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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

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A N A C T

RELATING TO HEALTH -- LEAD HAZARD MITIGATION

Introduced By: Representatives Almeida, Thompson, and Martineau

Date Introduced: May 31, 2002

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 520.5-6 of the General Laws in Chapter 520.5 entitled "Real
2 Estate Brokers and Salespersons" is hereby amended to read as follows:

3 **5-20.5-6. Duration of licenses -- Rules and regulations -- Suspension or revocation of**
4 **licenses.** -- (a) If the director is satisfied that the applicant is competent and trustworthy and is
5 reasonably familiar with the statutes and law relating to real estate, he or she shall issue to the
6 applicant a license to act as a real estate broker or a real estate salesperson. The director
7 promulgates rules and regulations mandating the term of license for each category of license
8 issued pursuant to this chapter; however, no license remains in force for a period in excess of
9 three (3) years. Any fee for the initial issuance of a license or for renewal of a license issued
10 pursuant to this chapter is determined by multiplying the current annual fee by the term of years
11 of the license or renewal. The fee for the total number of years of the initial license or of the
12 renewal is paid in full prior to the issuance of the respective license. The license is renewed upon
13 payment of the renewal fee. Any license issued or renewed may be suspended or revoked by the
14 director prior to the expiration date, for cause. The director issues reasonable rules and
15 regulations with the consent of the majority of the Rhode Island real estate commission governing
16 the conduct of licensed real estate brokers and salespersons, these rules and regulations are
17 designed to implement the laws and policies of this state and to protect the interests of the public.

18 (b) Any rules or regulations promulgated with regard to the requirement of continuing
19 education for the renewal of any real estate broker's and/or salesperson's license whose

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

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

17 SECTION 2. Sections 23-24.6-3, 23-24.6-4, 23-24.6-5, 23-24.6-6, 23-24.6-12, 23-24.6-
18 13, 23-24.6-15, 23-24.6-16, 23-24.6-17, 23-24.6-19.1, 23-24.6-20, 23-24.6-23 and 23-24.6-26 of
19 the General Laws in Chapter 23-24.6 entitled "Lead Poisoning Prevention Act" are hereby
20 amended to read as follows:

21 **23-24.6-3. Declaration of purpose. – Declaration of purposes.** -- ~~The purpose~~ purposes
22 of this chapter is are: (a) to protect the public health and public interest by establishing a
23 comprehensive program to reduce exposure to environmental lead and prevent childhood lead
24 poisoning, the most severe environmental health problem in Rhode Island-; and, (b) to establish
25 rigorous, systematic enforcement of requirements for the reduction of lead hazards in properties
26 where children have been lead poisoned; and (c) to define the role of the department of health as
27 the lead state agency charged with: (i) defining lead poisoning, (ii) establishing programs for
28 screening persons, especially children under the age of six (6) years, who are at risk of lead
29 poisoning, (iii) setting standards for eliminating and reducing lead hazards in building and
30 premises, including dwellings where a child under the age of six (6) years who has been lead
31 poisoned resides, (iv) providing information to the public and segments thereof about the risks of
32 lead poisoning, and (v) initiating enforcement actions against persons who violate the provisions
33 of this chapter or regulations promulgated pursuant to this chapter. The goal of this chapter is to
34 reduce the incidence of childhood lead poisoning in Rhode Island to the greatest extent feasible

1 by the year 2000.

2 **23-24.6-4. Definitions.** -- For the purposes of this chapter:

3 (1) "Childhood lead poisoning" means a confirmed venous blood lead level, measured in
4 ~~greater than or equal to twenty five (25)~~ micrograms of lead per deciliter of whole blood,
5 established by rule or any lower blood lead level that may be recommended by the federal centers
6 ~~for disease control~~ or by the Rhode Island department of health based on the best available
7 information about the effects of elevated blood lead levels.

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

12 (3) "Department" means the state department of health.

13 (4) "Director" means the director of health.

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

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

19 (7) "Environment intervention blood lead level" means a confirmed concentration, in a
20 person under six (6) years of age, of lead in whole blood of greater than or equal to twenty (20)
21 micrograms per deciliter for a single test or for fifteen (15) to nineteen (19) micrograms per
22 deciliter for two (2) tests taken at least three (3) months apart or as defined by the department
23 consistent with regulations adopted by the U.S. department of housing and urban development.

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

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

30 ~~(7)~~ (10) "Insurer" means every medical service corporation, hospital service corporation,
31 health maintenance organization, or other insurance company offering and/or insuring health
32 services; the term includes any entity defined as an insurer under section 42-62-4.

33 ~~(8)~~ (11) "Lead contractor" means any person or entity engaged in lead hazard reduction
34 as a business and includes consultants who design, perform, oversee, or evaluate lead hazard

1 reduction projects- undertaken pursuant to the requirements of this chapter.

2 ~~(9)~~ (12) "Lead exposure hazard" means a condition that presents a clear and significant
3 health risk to occupants of the dwelling, dwelling unit, or premises, particularly where there are
4 children under the age of six (6) years.

5 ~~(10)~~ (13) "Lead free" means that a dwelling, dwelling unit, or premises either contains no
6 lead or contains lead in amounts less than the maximum acceptable environmental lead levels
7 established by department of health regulations.

8 ~~(11)~~ (14) "Lead hazard reduction" means any action or actions designed to reduce
9 exposure to toxic levels of lead which impose an unacceptable risk of exposure in any dwelling or
10 dwelling unit, where a child under the age of six (6) years, with environmental intervention blood
11 lead level or greater resides, or on any premises and may include, but is not limited to: repair,
12 enclosure, encapsulation, or removal of lead based paint and/or lead contaminated dust, soil or
13 drinking water; relocation of occupants; and cleanup measures or ongoing maintenance measures;
14 , which may include activities and/or measures that do not present an undue risk to children under
15 age six (6) and can be performed by, or on behalf of, the property owner, without the person
16 performing such activities being licensed or certified.

17 ~~(12)~~ (15) "Lead safe" means that a dwelling, dwelling unit, or premises has undergone
18 sufficient lead hazard reduction to ensure that no significant environmental lead hazard is present
19 and includes but is not limited to covering and encapsulation.

20 ~~(13)~~ (16) "Occupant" means any person who resides in, or regularly uses, a dwelling,
21 dwelling unit, or structure.

22 ~~(14)~~ (17) "Owner" means any person who, alone or jointly or severally with others:

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

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

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

1 ~~(15)~~ (18) "Person" means any individual, firm, corporation, association, or partnership
2 and includes municipal and state agencies.

3 ~~(16)~~ (19) "Premises" means a platted lot or part thereof or unplatted lot or parcel of land,
4 or plot of land, occupied by a dwelling or structure and includes any building, accessory structure,
5 or other structure thereon which is or will be frequently used by children under the age of six (6)
6 years.

7 ~~(17)~~ (20) "Program" means the comprehensive environmental lead program established
8 by this chapter.

9 ~~(18)~~ (21) "State inspector" means the director, his or her designee, or any inspector
10 employed by the department of health who is authorized by the director to conduct
11 comprehensive environmental lead inspections and/or other inspections for the department.

12 **23-24.6-5. Comprehensive environmental lead program Environmental lead**
13 **program.** -- (a) There is established within the department of health ~~a comprehensive~~ an
14 environmental lead program which shall be responsible for creating a coordinated and
15 comprehensive program for ~~primary~~ lead poisoning prevention-, including screening and
16 detection, education, lead hazard reduction, and enforcement. The program shall exercise any and
17 all authorities of the department which may be necessary and appropriate, including but not
18 limited to promulgating and enforcing regulations-, which regulations shall set forth a general
19 framework for actions to be taken in response to childhood lead poisoning at different blood lead
20 levels.

21 (b) The department shall develop an educational program regarding environmental lead
22 exposures and lead poisoning.

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

28 **23-24.6-6. Commission on environmental lead Interagency coordinating council on**
29 **environmental lead. [Effective until January 7, 2003.]** -- (a) There is established ~~a commission~~
30 an interagency coordinating council on environmental lead within the department of health
31 consisting of ~~seventeen~~~~(17)~~ six (6) members.

