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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO HEALTH AND SAFETY - MULTI-UNIT RESIDENCE SAFETY ACT

Introduced By: Representatives Solomon, Tanzi, Handy, and Shanley

Date Introduced: March 01, 2017

Referred To: House Health, Education & Welfare

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 20.13

4 MULTI-UNIT RESIDENCE COMMON AREA SAFETY ACT

5 **23-20.13-1. Short title.**

6 This chapter shall be known and may be cited as the "Multi-Unit Residence Common  
7 Area Safety Act".

8 **23-20.13-2. Legislative findings.**

9 The general assembly hereby finds and declares that:

10 (1) The health, safety, and welfare of citizens of the state of Rhode Island are matters of  
11 paramount importance to the Rhode Island general assembly; and

12 (2) Tobacco use causes death and disease and continues to be an urgent public health  
13 threat, as evidenced by the following:

14 (i) Four hundred and eighty thousand (480,000) people die prematurely in the United  
15 States from smoking-related diseases ever year, making tobacco use the nation's leading cause of  
16 preventable death; or

17 (ii) Tobacco use can cause disease in nearly all organ systems and is responsible for  
18 eighty-seven percent (87%) of lung cancer deaths, seventy-nine percent (79%) of all chronic  
19 obstructive pulmonary disease deaths, and thirty-two percent (32%) of coronary heart disease

1 deaths; and  
2 (iii) Over one hundred and sixty seven billion dollars in annual health related economic  
3 losses is spent on smoking; or  
4 (iv) The United States Surgeon General has stated that there is no risk-free level of  
5 exposure to secondhand smoke; and  
6 (v) Many studies also show that there are harmful health effects of secondhand smoke;  
7 and  
8 (vi) Nonsmoking pregnant women and their fetuses are exposed to environmental  
9 tobacco smoke as a result of living in multi-unit housing; and  
10 (vii) A study conducted by Brown University released on December 26, 2016, found that  
11 metropolitan areas that recently enacted indoor smoking bans in public areas are associated with a  
12 seventeen percent (17%) overall reduction in the number of children visiting emergency  
13 departments with asthma complaints; and  
14 (viii) Exposure to secondhand smoke is estimated to kill approximately fifty thousand  
15 (50,000) nonsmokers in the United States each year; and  
16 (ix) Smoking-related fires are the leading cause of fire deaths, and account for seventeen  
17 percent (17%) of fire deaths in residential buildings and three hundred three million  
18 (\$303,000,000) dollars in property loss each year; and  
19 (x) Studies show smoke free air laws decrease secondhand smoke exposure among  
20 nonsmokers, reduce heart attack and asthma hospitalizations, and encourage smokers to quit; and  
21 (xi) Studies have shown that secondhand smoke can also enter neighboring housing units  
22 under doorways and through wall cracks and opening for electrical wiring, light fixtures,  
23 plumbing, baseboards and ductwork; and  
24 (xii) The surgeon general has concluded that eliminating smoking in indoor spaces is the  
25 only way to fully protect nonsmokers from secondhand smoke exposure and that separating  
26 smokers from nonsmokers, cleaning the air, and ventilating buildings cannot completely prevent  
27 secondhand smoke exposure; and  
28 (xiv) Several studies have confirmed that smoke free multi-unit housing policies are the  
29 most effective method to fully reduce secondhand smoke exposure in multi-unit housing; and  
30 (xv) The significant health issues related to secondhand smoke necessitate action on a  
31 statewide basis to classify multi-unit rental housing developments as nonsmoking areas.

32 **23-20.13-3. Definitions.**

33 For the purposes of this chapter the following definitions shall govern unless the context  
34 clearly requires otherwise:

1           (1) "Common area" means every enclosed area and every unenclosed area of a multi-unit  
2 residence that residents of more than one unit are entitled to enter or use, including, without  
3 limitation, halls, pathways, lobbies, courtyards, elevators, stairs, community rooms, playgrounds,  
4 gym facilities, swimming pools, parking garages, parking lots, grassy or landscaped areas,  
5 restrooms, laundry rooms, cooking areas, and eating areas.

6           (2) "Enclosed area" means an area in which outside air cannot circulate freely to all parts  
7 of the area, and includes an area that has:

8           (i) Any type of overhead cover, whether or not that cover includes vents or other  
9 openings and at least three (3) walls or other physical boundaries of any height, whether or not  
10 those boundaries include vents or other openings; or

11           (ii) Four (4) walls or other vertical boundaries that exceed six feet (6') in height, whether  
12 or not those boundaries include vents or other openings.

13           (3) "Landlord" means any person or agent of a person who owns, manages, or is  
14 otherwise legally responsible for a unit in a multi-unit residence that is leased to a residential  
15 tenant, except that "Landlord" shall not include a tenant who sublets a unit.

