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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: Senators Izzo, Irons, T Coderre, Gibbs, and Walton

Date Introduced: February 07, 2002

Referred To: Senate Health, Education & Welfare

It is enacted by the General Assembly as follows:

1

2 SECTION 1. Section 5-20.5-6 of the General Laws in Chapter 5-20.5 entitled "Real
3 Estate Brokers and Salespersons" is hereby amended to read as follows:

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

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

10 (c) The director shall for licenses issued or renewed after July 1, 2003, require proof of
11 reasonable familiarity with and knowledge of duties and responsibilities established by the lead
12 poisoning prevent act, chapter 23-24.6 of the general laws, the lead hazard mitigation act, chapter
13 23-24.8 of the general laws, and the federal notification law. Notwithstanding the provisions of
14 subsection (b) above, the requirements of this subsection shall apply to first renewals when
15 licenses were initially issued before July 1, 2003. This subsection shall be put into force and
16 effect by the director in the manner set forth in section 23-24.8-6(C)(2) and with the advice of the
17 Rhode Island real estate commission.

18 SECTION 2. Section 23-24.6-17 of the General Laws in Chapter 23-24.6 entitled "Lead
19 Poisoning Prevention Act" is hereby amended to read as follows:

20 **23-24.6-17. Lead hazard reduction.** -- (a) The director shall promulgate lead hazard
21 reduction regulations. These regulations shall:

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

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

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

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

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

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

9 (b) The owner of any dwelling, dwelling unit, or premises shall be considered as an
10 "innocent owner", until July 1, 2004, and liability as to lead poisoning is limited to the reduction
11 of any lead hazard as determined by a comprehensive environmental lead inspection within the
12 requirements of the Housing Maintenance and Occupancy Code, chapter 24.3 of title 45. The
13 "innocent owner" provision will cease upon the owner's unreasonable failure to correct any lead
14 paint violation within ninety (90) days of notice as provided in that chapter. Provided, any owner
15 who has received notices on three (3) or more properties shall be presumed to be an unreasonable
16 failure to correct. Effective July 1, 2004, an innocent owner shall be defined by section 23-24.8-4.

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

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

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

33 SECTION 3. Title 23 of the General Laws entitled "Health and Safety" is hereby
34 amended by adding thereto the following chapter:

1 CHAPTER 24.10

2 LEAD HAZARD MITIGATION

3 **23-24.10-1. Short title.** -- This chapter may be cited and shall be known as the "Lead
4 Hazard Mitigation Act."

5 **23-24.10-2. Legislative findings.** -- The general assembly finds and declares that:

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

7 (2) There has been an insufficient level of lead hazard abatement and mitigation in Rhode
8 Island's rental housing stock;

9 (3) Children in Rhode Island, especially in older urban communities, are victims of lead
10 poisoning at disproportionately high rates;

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

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

18 (6) Under the lead poisoning prevention act, chapter 23-24.6 of the general laws, the
19 system of enforcement, court actions, and sanctions goes into effect only after lead poisoning has
20 occurred, is time consuming and personnel intensive, and has not proven effective in inducing
21 widespread, systematic lead paint hazard abatement;

22 (7) The "innocent owner provision," has served to buffer property owners from a
23 responsibility to mitigate lead hazards in rental housing prior to their being a lead poisoning at the
24 premises; and

25 (8) The U.S. department of housing and urban development has promulgated regulations
26 for lead hazard control that apply to housing that is federally assisted and require inspections with
27 dust testing.

28 **23-24.10-3. Legislative purposes.** -- In order to promote the prevention of childhood
29 lead poisoning in Rhode Island, it is the purpose of this act:

30 (1) to increase the supply of rental housing in Rhode Island in which lead hazards are, at
31 a minimum mitigated;

32 (2) to make enforcement more certain and more effective when the lead hazard mitigation
33 standard is not met;

34 (3) to improve public awareness of lead issues and to educate both property owners and

1 tenants about practices that can reduce the incidence of lead poisoning;

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

3 It is not the purpose or intent of this act to reduce the availability or affordability of
4 rental housing for families.