32 (b) The purpose of the ~~commission~~ council shall be as follows:

33 (1) To coordinate the activities of its member agencies with respect to (i) environmental
34 lead policy, (ii) the development of educational materials, (iii) drafting regulations which have as

1 their purpose reducing or preventing lead poisoning, and (iv) enforcement of laws, regulations,
2 and ordinances pertaining to lead poisoning and lead poisoning prevention;

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

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

7 (4) To report on or before March 1 of each year to the governor, speaker of the house
8 and the majority leader of the senate on both the progress of the comprehensive environmental
9 lead program and recommendations for any needed changes in legislation, which report shall at a
10 minimum (i) provide by city and town of the incidence and levels of lead poisoning, (ii) describe
11 educational programs, (iii) summarize regulations adopted pursuant to this chapter and chapter
12 42-128.1, and state the number of enforcement actions pursuant to this chapter initiated, the
13 number completed or closed due to successful remediation of lead hazards, the number completed
14 or closed for other reasons (which reasons shall be explained), and the number that remain open
15 (including information on how long such actions have been open and the reasons they have not
16 been completed).

17 (c) The members of the ~~commission~~ council shall be ~~electors and shall be appointed as~~
18 follows:

19 (1) There shall be ~~four (4)~~ five (5) ex officio members: the director, the director of
20 environmental management, the attorney general, the director of children, youth, and families the
21 director of human services, and the commissioner of elementary and secondary education
22 executive director of the housing resources commission or their designees.

23 (2) There shall be ~~three (3)~~ public representatives: ~~a member of the house and a parent~~
24 ~~appointed by the speaker and a member of the senate appointed by the senate majority leader.~~
25 one (1) local government official, who shall have knowledge of lead hazard reduction programs
26 at the local level, appointed by the president of the Rhode Island League of Cities and Towns.

27 ~~(3) There shall be ten (10) members appointed by the governor, one of whom shall be~~
28 ~~from the league of cities and towns; one of whom shall be a representative of a local housing~~
29 ~~authority; one of whom shall be a local building official; one of whom shall be a local minimum~~
30 ~~housing inspector; one of whom shall be a representative of the housing industry organization;~~
31 ~~one of whom shall be a representative of a local housing court; one of whom shall be a~~
32 ~~community health nurse familiar with childhood lead poisoning; one of whom shall be an~~
33 ~~environmental professional familiar with lead hazard identification and reduction; and two (2) of~~
34 ~~whom shall be community representatives.~~

1 (d) ~~The term of office of each member except ex officio members shall be for a period of~~
2 ~~three (3) years, except that the initial appointments of public and professional members, one by~~
3 ~~the speaker and five (5) by the governor, shall be for two (2) years. Each member shall serve until~~
4 ~~a successor is appointed or designated. In the month of October of each year, the members shall~~
5 ~~elect from among their members a chairperson, a vice chairperson, and secretary. Nine (9)~~
6 ~~members shall be considered a quorum, and the board may fulfill any of its duties by a~~
7 ~~subcommittee of six (6) members present.~~

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

11 **23-24.6-6. Commission on environmental lead Interagency coordinating council on**
12 **environmental lead. [Effective January 7, 2003.]** -- (a) There is established ~~a commission an~~
13 ~~interagency coordinating council~~ on environmental lead within the department of health
14 consisting of ~~seventeen (17)~~ six (6) members.

15 (b) The purpose of the ~~commission~~ council shall be as follows:

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

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

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

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

34 (c) The members of the ~~commission~~ council shall be ~~electors and shall be appointed as~~

1 follows:

2 (1) There shall be ~~four (4)~~ five (5) ex officio members: the director, the director of
3 environmental management, the director of human services, ~~the director of children, youth, and~~
4 ~~families, and the commissioner of elementary and secondary education or their designees.~~ the
5 attorney general, and the executive director of the housing resources commission or their
6 designees.

7 (2) There shall be ~~three (3)~~ public representatives: ~~a member of the house and a parent~~
8 ~~appointed by the speaker and a member of the senate appointed by the president of the senate.~~
9 one (1) local government official, who shall have knowledge of lead hazard reduction programs
10 at the local level, appointed by the president of the Rhode Island League of Cities and Towns.

11 ~~(3) There shall be ten (10) members appointed by the governor, one of whom shall be~~
12 ~~from the league of cities and towns; one of whom shall be a representative of a local housing~~
13 ~~authority; one of whom shall be a local building official; one of whom shall be a local minimum~~
14 ~~housing inspector; one of whom shall be a representative of the housing industry organization;~~
15 ~~one of whom shall be a representative of a local housing court; one of whom shall be a~~
16 ~~community health nurse familiar with childhood lead poisoning; one of whom shall be an~~
17 ~~environmental professional familiar with lead hazard identification and reduction; and two (2) of~~
18 ~~whom shall be community representatives.~~

19 (d) ~~The term of office of each member except ex officio members shall be for a period of~~
20 ~~three (3) years, except that the initial appointments of public and professional members, one by~~
21 ~~the speaker and five (5) by the governor, shall be for two (2) years. Each member shall serve until~~
22 ~~a successor is appointed or designated. In the month of October of each year, the members shall~~
23 ~~elect from among their members a chairperson, a vice chairperson, and secretary. Nine (9)~~
24 ~~members shall be considered a quorum, and the board may fulfill any of its duties by a~~
25 ~~subcommittee of six (6) members present.~~

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

29 **23-24.6-12. Comprehensive environmental lead inspections.** -- The department shall
30 develop and promulgate regulations for:(a) conducting comprehensive environmental lead
31 inspections.~~These~~ which regulations shall, at a minimum, include procedures for:

32 (1) Inspecting, testing, and/or sampling of drinking water, household dust, painted
33 surfaces, soil, and/or other appropriate fixed surfaces that may contain lead;

34 (2) Notification of owners, occupants, and mortgagees and lienholders and/or the posting

1 of warnings when unacceptable environmental lead levels are identified during an inspection; and
2 (3) Notifying the department of the results of inspections; and (b) for other inspections
3 necessary to accomplish the purposes of this chapter.

4 **23-24.6-13. State inspectors.** -- (a) The director, or his or her designee, or any state
5 inspector is authorized to inspect during business hours, or by appointment at another time agreed
6 to by the inspector and the owner, occupant, or other person in charge of a dwelling, dwelling
7 unit, or premises:

8 (1) Any dwelling, dwelling unit, or premises for the purpose of conducting a
9 comprehensive environmental lead inspection, or other inspection, as part of the treatment and
10 follow up for a child identified as being lead poisoned;

11 (2) Any structure or premises that is used as a preschool, day care facility, nursery
12 school, public or private elementary school or schoolyard, public playground, or foster home or
13 shelter serving children under the age of six (6) years for the purpose of conducting a
14 comprehensive environmental lead inspection; or other inspection;

15 (3) Any dwelling, dwelling unit, or premises for the purpose of conducting a
16 comprehensive environmental lead inspection, or other inspection, in response to any complaint
17 to the department by an occupant or the parent or guardian of any minor who is an occupant
18 renting or leasing the dwelling, dwelling unit, or premises of the existence of a lead exposure
19 hazard for a child under the age of six (6) years residing in that dwelling, dwelling unit, or
20 premises; or

21 (4) Any dwelling, dwelling unit, structure, or premises identified in subsection (a)(1),
22 (2), or (3) of this section which is undergoing a lead hazard reduction or a regulated renovation or
23 rehabilitation at a reasonable time, without prior notice, as part of an enforcement inspection.

24 (b) The owner, occupant, or other person in charge of a dwelling, dwelling unit, or
25 premises shall, upon presentation of proper identification by the state inspector, for the limited
26 purpose of inspection for lead, grant the inspector entry and free access to every part of the
27 dwelling, dwelling unit, or premises where lead may pose a hazard to the health and safety of
28 children under the age of six (6) years. If any owner, occupant, or other person in charge of a
29 dwelling, dwelling unit, or premises fails or refuses to permit this access and entry to the structure
30 or premises under his or her control or any part of it, the state inspector may, upon a showing that
31 probable cause exists for the inspection and for the issuance of a court order directing compliance
32 with the inspection requirements of this section, petition and obtain an order from a court of
33 competent jurisdiction. Any person refusing to comply with an order issued pursuant to this
34 section shall be subject to any penalties as may be authorized by law for violation of a court

1 order.

2 **23-24.6-15. Inspections of rental property.** -- (a) The director shall, in conjunction with
3 the housing resources commission, promulgate regulations permitting state inspectors to conduct
4 such comprehensive environmental lead inspections as may be appropriate in response to any
5 complaint to the department or the housing resources commission, by an occupant or the parent
6 or guardian of any child under the age of six (6) years who is an occupant renting or leasing a
7 dwelling, dwelling unit, or premises of the existence of a lead exposure hazard for a child under
8 the age of six (6) years in that dwelling, dwelling unit, or premises. These regulations will allow
9 for response to the complaints to be prioritized based upon the age of the structure and the nature
10 and degree of hazard present.