16           (4) "Multi-unit residence" means property containing two (2) or more units, including,  
17 but not limited to, apartment buildings, condominium complexes, senior and assisted living  
18 facilities, and long-term health care facilities. Multi-unit residences shall not include the  
19 following:

20           (i) A hotel or motel that meets the requirements set forth in §5-14-3;

21           (ii) A mobile home park;

22           (iii) A campground;

23           (iv) A marina or port;

24           (v) A single-family home, except if used as a child care or health care facility subject to  
25 licensing requirements; and

26           (vi) A single-family home with a detached or attached in-law or second unit permitted  
27 pursuant to applicable Rhode Island general laws, except if the single-family home or in-  
28 law/second unit is used as a child care or health care facility subject to applicable licensing  
29 requirements.

30           (5) "Nonsmoking area" means any enclosed area or unenclosed area in which smoking is  
31 prohibited by:

32           (i) This chapter or other applicable local law or ordinance;

33           (ii) A binding agreement relating to the ownership, occupancy, or use of real property; or

34           (iii) The designation of a person with legal control over the area.

1 (6) "Person" means any natural person, partnership, cooperative association, corporation,  
2 personal representative, receiver, trustee, assignee, or any other legal entity, including  
3 government agencies.

4 (7) "Smoke" means the gases, particles, or vapors released into the air as a result of  
5 combustion, electrical ignition, or vaporization when the apparent or usual purpose of the  
6 combustion, electrical ignition, or vaporization is human inhalation of the byproducts, except  
7 when the combusting or vaporizing material contains no tobacco or nicotine and the purpose of  
8 inhalation is solely olfactory, such as, for example, smoke from incense. The term "smoke"  
9 includes, but is not limited to, tobacco smoke, electronic smoking device vapors, marijuana  
10 smoke, and crack cocaine smoke.

11 (8) "Smoking" means inhaling, exhaling, burning, or carrying any lighted, heated, or  
12 ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product  
13 intended for human inhalation.

14 (9) "Unenclosed area" means any area that is not an enclosed area.

15 **23-20.13-4. No smoking permitted in common areas except in designated smoking**  
16 **areas.**

17 (a) Smoking in a common area, other than in a designated smoking area established  
18 pursuant to subsection (b) of this section, is a violation of this chapter.

19 (b) A person with legal control over a common area, including, but not limited to, a  
20 landlord or homeowners' association, may designate a portion of the common area as a designated  
21 smoking area provided the designated smoking area complies with subsection (c) of this section  
22 at all times.

23 (c) A designated smoking area:

24 (1) Must be an unenclosed area; and

25 (2) Must be at least twenty-five feet (25') from unenclosed areas primarily used by  
26 children, and unenclosed areas with improvements that facilitate physical activity including, but  
27 not limited to, playgrounds, tennis courts, swimming pools, and school campuses;

28 (3) Must be located at least twenty-five feet (25') from any nonsmoking area. The  
29 location of nonsmoking areas may change due to new or amended laws, execution of an  
30 agreement, or other event that affects the area's smoking designation. If an event occurs that  
31 changes a nonsmoking area, a person with legal control over a designated smoking area within  
32 less than twenty-five feet (25') of that nonsmoking area must modify, relocate, or eliminate that  
33 designated smoking area so as to maintain compliance with the requirements of subsection (b) of  
34 this section. In the case of a nonsmoking area on a neighboring property established only by

1 private agreement or designation and not by this chapter or other law, it shall not be a violation of  
2 this chapter for a person with legal control to designate a smoking area within twenty-five feet  
3 (25') of the nonsmoking area unless that person has actual knowledge of, or a reasonable person  
4 would know of the private agreement or designation. It shall not be a violation of this chapter for  
5 a person to smoke within a nonsmoking area if the area is erroneously designated as a smoking  
6 area unless a reasonable person would know of the error;

7 (4) Must be no more than ten percent (10%) of the total unenclosed area of the multi-unit  
8 residence for which it is designated;

9 (5) Must have a clearly marked perimeter;

10 (6) Must be identified by conspicuous signs; and

11 (7) Must not overlap any enclosed or unenclosed area where smoking is prohibited by  
12 this chapter or other applicable law.

13 (d) No person with legal control over a common area in which smoking is prohibited by  
14 this chapter or other applicable law shall knowingly permit the presence of ashtrays, ash cans, or  
15 other receptacles designed for or primarily used for disposal of smoking waste within the area.

16 (e) Smoking in violation of this section shall be subject to a civil penalty as follows:

17 (1) A penalty of one hundred dollars (\$100) for a first violation.

18 (2) A penalty of two hundred fifty dollars (\$250) for a second violation.

19 (3) A penalty of five hundred dollars (\$500) for a third violation.

20 (4) A penalty of up to one thousand dollars (\$1,000) for a fourth violation and the  
21 violation shall be grounds for eviction.

22 SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO HEALTH AND SAFETY - MULTI-UNIT RESIDENCE SAFETY ACT

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- 1 This act would prohibit smoking in common areas of multi-unit residential developments.
- 2 This act would take effect upon passage.

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