5 **23-24.10-4. Definitions.** -- The following definitions shall apply in the interpretation and
6 enforcement of this chapter:

7 (1) "Designated person" shall mean either: (i) a property owner, or the agent of the
8 property owner, who has completed a department of health approved awareness seminar on lead
9 hazards and their control; or (ii) a person trained and certified as either a lead hazard mitigation
10 inspector or an environmental lead inspector.

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

15 (3) "Innocent owner" shall mean, effective July 1, 2004:

16 (i) a property owner of a dwelling unit that is not a rental property or a dwelling unit that
17 is a rental property and was either built in or after 1978 or has been determined to be lead abated
18 or lead safe in accordance with the requirements of chapter 23-24.6; or

19 (ii) a property owner of a rental dwelling unit built prior to 1978, who has not received
20 notice of an environmental intervention blood lead level in an at-risk occupant and has complied
21 with the lead hazard mitigation standard; or

22 (iii) a property owner of a rental dwelling unit built prior to 1978, who has complied with
23 the lead hazard mitigation standard, and subsequently receives notice of an at-risk occupant with
24 an environmental intervention blood lead level and thereafter conforms with the requirements of
25 the department of health for lead hazard remediation.

26 (4) "Lead abated" shall mean a dwelling and premises which are lead free or lead safe, as
27 those terms are defined in chapter 23-24.6, or which was either: (i) constructed between 1950 and
28 1978; or (ii) constructed before 1950 and substantially renovated or remodeled since 1950, and, in
29 both cases, has passed a comprehensive environmental lead inspection. "Lead abatement" shall
30 mean the activities undertaken to make a dwelling or premises lead abated. Abatement standards
31 are those standards adopted by the department of health applicable to having a dwelling or
32 premises lead abated.

33 (5) "Lead hazard mitigation standard" shall mean standards adopted by the department of
34 health for a dwelling unit and associated common areas that provide for:

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

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

9 (iii) maintenance of "lead hazard control." "Lead hazard control" shall mean those
10 portions of the lead hazard mitigation standard pertaining to repair of deteriorating paint,
11 correction of dust generating conditions, provision of cleanable surfaces, and correction of soil
12 lead hazards that can be identified by visual inspection as provided for in paragraph (7)(b) or
13 through inspections conducted in accordance with chapters 45-24.2, minimum housing, and 45-
14 24.3, housing maintenance and occupancy, of the general laws.

15 (6) "Lead hazard mitigation compliance" shall mean an independent clearance inspection,
16 as herein specified, undertaken to determine whether the lead hazard mitigation measures have
17 been completed. A clearance review shall be valid for two (2) years or until the next turnover of
18 the dwelling unit, whichever period is shorter, provided however that no more than one (1)
19 clearance review shall be required in any twelve (12) month period. The requirements for a
20 clearance review shall be met either by an independent clearance inspection or a visual inspection
21 as herein set forth.

22 (a) An independent clearance inspection, shall mean an inspection performed by a person
23 who is not the property owner or an employee of the property owner and who is authorized by the
24 department of health to conduct independent clearance inspections, which shall include (1) a
25 visual inspection to determine that the lead hazard controls specified in section 23-24.10-
26 4(6)(i)(A)-(C) have been met and (2) dust testing in accordance with rules established by the
27 department of health. A certificate of conformance shall be issued by the person who conducted
28 the inspection on the passage of the visual inspection and the required dust testing. An
29 independent clearance inspection shall be required at unit turn-over or once in a twelve (12)
30 month period, whichever period is the longer. If the tenancy of an occupant is two (2) years or
31 greater, the certificate of conformance shall be maintained by a visual inspection as set forth in
32 paragraph (b) below.