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

15 (1) Those persons occupying the dwelling, dwelling unit, or premises at the time the
16 inspection is performed shall be notified of the results within five (5) business days after the
17 owner receives the results;

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

21 (3) This notice provision terminates with the performance of the necessary lead
22 reduction actions required to reach at least the "lead safe" level. The department shall provide the
23 owner with a certification of lead reduction for the dwelling.

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

27 **23-24.6-16. Notice prior to residential property transfer.** -- (a) The department shall
28 issue regulations for the disclosure of lead exposure hazards and potential lead exposure hazards
29 in a residential dwelling, dwelling unit, or premise that is offered for sale or lease. These
30 regulations, at the minimum, shall incorporate the requirements of section 1018 of the federal
31 Residential Lead-Based Paint Hazard Reduction Act of 1992 (PL 102-550), 42 U.S.C. section
32 4852d, shall not be inconsistent with the requirements for lead hazard mitigation established
33 pursuant to the provisions of chapter 42-128.1, and shall additionally require an owner of a
34 residential dwelling, dwelling unit, or premise offered for sale or lease to provide copies of any

1 outstanding notice of violation and of results of any lead inspection performed in the dwelling,
2 dwelling unit, or premise and copies of educational materials developed by the department,
3 including information about the requirements of this section and programs that provide financial
4 assistance for comprehensive environmental lead inspections or lead hazard reduction.

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

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

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

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

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

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

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

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

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

34 (5) Contain measures to protect the occupational safety and health of lead inspectors,

1 contractors, supervisors, workers, and other persons who perform lead hazard reduction which
2 may be more, but not less, stringent than applicable federal standards; and

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

6 (b) ~~The~~ Until July 1, 2004, the owner of any dwelling, dwelling unit, or premises shall be
7 considered as an "innocent owner", and liability as to lead poisoning is limited to the reduction of
8 any lead hazard as determined by a comprehensive environmental lead inspection within the
9 requirements of the Housing Maintenance and Occupancy Code, chapter 24.3 of title 45. The
10 "innocent owner" provision will cease upon the owner's unreasonable failure to correct any lead
11 paint violation within ninety (90) days of notice as provided in that chapter. Provided, any owner
12 who has received notices on three (3) or more properties shall be presumed to be an unreasonable
13 failure to correct.

14 "Innocent owner" status, and the limits on liability set forth in this paragraph, shall not
15 apply to any incident of childhood lead poisoning reported to the department on or after July 1,
16 2004, and liability for lead poisonings after July 1, 2004, but shall include such correction of lead
17 hazards as may be required by this chapter.

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

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

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

3 ~~**23-24.6-19.1. Sale of abrasive materials for removal of paint.** -- Every hardware store
4 and retail store which sells abrasive materials which may be used to remove paint shall post a
5 conspicuous sign, provided by the department of health, of sufficient size with large enough
6 lettering to be easily seen and read, in each area of the store where abrasive materials are
7 displayed for sale, which contains the following:~~

8 **WARNING**

9 ~~Use of abrasive material (sandpaper, steel wool, drill disks and pads, etc.) in your home
10 to remove paint may increase the risk of childhood lead poisoning. For more information please
11 contact the Rhode Island department of health.~~

12 **23-24.6-20. Licensure or certification of environmental lead inspectors and lead**
13 **contractors, supervisors, and workers.** -- (a) The department shall provide for the certification
14 of training programs for environmental lead inspectors and for lead contractors, supervisors,
15 workers, and other persons engaged in environmental lead hazard reduction pursuant to the
16 provisions of this chapter. The department shall establish standards and specifications for training
17 courses including, at a minimum, the required length of different training programs, mandatory
18 topics of instruction, and required qualifications for training programs and instructors. Hands on
19 instruction shall be a component of the required training.

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

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

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

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

1 and hands on instruction for equipment and techniques to be used; a minimum of twenty (20)
2 hours of training shall be required as a condition of licensure for workers; additional hours of
3 training shall be required for supervisors and contractors; annual refresher training shall also be
4 required;

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

7 (c) No person shall enter into, engage in, or conduct comprehensive environmental lead
8 inspections or environmental lead hazard reduction activities covered by department regulations
9 once those regulations have been promulgated as specified in section 23-24.6-12 without having
10 successfully completed a certified training program and without having been certified or licensed,
11 as appropriate, by the department. Each trained and certified or licensed person shall be issued a
12 photo identity card.

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

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

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

25 (3) When any person violates the terms or conditions of any certification or license
26 issued under this section or any state law or regulation, the director shall have the power by
27 written notice to order the violator to cease and desist immediately. The department may file a
28 written complaint with the district court in the jurisdiction in which the violation occurred.
29 Punishment by fine not to exceed one thousand dollars (\$1,000) under this section may be in
30 addition to the suspension of any license or certification.

31 (4) Any state inspector may issue an immediate cease work order to any person who
32 violates the terms or conditions of any license or certification issued under this section or any
33 provision of this chapter or any regulation or order issued under this chapter if the violation will
34 endanger or materially impair the health or well being of any occupant, any environmental lead

1 inspector, or any contractor, supervisor, worker, or other person engaged in environmental lead
2 hazard reduction.

3 (f) Nothing in this section shall be construed to limit the authority of the department of
4 health, the department of labor and training, or the department of environmental management
5 under the provisions of any other law procedure

6 **23-24.6-23. Compliance procedures. – Compliance and enforcement.** – (a) Except as
7 provided in this chapter, the inspection, enforcement, and penalties for violations of the
8 provisions of this chapter shall be in accordance with the provisions and procedures set forth in
9 sections 23-1-19 -- 23-1-25.

10 In addition to the provisions for enforcement of this act found elsewhere in this act, there
11 shall be the following powers of enforcement, which shall be in addition to other provisions of
12 the general laws pertaining to enforcement of the laws of this state and shall not be deemed to
13 limit or replace such other provisions. The provisions of this section shall be liberally construed
14 and shall be considered an essential responsibility of the state to protect public health and welfare.

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

34 (c) The attorney general shall maintain an office of lead advocate, which office shall

1 have, in addition to such other powers as the attorney general may assign to it, the power:

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

5 (2) to bring such actions as may be necessary or appropriate to secure the performance by
6 state agencies and political subdivisions the duties assigned to them by this act;

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

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

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

26 (d) Receivership of properties not meeting standards. – Following the second notice of
27 violation, issued by the department of health pursuant to the provisions of section 45-24.3-17(e)
28 for failure to meet the applicable lead hazard reduction for rental dwellings occupied by a
29 pregnant woman or a child under the age of six (6) years unless the violations alleged to exist are
30 corrected, the unit shall be considered abandoned and a public nuisance, which is a menace to
31 public health, as the term “abandon” or “abandonment” and “public nuisance” defined by section
32 34-44-2. In such instances the department of health, the attorney general, a nonprofit corporation
33 as provided for in section 34-44-3, or the city or town in which such unit is located shall have the
34 specific power to request the court to appoint a receiver for the property, the court in such

1 instances may specifically authorize the receiver to apply for loans, grants and other forms of
2 funding necessary to correct lead hazards and meet lead hazard mitigation standards, and to hold
3 the property for such period of time as the funding source may require to assure that the purposes
4 of the funding have been met.

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

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

19 (3) A property owner who fails to meet the requirements of subparagraph (e)(2) herein
20 shall be notified that the premises are declared unsafe for habitation by children under six (6). A
21 list of property owners so notified and of addresses of premises for which such notice has been
22 given shall be a public record.

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

29 (5) Any property owner who receives notice that a dwelling unit is high risk and who
30 fails to abate lead hazards in accordance with a compliance schedule as provided in paragraph (2)
31 above and there is a subsequent instance of an at risk occupant with an environmental
32 intervention blood lead level, which is attributable in whole or in part to conditions in the
33 dwelling unit, shall be deemed to have committed a felony and shall be punished by
34 imprisonment for not less than one (1) year, but not more than five (5) years and/or by a fine of

1 not less than five thousand dollars (\$5,000) nor more than twenty thousand dollars (\$20,000).

