictional under the Remediation
22 Regulations; (iii) Discusses the rationale for selecting the property for use as school purposes and
23 an explanation of any alternatives to selecting said property considered by the project sponsor;

24 (2) Solicits written comments on the report prepared pursuant to subdivision (1) of this
25 subsection for a period of at least thirty (30) days after posting said report on the sponsors website
26 and conducts a public hearing during said thirty (30) day period at which public comment is taken
27 on said report; and

28 (3) Prepares a second written report that summarizes and responds to the public
29 comments received during the public comment period and at the public hearing and posts said
30 second report on the sponsor's website.

31 (d) The sponsor of any school project subject to the provisions of subsection (c) of this
32 section shall consider the results and findings contained in the reports required by subsection (c)
33 when selecting the location of said project.

34 (e) As used in this section.

1 (1) The term "school" means any residential or non-residential school building, public,
2 private or charter, of any city or town or community educational system regulated, directly or
3 secondarily, by the board of regents for elementary and secondary education or the department of
4 elementary and secondary education or any other state education board or local city or town
5 school board or school committee or other legal educational subdivision acting under it. As used
6 in this chapter, the term "school or schools" includes, but is not limited to, school playgrounds,
7 school administration buildings, indoor school athletic facilities, school gymnasiums, school
8 locker rooms, and similar school buildings. A school shall not include any institutions for
9 education of adults (e.g. colleges, universities, graduate schools, trade schools) or child-care
10 facilities as regulated by the department of children, youth and families.

11 (2) The term "landfill" means for the purposes of this section, any portion of a parcel of
12 property that was used as a landfill as defined in section 23-19.1-4 or a sanitary landfill, dump or
13 other disposal area where more than thirty (30) cubic yards of solid waste was disposed.

14 (3) The term "hazardous materials" means any materials defined as hazardous materials
15 pursuant to section 23-19.14-3.

16 (4) The term "solid waste" means any materials defined as solid waste pursuant to
17 section 23-18.9-7.

18 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO HEALTH AND SAFETY - INDUSTRIAL PROPERTY REMEDIATION AND
REUSE ACT

- 1 This act would strengthen the safety standards which must be adhered to prior to using
- 2 properties previously used for industrial or manufacturing purposes to construct schools.
- 3 This act would mandate that the properties meet the department of environmental
- 4 managements residential use requirements as well as providing additional safeguards.
- 5 This act would take effect upon passage.

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