33 (b) A visual inspection shall mean a visual inspection by designated person to determine
34 that the lead hazard controls specified in section 23-24.10-4(6)(iii) have been met. If the

1 designated persons concludes that the lead hazard controls specified in section 23-24.10-4(6)(iii)
2 have been met, the designated person may complete an affidavit of completion of a visual
3 inspection. The affidavit shall be valid upon its being notarized within thirty (30) days after the
4 completion of the visual inspection and shall set forth:

5 (i) the date and location that the designated person took the lead hazard control awareness
6 seminar;

7 (ii) the date and findings of the lead hazard evaluation;

8 (iii) the date and description of the lead hazard control measures undertaken;

9 (iv) the date of the visual inspection; and

10 (v) the name and signature of the designated person and date of the affidavit of
11 completion. An affidavit of completion of visual inspection shall be valid for two (2) years after
12 the date it was notarized or until unit turn-over, whichever time period is the shorter.

13 (7) "Lead hazard mitigation inspector" shall mean either a person approved to perform
14 inspections required by 24 CFR 35 subpart M or approved by the department of health to conduct
15 inspections to determine conformity with lead hazard mitigation standards.

16 (8) "Environmental intervention blood lead level" shall mean a confirmed concentration
17 in a person seventy-two (72) months of age or younger or a pregnant woman of lead in whole
18 blood of greater than or equal to twenty (20) micrograms per deciliter for a single test or for
19 fifteen (15) to nineteen (19) micrograms per deciliter for two (2) tests taken at least three (3)
20 months apart.

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

23 (10) "At risk occupant" shall mean a person seventy-two (72) months of age or younger,
24 or a pregnant woman, who has been in habitancy in a dwelling unit at least thirty (30) days.

25 (11) "Property owner" shall mean any person who, alone or jointly or severally with
26 others:

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

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

34 (iii) Notwithstanding the foregoing, no holder of a mortgage who is enforcing a security

1 interest acquires legal title by a foreclosure or deed in lieu thereof, shall be considered a property
2 owner for purposes of this chapter, if such holder transfers such title within ninety (90) days after
3 the date such title is acquired.

4 **23-24.10-5. Comprehensive strategic plan.** -- In order to establish clear goals for
5 increasing the availability of housing in which lead hazards have been mitigated, to provide
6 performance measures by which to assess progress toward achieving the purposes of this act, and
7 to facilitate coordination among state agencies and political subdivisions with responsibilities for
8 housing and housing quality for lead poisoning reduction and for the availability of insurance
9 coverage's described in this chapter, the housing resources commission established by chapter 42-
10 128 of the general laws shall adopt by April 1, 2002, a four (4) year, comprehensive strategic plan
11 for reducing the incidence of childhood lead poisoning, for increasing the supply of lead-safe
12 housing, and for assuring that in rental housing throughout the state that lead hazards have been
13 mitigated.

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

15 (i) educating people with regard to lead hazards and how they can be avoided, mitigated,
16 and/or abated;

17 (ii) programs to assist low and moderate income owners of property to eliminate lead
18 hazards and to achieve lead-safe conditions;

19 (iii) enforcement of laws pertaining to lead hazard control, mitigation and abatement
20 including the lead poisoning prevention act and minimum housing codes and standards;

21 (iv) coordination of efforts with local governments and other agencies to improve
22 housing conditions;

23 (v) financing lead abatement efforts in Rhode Island, including, but not limited to,
24 assistance to low and moderate income property owners, education and outreach, and
25 enforcement by state and local officials;

26 (vi) an assessment of the availability of insurance for lead hazard liability, which shall be
27 designed and implemented in cooperation with the department of business regulation

28 (2) Implementation program. The comprehensive strategic plan shall include an
29 implementation program, which shall include performance measures and a program of specific
30 activities that are proposed to be undertaken to accomplish the purposes of this act and to achieve
31 goals and elements set forth by the plan. The implementation program shall be updated annually
32 according to a schedule set forth in the plan.

33 (3) Reporting. The commission shall report annually to the governor and the general
34 assembly, no later than January 15 of each year up to and including the year 2007 on the progress

1 made in achieving the goals and objectives set forth in the plan.

2 **23-24.10-6. Education.** -- In order to achieve the purposes of this act, a statewide,
3 multifaceted, ongoing educational program designed to meet the needs of tenants, property
4 owners, realtors and real estate agents, insurers and insurance agents, local building officials, and
5 health providers and caregivers is hereby established.