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

5 **23-24.6-26. Rules and regulations.** -- The director is authorized to adopt, modify, or
6 repeal and promulgate rules and regulations as are in accord with the purposes of sections 23-
7 24.6-1 -- 23-24.6-27, and shall be subject to the Administrative Procedures Act, chapter 35 of title
8 42. All rules and regulations promulgated by the director shall provide for the use of "lead safe"
9 reduction as the preferred method where possible to meet the requirements of this chapter, ~~and the~~
10 ~~Housing Maintenance and Occupancy Code, chapter 24.3 of title 45.~~ Such rules shall provide for
11 notification, pursuant to the provisions of section 23-24.6-12, to occupants of a premise, of lead
12 hazards following a comprehensive environmental lead inspection at the premises when there is a
13 reasonable likelihood that given the age, type, and condition of the premises that significant lead
14 hazards are present in other dwelling units.

15 SECTION 3. Title 42 of the General Laws entitled "State Affairs and Government" is
16 hereby amended by adding thereto the following chapter:

17 CHAPTER 128.1

18 LEAD HAZARD MITIGATION

19 **42-128.1-1. Short Title.** - - This chapter may be cited and shall be known as the "Lead
20 Hazard Mitigation Act."

21 **42-128.1-2. Legislative Findings.** -- The general assembly finds and declares that:

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

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

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

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

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

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

1 **42-128.1-3. Legislative purposes.** -- In order to promote the prevention of childhood
2 lead poisoning in Rhode Island, it is the purpose of this act:

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

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

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

8 **42-128.1-4. Definitions.** -- The following definitions shall apply in the interpretation and
9 enforcement of this chapter:

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

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

19 (3) “Lead abated” shall mean a dwelling and premises which are lead free or lead safe, as
20 those terms are defined in chapter 23-24.6.

21 (4) “Lead hazard mitigation standards” shall mean standards adopted by the housing
22 resources commission for a dwelling unit and associated common areas that provide for:

23 (i) a continuing and ongoing responsibility for lead hazard control that includes: (A)
24 repair of deteriorated paint; (B) correction of dust generating conditions such as friction or impact
25 areas; (C) provision of cleanable surfaces to eliminate harmful dust loading; (D) correction of soil
26 lead hazards; (E) safe work practices;

27 (ii) at unit turnover: (A) the provision of information on lead hazards and their avoidance
28 and control to tenants; (B) documentation of lead hazard mitigation compliance; (C) an explicit
29 process for notification by tenants to property owners of instances of deterioration in conditions
30 effecting lead hazards; and

31 (iii) maintenance of “Lead Hazard Control.”- “Lead Hazard Control” shall mean those
32 portions of the lead hazard mitigation standard pertaining to repair of deteriorating paint,
33 correction of dust generating conditions, provision of cleanable surfaces, and correction of soil
34 lead hazards that can be identified by visual inspection as provided for in paragraph (5)(ii) or

1 through inspections conducted in accordance with chapters 45-24.2, Minimum Housing, and 45-
2 24.3, Housing Maintenance and Occupancy, of the general laws.

3 (5) “Lead hazard mitigation compliance” shall mean an independent clearance inspection,
4 as herein specified, undertaken to determine whether the lead hazard mitigation measures have
5 been completed. A clearance review shall be valid for two (2) years or until the next turnover of
6 the dwelling unit, whichever period is shorter, provided however that no more than one clearance
7 review shall be required in any twelve (12) month period. The requirements for a clearance
8 review shall be met either by an independent clearance inspection or a visual inspection as herein
9 set forth.

10 (i) An “independent clearance inspection”, shall mean an inspection performed by a
11 person who is not the property owner or an employee of the property owner and who is
12 authorized by the housing resources commission to conduct independent clearance inspections,
13 which shall include (A) a visual inspection to determine that the lead hazard controls have been
14 met and (B) dust testing in accordance with rules established by the department of health. A
15 certificate of conformance shall be issued by the person who conducted the inspection on the
16 passage of the visual inspection and the required dust testing. An independent clearance
17 inspection shall be required at unit turn over or once in a twelve (12) month period, whichever
18 period is the longer. If the tenancy of an occupant is two (2) years or greater, the certificate of
19 conformance shall be maintained by a visual inspection as set forth in paragraph (ii) below.

20 (ii) A “visual inspection” shall mean a visual inspection by a designated person to
21 determine that the lead hazard controls have been met. If the designated person concluded that the
22 lead hazard controls specified in this act have been met, the designated person may complete an
23 Affidavit of Completion of Visual Inspection. The affidavit shall be valid upon its being notarized
24 within thirty (30) days after the completion of the visual inspection and shall set forth:

25 (A) the date and location that the designated person took the lead hazard control
26 awareness seminar;

27 (B) the date and findings of the lead hazard evaluation;

28 (C) the date and description of the lead hazard control measures undertaken;

29 (D) the date of the visual inspection; and

30 (E) the name and signature of the designated person and date of the Affidavit of
31 Completion of Visual Inspection.

32 An Affidavit of Completion of Visual Inspection shall be valid for two years after the
33 date it was notarized or until unit turn over, whichever time period is the shorter, and shall be kept
34 by the property owner for a minimum of five (5) years.

1 (iii) Presumptive Compliance. A property owner of ten (10) or more dwelling units shall
2 be eligible to obtain a certificate of presumptive compliance from the housing resources
3 commission provided that the following conditions are met: (1) the dwelling units were
4 constructed after 1960, (2) there are no major outstanding minimum housing violations on the
5 premises, (3) the property owner has no history of repeated lead poisonings, and (4) independent
6 clearance inspections have been conducted on at least five (5) percent of the dwelling units, but
7 not less than two (2) dwelling units and at least ninety (90) percent of the independent clearance
8 inspections were passed. Repeated lead poisoning for purposes of this paragraph shall mean a
9 lead poisoning rate of less than one half (.5) percent per dwelling unit year, with dwelling unit
10 years being calculated by multiplying the number of dwelling units owned by the property owner
11 by the number of years of ownership since 1992. Major minimum housing violations shall be
12 defined by rule by the housing resources commission. The housing resources commission shall
13 not arbitrarily withhold its approval of applications for presumptive compliance. A certificate of
14 presumptive compliance shall be deemed to be satisfactory for purposes of demonstrating
15 compliance with the requirements of this chapter.

16 (6) “Lead hazard mitigation inspector” shall mean either a person approved by housing
17 resources commission to perform independent clearance inspections under this chapter or
18 inspections required by 24 CFR 35 Subpart M, or approved by the department of health to
19 conduct inspections pursuant to section 23-24.6.

20 (7) “Lead poisoned” shall mean a confirmed venous blood lead level established by the
21 department of health pursuant to section 23-24.6-4(1).

22 (8) “At risk occupant” shall mean a person under six (6) years of age, or a pregnant
23 woman, who has been in habitancy in a dwelling unit at least thirty (30) days.

24 (9) “Property owner” shall mean any person who, alone or jointly or severally with
25 others:

26 (i) Shall have legal title to any dwelling, dwelling unit, or structure with or without
27 accompanying actual possession thereof; or

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

33 (iii) Notwithstanding the foregoing, no holder of a mortgage or other lien holder who, in
34 enforcing a security interest, acquires title by foreclosure or deed in lieu thereof shall be

1 considered a property owner for purposes of this chapter, if such holder transfers such title within
2 one (1) year after the date such title is acquired; provided, however, if said mortgagee or lien
3 holder, subsequent to acquiring title, is notified of a lead hazard under chapter 23-24.6 or
4 subsection 42-128.1-8(a)(5), then and in that event, said mortgagee or lien holder shall take such
5 steps to reduce the lead hazard as shall be required under the provisions of chapter 23-24.6 or
6 chapter 42-128.1, as applicable.

7 **42-128.1-5. Housing Resources Commission - Powers and duties with respect lead**

8 **hazard mitigation.** (a) General powers and duties. -- The Housing Resources Commission shall
9 implement and to put into full force and effect the powers, duties, and responsibilities assigned to
10 it by the Lead Hazard Mitigation Act, chapter 42-128.1 of the general laws and shall serve as the
11 lead state agency for lead hazard mitigation, planning, education, technical assistance, and
12 coordination of state projects and state financial assistance to property owners for lead hazard
13 mitigation.

14 (b) Regulatory Guidelines. - - In developing and promulgating rules and regulations as
15 provided for in this chapter, the housing resources commission shall consider, among other
16 things, (1) the effect on efforts to reduce the incidence of lead poisoning, (2) the ease and cost of
17 implementation, (3) the impact on the ability to conduct real estate transactions fairly and
18 expeditiously, (4) consistency with federal standards, such that the differences between basic
19 federal standards and Rhode Island standards for lead hazard mitigation are, to the extent
20 practicable, minimized, and (5) the direction of effort to locations and housing types, which due
21 to age, condition, and prior history of lead poisoning are more likely to the location of lead
22 poisoning.

23 (c) Comprehensive strategic plan. - - In order to establish clear goals for increasing the
24 availability of housing in which lead hazards have been mitigated, to provide performance
25 measures by which to assess progress toward achieving the purposes of this act, and to facilitate
26 coordination among state agencies and political subdivisions with responsibilities for housing and
27 housing quality for lead poisoning reduction and for the availability of insurance coverages
28 described in this chapter, the housing resources commission established by chapter 42-128 of the
29 general laws shall adopt by April 1, 2003, a four (4) year, comprehensive strategic plan for
30 reducing the incidence of childhood lead poisoning, for increasing the supply of lead-safe
31 housing, and for assuring that pre-1978 in rental housing throughout the state lead hazards have
32 been mitigated.

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

34 (i) Educating people with regard to lead hazards and how they can be avoided, mitigated,

1 and/or abated;

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

4 (iii) Coordination of the enforcement of laws pertaining to lead hazard control, mitigation
5 and abatement including the Lead Poisoning Prevention Act and minimum housing codes and
6 standards;

7 (iv) Coordination of efforts with local governments and other agencies to improve
8 housing conditions;

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

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

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

19 (3) Reporting. The commission shall report annually to the Governor and the general
20 assembly, no later than March of each year up to and including the year 2007 on the progress
21 made in achieving the goals and objectives set forth in the plan, which report may be integrated
22 with or issued in conjunction with the report of the commission on environmental lead submitted
23 pursuant to section 23-24.6-6.

24 **42-128.1-6. Education. --** In order to achieve the purposes of this act, a statewide,
25 multifaceted, ongoing educational program designed to meet the needs of tenants, property
26 owners, realtors and real estate agents, insurers and insurance agents, local building officials, and
27 health providers and caregivers is hereby established.

28 (1) The Governor, in conjunction with the department of health and the housing resources
29 commission, shall sponsor a series of public service announcements on radio, television, and print
30 media about the nature of lead hazards, the importance of lead hazard control and mitigation, and
31 the purposes and responsibilities set forth in this act. In developing and coordinating this public
32 information initiative the sponsors shall seek the participation and involvement of private industry
33 organizations, including those involved in real estate, insurance, mortgage banking, and
34 pediatrics.

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

4 (i) Create culturally and linguistically appropriate material outlining the rights and
5 responsibilities of parties affected by this act;

6 (ii) Establish guidelines and a trainer's manual for a not more than three (3) hour lead
7 hazard control awareness seminar for rental property owners or designated person, which shall be
8 forwarded to all public and private colleges and universities in Rhode Island, to other professional
9 training facilities, and to professional associations and community organizations with a training
10 capacity, with the stipulation this seminar be offered for a maximum fee of fifty dollars (\$50.00)
11 per participant. The housing resources commission shall approve the proposals to offer the
12 seminar from institutions, provided such proposals are consistent with the guidelines;

13 (iii) Adopt rules for the dissemination of information about the requirements of this act to
14 all prospective owners of pre-1978 dwellings during the real estate transaction, settlement, or
15 closing;

16 (iv) Solicit requests, to the extent that such partnerships are not already established, to
17 enter into ongoing, funded partnerships, to provide specific counseling information services to
18 tenants and affected parties on their rights and responsibilities with regard to lead hazards and
19 lead poisoning.

20 (3) The department of business regulation shall, with regard to its responsibilities for the
21 profession of real estate brokers and salespersons, adopt rules, with the concurrence of the
22 housing resources commission and the department of health which shall be effective not later than
23 June 30, 2004; (A) requiring proof of reasonable familiarity with the knowledge of duties and
24 responsibilities under the provisions of the Lead Poisoning Prevention Act, chapter 23-24.6, and
25 this act, for the licensure or renewal of licenses of real estate brokers and salespersons in
26 accordance with section 5-20.5-6 after July 1, 2004; and (B) providing, pursuant to section 5-
27 20.5-18, an educational program for real estate brokers and salespersons regarding such duties
28 and responsibilities.

29 (4) The housing resources commission, in conjunction with the department of health, is
30 hereby authorized to develop, offer, engage in, contract for and/or provide such other educational
31 or informational programs as they may deem necessary to accomplish the purposes of this act,
32 including, but not limited to, programs to assist families to find housing that is lead free, lead
33 safe or lead hazard mitigated or abated; to train lead hazard mitigation inspectors and local
34 building officials and persons engaged in renovating and/or improving housing about controlling

1 or mitigating lead hazards in pre-1978 housing, and to provide information about lead hazard
2 mitigation requirements at retail hardware and paint stores and home-improvement centers, which
3 informational materials shall as a minimum included signs of sufficient size with large enough
4 lettering to be easily seen and read, which contains the following language:

5 WARNING

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

9 **42-128.1-7. Lead hazard mitigation.** – The housing resources commission, shall adopt
10 no later than April 1, 2003 rules:

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

16 (2) for a lead hazard mitigation standard;

17 (3) for any training, certification or licensing necessary to carry out the provisions of this
18 act; and

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

24 **42-128.1-8. Duties of property owners of pre-1978 rental dwellings.** -- (a) Property
25 owners of pre-1978 rental dwellings, which have not been made lead safe or have not been lead
26 hazard abated, shall mitigate lead hazards and shall comply with all the following requirements:

27 (1) Learn about lead hazards by taking a lead hazard awareness seminar;

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

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

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

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

3 (b) New property owners of a pre-1978 rental dwelling that is occupied by an at risk
4 occupant shall have up to sixty (60) days to meet requirements for lead hazard mitigation, if those
5 requirements were not met by the previous owner at the time of transfer, provided that the new
6 property owner has the property visually inspected within ten (10) business days after assuming
7 ownership to determine conformity with the lead hazard control standard;

8 (c) The requirements for lead hazard mitigation shall apply to the first change in
9 ownership or tenancy after July 1, 2004; provided further that unless requested and agreed to by
10 an at-risk occupant, meeting the lead hazard mitigation standard shall not be construed to
11 authorize a property owner to compel or cause a person, who is in tenancy on January 1, 2003,
12 and remains in tenancy continuously thereafter, to vacate such a rental unit temporarily or
13 otherwise;

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

21 **42-128.1-9. Insurance coverage.** -- (a) The department of business regulation shall by
22 January 1, 2003, establish a uniform policy with regard to exclusion for lead poisoning and shall
23 adopt such rules and requirements as may be necessary to assure the availability of insurance
24 coverage for losses and damages caused by lead poisoning, in accordance with the provisions of
25 this chapter; which policy and rules shall apply to liability coverage available to property owners.
26 The department of business regulation shall have the authority and is empowered consistent with
27 the requirements of chapter 42-35, to promulgate rules and regulations which shall enable it to
28 compile and analyze data and to make determinations with regard to the availability of and rates
29 for lead liability coverage.

30 (b) Except as otherwise provided by this chapter, no insurance company licensed or
31 permitted by the department of business regulation to provide liability coverage to rental property
32 owners shall exclude, after June 30, 2004, coverage, for losses or damages caused by lead
33 poisoning. The department of business regulation shall not permit, authorize or approve any
34 exclusion for lead poisoning, except as specifically provided for by this chapter, that was not in

1 effect as of January 1, 2000, and all previously approved exclusions shall terminate June 30,
2 2004. As of July 1, 2004, coverage for lead poisoning shall be included in the policy or offering
3 by endorsement, as set forth in this section.

4 (c) All insurers issuing commercial lines insurance policies and personal lines insurance
5 policies covering pre-1978 rental housing in compliance with the requirements of this chapter for
6 lead hazard mitigation or with the requirements of chapter 23-24.6 for lead safe housing, within
7 the state of Rhode Island, shall, effective July 1, 2004, include in the policy coverage for liability
8 for injury, damage, or death resulting from occurrences of lead poisoning in an amount equal to
9 and no less than the underlying policy limits for personal injury/bodily injury coverage provided
10 under the policy so issued to a residential rental property owner. The property owner shall, if
11 requested by the insurer, present to the insurance company, either: (1) proof of certificate of
12 compliance of an independent clearance inspection and of any affidavit of visual inspection
13 required to maintain the validity of the independent clearance inspection; (2) proof of meeting the
14 mitigation standard in the form of a clearance exam showing that lead hazards are mitigated; or
15 (3) proof of abatement. Such proof shall be prima facie evidence of compliance with the
16 requirements of this act. In any subsequent renewal, the insurer may require such continuing
17 proof whenever the certificate is expiring, has expired, or is otherwise invalidated.