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

13 (2) Within sixty (60) days after the regulations set forth in section 23-24.10-7, for lead
14 hazard control and mitigation go into effect, the housing resources commission in conjunction
15 with the department of health shall:

16 (i) create culturally and linguistically appropriate material outlining the rights and
17 responsibilities of parties affected by this act.

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

25 (iii) adopt rules for the dissemination of information about the requirements of this act to
26 all prospective owners of pre-1978 dwellings during the real estate transaction, settlement, or
27 closing;

28 (iv) solicit requests, to the extent that such partnerships are not already established, to
29 enter into ongoing, funded partnerships, to provide specific counseling information services to
30 tenants and affected parties on their rights and responsibilities with regard to lead hazards and
31 lead poisoning.

32 (3) The department of business regulation shall with regard to its responsibilities for the
33 profession of real estate brokers and salespersons, adopt rules, with the concurrence of the
34 housing resources commission and the department of health which shall be effective not later than

1 June 30, 2003; (A) requiring proof of reasonable familiarity with the knowledge of duties and
2 responsibilities under the provisions of the lead poisoning prevention act, chapter 23-24.6, and
3 this act for the licensure or renewal of licenses of real estate brokers and salespersons in
4 accordance with section 5-20.5-6 after July 1, 2003; and (B) providing, pursuant to section 5-
5 20.5-18, an educational program for real estate brokers and salespersons regarding such duties
6 and responsibilities.

7 (4) The housing resources commission, in conjunction with the department of health, is
8 hereby authorized to develop, offer, engage in, contract for and/or provide such other educational
9 or informational programs as they may deem necessary to accomplish the purposes of this act,
10 including, but not limited to, programs to assist families to find housing that is lead free, lead safe
11 or lead hazard mitigated or abated; to train lead hazard mitigation inspectors and local building
12 officials and persons engaged in renovating and/or improving housing about controlling or
13 mitigating lead hazards in pre-1978 housing, and to provide information about lead hazard control
14 and mitigation requirements at retail hardware and paint stores and home-improvement centers.

15 **23-24.10-7. Lead hazard mitigation and abatement.** -- The department of health,
16 which shall be the lead state agency for promulgating regulations pertaining to blood lead levels
17 and lead hazard mitigation and abatement shall adopt no later than October 15, 2002 rules:

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

23 (2) for a lead hazard mitigation standard;

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

26 (4) for a process to receive, investigate, and decide whether the correction of a lead
27 hazard, pursuant to subsections 23-24.10-9(a)(6) and (d), was satisfactory. Such rules shall
28 establish an expeditious procedure to determine whether the allegation of unsatisfactory
29 correction has merit. The process may be integrated with or make use of the technical assistance
30 service provided for in section 23-24.10-14.

31 **23-24.10-8. Innocent owner protection.** -- Effective July 1, 2004, property owners of
32 pre-1978 housing shall have innocent owner protection for a dwelling unit, provided that lead
33 hazards in the unit have mitigated and an independent clearance inspection has been passed and
34 maintained, or abated, or the unit is lead safe or lead free.

1 **23-24.10-9. Duties of property owners of pre-1978 rental dwellings.** -- (a) Property
2 owners of pre-1978 rental dwellings, which have not been made lead safe or have not been lead
3 hazard abated, shall mitigate lead hazards and shall comply with all the following requirements:

4 (1) learning about lead hazards by taking a lead hazard awareness seminar;

5 (2) evaluating the dwelling unit and premises for lead hazards consistent with the
6 requirements for a lead hazard control evaluation;

7 (3) correcting identified lead hazards by meeting and maintaining the lead hazard
8 mitigation standard;

9 (4) providing tenants: (i) basic information about lead hazard control; (ii) a copy of the
10 independent clearance inspection; and (iii) information about how to give notice of deteriorating
11 conditions;

12 (5) correcting lead hazards within thirty (30) days after notification from the tenants;

13 (6) conforming to the abatement standard if more than one (1) at-risk occupant has been
14 lead poisoned in a unit that has been maintained in accordance with the mitigation standard;

15 (b) New property owners of a pre-1978 rental dwelling that is vacant or is occupied by an
16 at-risk occupant shall have up to forty-five (45) days to meet requirements for lead hazard
17 mitigation, if those requirements were not met by the previous owner at the time of transfer,
18 provided that the new property owner has the property visually inspected within ten (10) business
19 days after assuming ownership to determine conformity with the lead hazard control standard;

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

25 (d) If the tenant receives no response to the notification, if the response is in the tenant's
26 opinion unsatisfactory, or if the remedy performed is in the tenant's opinion unsatisfactory, the
27 tenant may request a review of the matter by the department of health. After its review of the
28 matter, the department of health shall either send notice to the property owner in which notice
29 shall be issued as a notice of violation by the director pursuant to the housing maintenance code,
30 chapter 24.3 of title 45, or promptly inform the tenant of the reasons why such notice is not being
31 issued.

32 **23-24.10-10. Insurance coverage.** -- The department of business regulation shall by
33 January 1, 2003, establish a uniform policy with regard to exclusion for lead poisoning and shall
34 adopt such rules and requirements as may be necessary to assure the availability of insurance

1 coverage for losses and damages caused by lead poisoning; which policy and rules shall apply to
2 liability coverage available to property owners. The department of business regulation shall have
3 the authority and is empowered, consistent with the requirements of chapter 42-35, to promulgate
4 rules and regulations to enable it to compile and analyze data and to make determinations with
5 regard to the availability of and rates for lead liability coverage.

6 **23-24.10-11. Right to housing where lead hazards are corrected.** -- Pregnant women
7 and families with children under six (6) years of age shall be deemed to have a right, to housing
8 in which lead hazards have been mitigated or abated.

9 (1) Injunctive relief. Effective July 1, 2003, if the property owner of a rental dwelling
10 fails to comply with such standards for lead hazard mitigation, or abatement, as applicable, a right
11 of private action shall exist that allows households that include a child under age six (6) or
12 pregnant woman to seek injunctive relief from a court with jurisdiction against the property
13 owner in the form of a court order to compel compliance with requirements for lead hazard
14 control or mitigation. A person who prevails is entitled to an award of the costs of the litigation
15 and reasonable attorneys' fees in an amount to be fixed by the court. Cases brought before the
16 court under this section shall be granted an accelerated hearing.

17 (2) High risk dwellings. (i) The department of health shall notify the property owner
18 where both the following conditions have been met: (A) there have been three (3) or more at-risk
19 occupants with at least environmental intervention blood levels and (B) fifty percent (50%) or
20 more of the at-risk occupants from that address who have been tested and have had at least
21 environmental intervention blood lead levels, that the dwelling unit presents a high risk of lead
22 poisoning.

23 (ii)(a) A property owner who receives notice that a dwelling unit is high risk shall have
24 thirty (30) days in which to conduct a comprehensive lead inspection that shows that lead hazards
25 have been abated or (b) shall present a compliance schedule to the department of health to meet
26 the lead abatement standard, which compliance schedule shall be subject to approval by the
27 department of health and shall provide for achieving the lead hazard abatement standard within
28 ninety (90) days. The requirements of the compliance schedule shall only be deemed to have
29 been met if a comprehensive lead inspection shows that lead hazards have been abated in the
30 dwelling unit.

31 (iii) A property owner who fails to meet requirements of paragraph (ii) above shall be
32 notified that the dwelling unit is declared unsafe for habitation by at-risk occupants. A list of
33 property owners so notified and of addresses for which such notice has been given shall be a
34 public record. A copy of this notice shall be sent to the town clerk or recorder of deeds in the city

1 or town where the property is located, to be recorded as provided for in chapter 34-13. The
2 property owner, so notified, shall post and maintain a warning at the primary entrance to the
3 address and to each dwelling unit therein declaring that the unit is unsafe for children under six
4 (6) years of age and pregnant women.