18 (d) For residential rental properties that have not been brought into compliance with the
19 requirements for lead hazard mitigation pursuant to this chapter or for lead hazard reduction
20 pursuant to chapter 23-24.6, effective July 1, 2004, for residential rental property owners who
21 own or owned a substantial legal or equitable interest in one property and have had no more than
22 one unremediated dwelling unit at which a child was poisoned prior to July 1, 2004, and for
23 residential property owners who own or owned more than one property and have had no more
24 than two unremediated dwelling units at which a child was poisoned prior to July 1, 2004, an
25 insurance company, which provides liability insurance to a residential rental property owner,
26 shall either offer lead liability coverage for bodily injury, which shall be equal to the underlying
27 limits of liability coverage for the property, by endorsement, or shall assist the insured in placing
28 lead liability coverage through the program commonly known as the Rhode Island FAIR Plan
29 either directly or through one of the insurance company's agents or brokers, and the Rhode Island
30 FAIR Plan shall make available liability coverage for damages caused by lead poisoning to the
31 class of property owners described in this paragraph. If the insured seeks lead liability coverage
32 with the FAIR Plan, the FAIR Plan may use reasonable underwriting guidelines, as approved by
33 the department of business regulation to underwrite the property. Any property owner, who fails
34 to remediate a property, after a notice of violation subsequent to June 30, 2004, and any property

1 which is not remediated after notice of a violation subsequent to June 30, 2004, shall not be
2 eligible to receive an offer of coverage and shall be subject to cancellation and non-renewal of
3 such coverage if the property is not found to be in compliance with the lead law within ninety
4 (90) days of the date of issuance of the notice by the director, or the housing resources
5 commission, as applicable.

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

- 10 (1) That they are not excessive, inadequate, or unfairly discriminatory;
- 11 (2) That consideration is given to:
 - 12 (i) Past and prospective loss experience within the state of Rhode Island;
 - 13 (ii) A reasonable margin for profits and contingencies;
 - 14 (iii) Past and prospective expenses specifically applicable to the state of Rhode Island;
 - 15 (iv) Such other data, including data compiled in other states, especially regarding
16 experience data for lead liability coverages, as the department may deem necessary; and
 - 17 (v) Past history of the owner with regard to lead poisoning or any associated violations.

18 (f) The department of business regulation shall have the authority and is empowered,
19 consistent with the requirements of chapter 42-35, to promulgate rules and regulations to enable it
20 to compile and analyze data and to make determinations with regard to the availability of and
21 rates for lead liability coverage. In order to effect the purposes of this section insurers shall file,
22 on or before October 1, 2003, the proposed language of endorsements for lead liability coverage
23 and the proposed rates for such coverage with the department.

24 **42-128.1-10. Right to housing where lead hazards are corrected** -- Pregnant women
25 and families with children under six (6) years of age shall be deemed to have a right, to housing
26 in which lead hazards have been mitigated or abated.

27 (1) Injunctive Relief. Effective July 1, 2004, if the property owner of a rental dwelling
28 fails to comply with such standards for lead hazard mitigation, or abatement, as applicable, a right
29 of private action shall exist that allows households that include an at risk occupant to seek
30 injunctive relief from a court with jurisdiction against the property owner in the form of a court
31 order to compel compliance with requirements for lead hazard control or mitigation. A person
32 who prevails is entitled to an award of the costs of the litigation and reasonable attorneys' fees in
33 an amount to be fixed by the court. Cases brought before the court under this section shall be
34 granted an accelerated hearing.

1 **42-128.1-11. Enforcement.** - - (a) The standards for lead hazard control and for lead
2 hazard mitigation in pre-1978 housing shall be considered basic housing standards and shall be
3 enforceable through the provisions of this chapter and through procedures established in the
4 chapters 45-24.2 and 45-24.3.

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

11 **(1) The ordinances, rules, and regulations for “Minimum Housing Standards” adopted**
12 pursuant to section 45-24.2-3 of the general laws shall on or before July 1, 2004 include
13 provisions for lead hazard control.

14 **(2) The Housing Maintenance and Occupancy Code, established by chapter 45-24.3 of**
15 the general laws, shall, effective July 1, 2004, include provisions consistent with a continuing and
16 ongoing responsibility for lead hazard mitigation as required by the department of health
17 standards.

18 **42-128.1-12. Independent evaluation.** – In order to assure the effectiveness of the lead
19 hazard awareness mitigation program established by the act and to recommend any changes,
20 which may be necessary to appropriate, the auditor general shall:

21 **(1) Conduct a performance audit for the period ending December 31, 2003, of the duties**
22 and responsibilities assigned to the state agencies and to political subdivisions by this act and by
23 the lead poisoning prevention act, chapter 23-24.6, and of the effectiveness of this act in meeting
24 its purposes. The auditor general may contract with independent firms and organizations with
25 expertise in lead poisoning prevention and lead hazard mitigation to assist with the evaluation of
26 matters set forth in this subsection.

27 The auditor general’s report shall be submitted to the governor, the speaker of the house,
28 the senate majority leader, the chairperson of the housing resources commission and the director
29 of health, on or before March 31, 2004, and shall contain, as appropriate, recommendations: (i) to
30 make the programs established by this act and by the lead poisoning prevention act more effective
31 in achieving their respective purposes; and (ii) to address any unreasonable hardships caused by
32 this act or likely to be caused by this act with its full implementation July 1, 2004.

33 The performance audit required by this subsection shall, in addition to the examination of
34 effectiveness of administration and the efficiency and adequacy of state agencies and political

1 subdivisions in the performance of their duties under this act and the lead poisoning prevention
2 act, include consideration of the following matters:

3 (A) The number and type and date of public service announcements requires by section
4 42-128.1-6(1);

5 (B) The availability and distribution of education materials specified by section 42-128.1-
6 6(2)(i);

7 (C) The number, date and location of lead hazard awareness seminars and the number of
8 persons who have participated in such seminars;

9 (D) The number of “mitigation inspectors,” average length of time necessary to conduct
10 such inspections, the cost of meeting standards per inspection, and the availability of inspectors to
11 conduct the inspections, at a reasonable cost needed in the various geographic areas of the state;

12 (E) The availability of programs to assist property owners, especially low and moderate
13 income property owners;

14 (2) Conduct a performance audit for the period ending June 30, 2006, of the duties and
15 responsibilities, as assigned by this act, to state agencies and political subdivisions and of the
16 effectiveness of this act in meeting its purposes, especially with regard to increasing the supply of
17 housing in which lead hazards have been mitigated and in reducing the incidence and severity of
18 lead poisoning in Rhode Island, The auditor general may contract with independent firms and
19 organizations with expertise in lead poisoning prevention and lead hazard mitigation, to assist
20 with the evaluation of matters set forth in this act. The auditor general’s report shall be submitted
21 to the governor, the speaker of the house, the senate majority leader, the chairperson of the
22 housing resources commission and the director of health, on or before January 1, 2007, and shall
23 contain, as appropriate, recommendations: (1) to make the programs established by the act more
24 effective in achieving the respective purposes; and (2) to redress any unreasonable hardships
25 caused by this act or likely to be caused by this act.

26 **42-128.1-13. Rhode Island lead hazard technical assistance service . . . (a)**
27 **Establishment and purposes. - - The Rhode Island housing resources commission shall establish a**
28 **“Rhode Island Lead Hazard Technical Assistance Service” program for the purposes of providing**
29 **technical assistance to property owners to achieve compliance with this act and the Lead**
30 **Poisoning Prevention Act.**

31 The services of the program may include, but shall not be limited to, evaluation of the
32 need for lead hazard mitigation in a dwelling; review of independent inspection results;
33 identification of and arranging funding for conduction lead hazard abatement and mitigation, and
34 supplying such materials, assistance, and services as may be needed by property owners to

1 achieve compliance with this act and the Lead Poisoning Prevention Act in an affordable manner.

2 (b) Cooperation with Rhode Island Housing and Mortgage Finance Corporation. - - The
3 housing resources commission is hereby authorized to cooperate with the Rhode Island Housing
4 and Mortgage Finance Corporation in putting the provisions of this section into effect, and the
5 Rhode Island Housing and Mortgage Finance Corporation is hereby authorized to exercise its
6 powers under section 42-55-5.1 of the general laws to provide for the implementation of this
7 section.