5 (iv) Any property owner who receives notice that a dwelling unit is high risk and who
6 fails to abate lead hazards in accordance with a compliance schedule as provided in paragraph (2)
7 above and there is a subsequent instance of an at-risk occupant with an environmental
8 intervention blood lead level, which is attributable in whole or in part to conditions in the
9 dwelling unit, shall be deemed to have committed a felony and shall be punished by
10 imprisonment for not less than two (2), but not more than five (5) years and/or by a fine of not
11 less than five thousand dollars (\$5,000) nor more than twenty thousand dollars (\$20,000).

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

15 **23-24.10-12. Enforcement.** -- In addition to the provisions for enforcement of this act
16 found elsewhere in this act, there shall be the following powers of enforcement, which shall be in
17 addition to other provisions of the general laws pertaining to enforcement of the laws of this state
18 and shall not be deemed to limit or replace such other provisions. The provisions of this section
19 shall be liberally construed and shall be considered an essential responsibility of the state to
20 protect public health and welfare.

21 (1) The attorney general shall maintain an office of lead advocate, which office shall
22 have, in addition to such other powers as the attorney general may assign to it, the power:

23 (i) to investigate any alleged failures to comply with the lead hazard mitigation and
24 abatement standard, to initiate either a civil or criminal cause of action, or both, to compel
25 compliance via injunctive relief and/or impose penalties and fines, as appropriate; and

26 (ii) to bring such actions as may be necessary or appropriate to secure the performance by
27 state agencies and political subdivisions the duties assigned to them by this act.

28 (2) Minimum housing standards and housing maintenance and occupancy code. -- In
29 order to establish consistency between state and local programs pertaining to enforcement of
30 standards for housing and housing occupancy and to provide for broadly available, multiple
31 means of identifying instances of noncompliance with this act and enforcing the requirements of
32 this act, the following provisions regarding minimum housing standards and housing maintenance
33 and occupancy shall be effective:

34 (i) the ordinances, rules, and regulations for "minimum housing standards" adopted

1 pursuant to section 45-24.2-3 of the general laws shall on or before July 1, 2004 include
2 provisions for lead hazard control.

3 (ii) the housing maintenance and occupancy code, established by chapter 45-24.3 of the
4 general laws, shall, effective July 1, 2004, include provisions consistent with a continuing and
5 ongoing responsibility for lead hazard mitigation as required by the department of health
6 standards.

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

20 **23-24.10-13. Independent evaluation.** -- In order to assure the effectiveness of the lead
21 hazard awareness mitigation program established by the act and to recommend any changes
22 which may be necessary or appropriate, the auditor general shall:

23 (1) conduct a performance audit for the period ending December 31, 2003, of the duties
24 and responsibilities assigned to the state agencies and to political subdivisions by this act and by
25 the lead poisoning prevention act, chapter 23-24.6, and of the effectiveness of this act in meeting
26 its purposes.

27 The auditor general may contract with independent firms and organizations with
28 expertise in lead poisoning prevention and lead hazard mitigation to assist with the evaluation of
29 matters set forth in this subsection.

30 The auditor general's report shall be submitted to the governor, the speaker of the house,
31 the senate majority leader, the chairperson of the housing resources commission and the director
32 of health, on or before March 31, 2004, and shall contain, as appropriate, recommendations: (i) to
33 make the programs established by this act and by the lead poisoning prevention act more effective
34 in achieving their respective purposes; and (ii) to redress any unreasonable hardships caused by

1 this act or likely to be caused by this act with its full implementation July 1, 2004.

2 The performance audit required by this subsection shall, in addition to the examination of
3 effectiveness of administration and the efficiency and adequacy of state agencies and political
4 subdivisions in the performance of their duties under this act and the lead poisoning prevention
5 act include consideration of the following matters:

6 (A) the number and type and date of public service announcements required by section
7 23-24.10-6(1);

8 (B) the availability and distribution of educational materials specified by sections 23-
9 24.10-6(2)(i);

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

12 (D) the number of "mitigation inspectors," average length of time necessary to conduct
13 such inspections, the cost of meeting standards per inspection, and the availability of inspectors to
14 conduct the inspections, at a reasonable cost needed in the various geographic areas of the state;

15 (E) the availability of programs to assist property owners, especially low and moderate
16 income property owners;

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

29 **23-24.10-14. Rhode Island lead hazard technical assistance service. -- (a)**
30 Establishment and purposes. -- The Rhode Island housing resources commission shall establish a
31 "Rhode Island Lead Hazard Technical Assistance Service" program for the purposes of providing
32 technical assistance to property owners to achieve compliance with this act and the lead poisoning
33 prevention act.