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

11 SECTION 4. Section 45-24.2-3 of the General Laws in Chapter 45-24.2 entitled
12 "Minimum Housing Standards" is hereby amended to read as follows:

13 **45-24.2-3. Powers of councils.** -- (a) For the purpose of promoting the public health,
14 safety, morals, or general welfare, and for the purpose of making dwellings and dwelling places
15 safe, sanitary, and fit for human habitation, any city or town council has powers in accordance
16 with the provisions of this chapter within the limits of the city or town, by ordinance, to pass,
17 ordain, establish, and amend ordinances, rules, and regulations for the establishment and
18 enforcement of minimum standards for dwellings.

19 (b) Without limiting the generality of the foregoing, the ordinance, rules, and regulations
20 may include:

21 (1) Minimum standards with respect to facilities and equipment in dwellings including,
22 but not limited to, provisions relating to kitchen sinks, flush toilets and lavatory basins, bathtubs
23 and showers, hot and cold water lines, rubbish and garbage storage and disposal facilities,
24 cooking facilities, water heating facilities, window shades and screens, and provision for
25 elimination and prevention of insect and vermin infestation.

26 (2) Minimum standards with respect to lighting, ventilation, refrigeration, and heating,
27 including, but not limited to, provisions relating to window area, room light and ventilation,
28 electrical outlets, heating facilities, lighting of halls and stairways, and refrigerated storage space.

29 (3) Minimum standards relating to the healthful, safe, and sanitary maintenance of parts
30 of dwelling and dwelling units including, but not limited to, provisions relating to weathertight,
31 watertight, and rodent proof foundations, floors, walls, ceilings, roofs, windows and doors, the
32 condition and repair of stairs and porches, the condition of plumbing fixtures, imperviousness of
33 floor surfaces to water, and the functioning of supplied facilities, pieces of equipment, and
34 utilities and to lead hazard control, for dwellings constructed prior to 1978, consistent with lead

1 hazard control provisions of the lead hazard mitigation as standards established in chapter 42-
2 128.1.

3 (4) Minimum standards with respect to space, use, and location including, but not limited
4 to, provisions relating to floor space per occupant, size of rooms, bathroom access, ceiling height,
5 cellar and basement occupancy, and means of egress.

6 (5) Provisions fixing responsibilities of owners, operators, and occupants for the
7 condition, maintenance, use, and occupancy of dwellings and dwelling premises.

8 (6) Provisions that any person having any duty to perform under the provisions of this
9 chapter, or any ordinance, rule, or regulation adopted pursuant to the authority of this chapter,
10 may enter the dwelling and dwelling premises at all reasonable times for the purpose of
11 examination, inspection, and survey. In the event entry is denied or resisted, an order to examine,
12 inspect, and survey may be obtained from a court of competent jurisdiction as provided for in
13 section 45-24.2-8.

14 (7) Provisions that the enforcing officer may order the repair, alteration, or improvement
15 of a dwelling or dwelling premises by the owner or other person or persons responsible for the
16 repair, alteration, or improvement under the provisions of the ordinance, rules, and regulations.

17 (8) Provisions that the enforcing officer may declare any dwelling or dwelling premises
18 unfit for human habitation if the officer finds that conditions exist in that dwelling which are a
19 serious hazard or immediate peril to the health, safety, or welfare of the occupants, the occupants
20 of neighboring dwellings, or the general public.

21 (9) Provisions that whenever any dwelling or dwelling premises are found by the
22 enforcing officer to be unfit for human habitation because of defects which constitute a serious
23 hazard of immediate peril to the health, safety, or welfare of the occupants of the dwelling or the
24 public, the enforcing officer may:

25 (i) Order the dwelling or dwelling premises to be vacated and secured until a time that he
26 or she determines that the dwelling is again fit for human habitation;

27 (ii) Order the removal or demolition of a dwelling whenever the repair, alteration, or
28 improvement of the dwelling cannot be made at a cost reasonably related to the value of the
29 dwelling; provided, that the owner of the dwelling may at the owner's discretion, repair, alter, or
30 improve the dwelling regardless of the cost, within a time period specified in the order;

31 (iii) Repair, alter, or improve or cause to be vacated and secured, or both, the dwelling or
32 dwelling premises at the expense of the owner or other responsible person or persons, whenever
33 the owner or other responsible person or persons fail to comply with an order to repair, alter, or
34 improve or to vacate and secure the dwelling; provided, that the cost of the repair, alteration, or

1 improvement is reasonably related to the value of the dwelling or dwelling premises;

2 (iv) Remove or demolish the dwelling at the expense of the owner whenever the owner
3 fails to comply with an order issued to remove or demolish in accordance with the provisions of
4 subsection (b)(9)(ii).

5 (10) Provisions that whenever the owner fails to comply with any order as provided for
6 in subsections (b)(9)(i) and (b)(9)(ii), the cost incurred by the enforcing officer or any person
7 doing work or furnishing materials by the officer order under the provisions of subsections
8 (b)(9)(iii) and (b)(9)(iv) shall be a lien against the real property, and the lien shall be enforced in
9 the same manner provided or authorized by law for enforcement of common law liens on
10 personal property. The lien shall be recorded. If the dwelling is removed or demolished by the
11 enforcing officer, the officer may sell the materials of the dwelling, and the net cost of demolition
12 and removal shall be charged to the owner and, if any balance remains, it shall be credited to the
13 owner.

14 (11) Provisions that any notices and order may be recorded in the same manner as the
15 recording of "lis pendens" notices.

16 (12) Provisions that the owner of any dwelling which has been found by the enforcing
17 officer to be unfit for human habitation in accordance with the provisions of subsection (b)(8)
18 shall not sell, transfer, mortgage, lease, or otherwise dispose of the dwelling until the conditions
19 causing the dwelling to be unfit for human habitation have been corrected or until the owner has
20 furnished the intended grantee, mortgagee, or lessee a true copy of the order and has notified the
21 enforcing officer, in writing, of the owner's intent to transfer, sell, mortgage, lease, or otherwise
22 dispose of the dwelling. A transferee, mortgagee, or lessee who has received actual notice or
23 constructive notice is bound by the order on the date of the transfer, mortgage, or lease without
24 service of further notice upon him or her by the enforcing officer.

25 (13) Provisions that the enforcing officer may make rules and regulations consistent with
26 the proper enforcement of any ordinance enacted under the provisions of this chapter.

27 (14) Provisions that whenever an owner fails to comply with any order as provided for in
28 subsections (b)(9)(i) and (b)(9)(ii), the enforcing officer may notify the community's
29 redevelopment agency and request that the agency acquire the property in question and transfer
30 title to an appropriate limited equity housing cooperative if the cooperative is able to demonstrate
31 its ability to finance the correction of the property's minimum housing code violations and make
32 the housing available to low and/or moderate income households.

33 SECTION 5. Sections 45-24.3-5 and 45-24.3-10 of the General Laws in Chapter 45-24.3
34 entitled "Housing Maintenance and Occupancy Code" are hereby amended to read as follows:

1 **45-24.3-5. Definitions.** -- The following definitions apply in the interpretation and
2 enforcement of this chapter:

3 (1) "Accessory structure" means a detached structure which is not used or not intended to
4 be used for living or sleeping by human occupants, and which is located on the same premises
5 with a dwelling.

6 (2) "Appropriate authority" means the official department, or agency, designated by a
7 local community to administer and enforce these regulations pursuant to the provisions of this
8 chapter.

9 (3) "Approved" means approved by the local or state authority having administrative
10 authority.

11 (4) "Ashes" means the residue from the burning of combustible materials (and the
12 noncombustible portion of refuse loaded into an incinerator).

13 (5) "Basement" means a portion of the building partly underground, but having less than
14 half its clear height below the average grade of the adjoining ground.

15 (6) "Cellar" means the portion of the building partly underground, having half or more
16 than half its clear height below the average grade of the adjoining ground.

17 (7) "Central heating system" means a single system supplying heat to one or more
18 dwelling unit(s) or more than one rooming unit.

19 (8) "Corporate unit" means a city or town, as the case may be, delegated with the powers
20 to provide for the enforcement of this chapter.

21 (9) "Dormitory" means a room or group of rooms in a dwelling used for living and
22 sleeping purposes by four (4) or more persons.

23 (10) "Dwelling" means any enclosed space which is wholly or partly used or intended to
24 be used for living or sleeping by human occupants; provided, that "temporary housing", as
25 defined in this section, shall not be regarded as a dwelling.

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

29 (12) "Enforcing officer" means the official charged with the administration and
30 enforcement of this chapter, or the officer's authorized representative.

31 (13) "Extermination" means the control and elimination of insects, rodents, or other pests
32 by eliminating their harborage; by removing, or making inaccessible, materials that may serve as
33 their food; and by poisoning, spraying, fumigating, trapping, or by any other recognized and legal
34 pest elimination methods approved by the health officer.