34 The services of the program may include, but shall not be limited to, evaluation of the

1 need for lead hazard mitigation in a dwelling; review of independent inspection results;
2 identification of and arranging funding for conducting lead hazard abatement and mitigation, and
3 supplying such materials, assistance, and services as may be needed by property owners to
4 achieve compliance with this act and the lead poisoning prevention act in an affordable manner.

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

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

14 SECTION 4. Section 42-128-7 of the General Laws in Chapter 42-128 entitled "Rhode
15 Island Housing Resources Act of 1998" is hereby amended to read as follows:

16 **42-128-7. General powers. --** The commission shall have the following powers, together
17 with all powers incidental to or necessary for the performance of those set forth in this chapter:

- 18 (1) To sue and be sued.
- 19 (2) To negotiate and to enter into contracts, agreements, and cooperative agreements
20 with agencies and political subdivisions of the state, not-for-profit corporations, for profit
21 corporations, and other partnerships, associations and persons for any lawful purpose necessary
22 and desirable to effect the purposes of this chapter.
- 23 (3) To adopt by-laws and rules for the management of its affairs and for the exercise of
24 its powers and duties, and to establish the committees, workgroups, and advisory bodies that from
25 time to time may be deemed necessary.
- 26 (4) To receive and accept grants or loans as may be made by the Federal government,
27 and grants, donations, contributions and payments from other public and private sources.
- 28 (5) To grant or loan funds to agencies and political subdivisions of the state or to private
29 groups to effect the purposes of this chapter.
- 30 (6) To secure the cooperation and assistance of the United States and any of its agencies,
31 and of the agencies and political subdivisions of this state in the work of the commission.
- 32 (7) To establish, charge, and collect fees and payments for its services.

33 (8) To implement and to put into full force and effect the powers, duties, and
34 responsibilities assigned to it by the lead hazard mitigation act, chapter 23-24.10 of the general

1 laws and to serve as the lead state agency for lead hazard control and mitigation planning,
2 education, technical assistance, and coordination of state projects and financial expenditures for
3 lead hazard mitigation.

4 SECTION 5. Section 45-24.2-3 of the General Laws in Chapter 45-24.2 entitled
5 "Minimum Housing Standards" is hereby amended to read as follows:

6 **45-24.2-3. Powers of councils.** -- (a) For the purpose of promoting the public health,
7 safety, morals, or general welfare, and for the purpose of making dwellings and dwelling places
8 safe, sanitary, and fit for human habitation, any city or town council has powers in accordance
9 with the provisions of this chapter within the limits of the city or town, by ordinance, to pass,
10 ordain, establish, and amend ordinances, rules, and regulations for the establishment and
11 enforcement of minimum standards for dwellings.

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

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

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

22 (3) Minimum standards relating to the healthful, safe, and sanitary maintenance of parts
23 of dwelling and dwelling units including, but not limited to, provisions relating to weathertight,
24 watertight, and rodent proof foundations, floors, walls, ceilings, roofs, windows and doors, the
25 condition and repair of stairs and porches, the condition of plumbing fixtures, imperviousness of
26 floor surfaces to water, and the functioning of supplied facilities, pieces of equipment, and
27 utilities and to lead hazard control, for dwellings constructed prior to 1978, consistent with lead
28 hazard control provisions of the lead hazard mitigation as standards established in chapter 23-
29 24.10.