1 (14) "Family" means one adult person plus one or more persons who are legally related
2 to the adult person and residing in the same dwelling unit with that person.

3 (15) "Garbage" means the animal and vegetable waste resulting from the handling,
4 preparation, cooking, serving, and nonconsumption of food.

5 (16) "Guest" means any person who shares a dwelling unit in a nonpermanent status for
6 not more than thirty (30) days.

7 (17) "Habitable room" means a room or enclosed floor space used or intended to be used
8 for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet
9 compartments, laundries, furnace rooms, pantries, kitchenettes and utility rooms of less than fifty
10 (50) square feet, foyers or communicating corridors, stairways, closets, storage spaces and
11 workshops, and hobby and recreation areas in unsealed or uninsulated parts of a structure below
12 ground level or in attics.

13 (18) "Health officer" means the legally designated director of health of this state, or the
14 director's authorized representative.

15 (19) "Heated water" means water heated to a temperature of not less than one hundred
16 twenty degrees (120 degrees) fahrenheit.

17 (20) "Household" means a family and/or one or more unrelated persons, including
18 servants, and not more than two (2) boarders, who share the same dwelling and use some or all of
19 its cooking and eating facilities.

20 (21) "Infestation" means the presence within or around a dwelling or other structure in
21 large numbers of insects, rodents, or other pests.

22 (22) "Kitchen" means any room containing any or all of the following equipment, or area
23 of a room within three feet (3') of that equipment: sink, and/or other device for dish washing,
24 stove or other device for cooking, and refrigerator or other device for cool storage of food.

25 (23) "Lead hazard mitigation" shall mean, for dwellings constructed prior to 1978,
26 compliance with the lead hazard mitigation standard in chapter 42.128.1, the Lead Hazard
27 Mitigation Act.

28 ~~(23)~~ (24) "Lead-based substances" means any paint, plaster, or other building material
29 which contains lead at levels in excess of acceptable environmental lead levels established by
30 department of health regulations.

31 ~~(24)~~ (25) "Meaning of certain words." Wherever the words "dwelling", "dwelling unit",
32 "rooming house", "rooming unit", "premises", and "structure" are used in this chapter they shall
33 be construed as though they were followed by the words "or any part thereof". Words used in the
34 singular include the plural, and the plural the singular, the masculine gender includes the

1 feminine, and the feminine the masculine.

2 ~~(25)~~ (26) "Multiple dwelling" means any dwelling containing four (4) or more dwelling
3 units.

4 ~~(26)~~ (27) "Occupant" means any person, over one year of age, living, sleeping, cooking,
5 or eating in, or actually having possession of, a dwelling unit or a rooming unit, and/or structure,
6 except that in dwelling units a guest will not be considered an occupant.

7 ~~(27)~~ (28) "Operator" means any person who has charge, care, or control of a building, or
8 part thereof, in which dwelling units or rooming units are let.

9 ~~(28)~~ (29) "Owner" means any person who, alone or jointly or severally with others:

10 (a) Has legal title to any dwelling, dwelling unit, or structure with or without
11 accompanying actual possession thereof; or

12 (b) Has charge, care, or control of any dwelling, dwelling unit, or structure as owner or
13 agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner.

14 Any person representing the actual owner is bound to comply with the provisions of this chapter,
15 and of rules and regulations adopted pursuant to this chapter, to the same extent as if that person
16 were the owner.

17 ~~(29)~~ (30) "Permissible occupancy" means the maximum number of persons permitted as
18 a family or household to reside in a dwelling or rooming unit based on the square foot per person
19 in habitable rooms.

20 ~~(30)~~ (31) "Person" means and includes any individual, firm, corporation, association, or
21 partnership.

22 ~~(31)~~ (32) "Plumbing" means and includes all of the following supplied facilities and
23 equipment: gas pipes, gas burning equipment, waste pipes, garbage disposal units, water closets,
24 sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing
25 machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all
26 connections to water, sewer, septic tank, or gas lines.

27 ~~(32)~~ (33) "Potential hazardous material" means any toxic material, including building
28 material containing heavy-metal compounds in concentrations dangerous to the public health as
29 deemed by the department of health of this state.

30 ~~(33)~~ (34) "Premises" means a platted lot or part of a platted lot or unplatted lot or parcel
31 of land, or plot of land, either occupied or unoccupied by any dwelling or non dwelling structure,
32 and includes any building, accessory structure, or other structure on that land.

33 ~~(34)~~ (35) "Privacy" means the ability of a person or persons to carry out an activity
34 commenced without interruption or interference, either by sight or sound, by unwanted persons.

1 ~~(35)~~ (36) "Refuse" means all putrescible and non-putrescible solids (except body wastes)
2 including garbage, rubbish, ashes, and dead animals.

3 ~~(36)~~ (37) "Rooming house" means any dwelling or that part of any dwelling containing
4 three (3) or more rooming units in which space is occupied by three (3) or more persons who are
5 not members of a single family.

6 ~~(37)~~ (38) "Rooming unit" means any room or group of rooms forming a single habitable
7 unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

8 ~~(38)~~ (39) "Rubbish" means non-putrescible solid wastes (excluding ashes) consisting of
9 both:

10 (i) Combustible wastes such as paper, cardboard, plastic containers, yard clippings, and
11 wood, and

12 (ii) Noncombustible wastes such as tin cans, glass, and crockery.

13 ~~(39)~~ (40) "Safety" means the condition of being free from danger and hazards which may
14 cause accidents or disease.

15 ~~(40)~~ (41) "Septic tank" means a receptacle, usually underground, to which sewage is
16 drained and retained to effect disintegration of the organic matter by bacteria.

17 ~~(41)~~ (42) "Space heater" means a self-contained, automatically controlled, fuel burning
18 appliance of either the circulating type or the radiant type.

19 ~~(42)~~ (43) "Structure" means all structures used or intended to be used for commercial,
20 business, or industrial use or occupancy.

21 ~~(43)~~ (44) "Supplied" means paid for, furnished, provided by, or under the control of the
22 owner or operator.

23 ~~(44)~~ (45) "Temporary housing" means any tent, trailer, mobile home, or any other
24 structure used for human shelter which is designed to be transportable, and is not attached to the
25 ground, to another structure, or to any utility system on the same premises for more than thirty
26 (30) consecutive days.

27 **45-24.3-10. General requirements relating to the safe and sanitary construction and**
28 **maintenance of parts of dwellings and dwelling units.** -- No person shall occupy, as owner or
29 occupant, or let to another for occupancy, any dwelling or dwelling unit, for the purpose of living,
30 which does not comply with the following requirements:

31 (1) Every foundation, floor, roof, ceiling, and exterior and interior wall must be
32 reasonably weathertight, watertight, and damp free, and shall be kept in sound condition and good
33 repair. Floors, interior walls, and ceilings must sound and in good repair. All exterior wood
34 surfaces, other than decay resistant woods, must be protected from the elements and decay by

1 paint or other protective covering or treatment. Potentially hazardous materials will not be used
2 where readily accessible to children. Walls must be capable of affording privacy for the
3 occupants. Every premise must be graded, drained, free of standing water, and maintained in a
4 clean, sanitary, and safe condition.

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

9 (3) Lead-based substances are prohibited whenever circumstances present a clear and
10 significant health risk to the occupants of the property, as defined by regulations of the
11 department of health.

12 Where required because of the tenancy of an at-risk occupant, lead hazards must be
13 mitigated as provided for in chapter 42-128.1 or abated pursuant to chapter 23-24.6.

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

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

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

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

33 (8) Every window located at or near ground level, used or intended to be used for
34 ventilation, and every other opening located at or near ground level which might provide an entry

1 for rodents, must be supplied with adequate screens or other devices that will effectively prevent
2 their entrance.

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

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

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

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

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

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

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

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

1 to any public way adjacent to it.

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

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

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

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

16 SECTION 6. Sunset provision. – This act shall be and is hereby repealed effective July
17 1, 2007.

18 SECTION 7. This section and sections 1, 2, 3, 4, and 7 of this act shall take effect upon
19 passage. Sections 5 and 6 of this act shall take effect on July 1, 2003.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH -- LEAD HAZARD MITIGATION

1 This act would create a comprehensive legislative mechanism to address lead hazard
2 mitigation.

3 Sections 1, 2, 3, 4, 7 and 8 of this act would take effect upon passage. Sections 5 and 6 of
4 this act would take effect on July 1, 2003.

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LC03332
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