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

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

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

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

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

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

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

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

24 (iii) Repair, alter, or improve or cause to be vacated and secured, or both, the dwelling or
25 dwelling premises at the expense of the owner or other responsible person or persons, whenever
26 the owner or other responsible person or persons fail to comply with an order to repair, alter, or
27 improve or to vacate and secure the dwelling; provided, that the cost of the repair, alteration, or
28 improvement is reasonably related to the value of the dwelling or dwelling premises;

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

32 (10) Provisions that whenever the owner fails to comply with any order as provided for
33 in subsections (b)(9)(i) and (b)(9)(ii), the cost incurred by the enforcing officer or any person
34 doing work or furnishing materials by the officer order under the provisions of subsections

1 (b)(9)(iii) and (b)(9)(iv) shall be a lien against the real property, and the lien shall be enforced in
2 the same manner provided or authorized by law for enforcement of common law liens on
3 personal property. The lien shall be recorded. If the dwelling is removed or demolished by the
4 enforcing officer, the officer may sell the materials of the dwelling, and the net cost of demolition
5 and removal shall be charged to the owner and, if any balance remains, it shall be credited to the
6 owner.

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

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

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

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

26 SECTION 6. Sections 45-24.3-5 and 45-24.3-10 of the General Laws in Chapter 45-24.3
27 entitled "Housing Maintenance and Occupancy Code" are hereby amended to read as follows:

28 **45-24.3-5. Definitions.** -- The following definitions apply in the interpretation and
29 enforcement of this chapter:

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

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

1 chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (17) "Habitable room" means a room or enclosed floor space used or intended to be used

1 for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet
2 compartments, laundries, furnace rooms, pantries, kitchenettes and utility rooms of less than fifty
3 (50) square feet, foyers or communicating corridors, stairways, closets, storage spaces and
4 workshops, and hobby and recreation areas in unsealed or uninsulated parts of a structure below
5 ground level or in attics.

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) Has charge, care, or control of any dwelling, dwelling unit, or structure as owner or
2 agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner.
3 Any person representing the actual owner is bound to comply with the provisions of this chapter,
4 and of rules and regulations adopted pursuant to this chapter, to the same extent as if that person
5 were the owner.

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

9 (30) "Person" means and includes any individual, firm, corporation, association, or
10 partnership.

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

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

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

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

24 (35) "Refuse" means all putrescible and non-putrescible solids (except body wastes)
25 including garbage, rubbish, ashes, and dead animals.

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

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

31 (38) "Rubbish" means non-putrescible solid wastes (excluding ashes) consisting of both:

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

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

1 (39) "Safety" means the condition of being free from danger and hazards which may
2 cause accidents or disease.

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

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

7 (42) "Structure" means all structures used or intended to be used for commercial,
8 business, or industrial use or occupancy.

9 (43) "Supplied" means paid for, furnished, provided by, or under the control of the
10 owner or operator.

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

15 (45) "Lead hazard mitigation" shall mean, for dwellings constructed prior to 1978,
16 compliance with the lead hazard mitigation standard in chapter 23-24.8, the lead hazard
17 mitigation act.

18 **45-24.3-10. General requirements relating to the safe and sanitary construction and**
19 **maintenance of parts of dwellings and dwelling units.** -- No person shall occupy, as owner or
20 occupant, or let to another for occupancy, any dwelling or dwelling unit, for the purpose of living,
21 which does not comply with the following requirements:

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

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

34 (3) Lead-based substances are prohibited whenever circumstances present a clear and

1 significant health risk to the occupants of the property, as defined by regulations of the
2 department of health.

3 Where required because of the tenancy of an at-risk occupant, lead hazards must be
4 mitigated as provided for in chapter 23-24.10 or abated pursuant to chapter 23-24.6.

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

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

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

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

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

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

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

1 burrowing.

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

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

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

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

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

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

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

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

34 (19) No owner, operator, or occupant shall cause any service, facility, equipment, or

1 utility, required under this chapter, to be removed from, or shut off from, or discontinued for any
2 occupied dwelling or dwelling unit let or occupied by him or her, except for a temporary
3 interruption that may be necessary while actual repairs or alterations are in process, or during
4 temporary emergencies when discontinuance of service is approved by the appropriate authority.

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

7 SECTION 7. Sunset provision. -- This act shall be and is hereby repealed effective July 1,
8 2007.

9 SECTION 8. This section and sections 1, 2, 3, 4, and 7 of this act shall take effect upon
10 passage. Sections 5 and 6 of this act shall take effect on July 1, 2003.

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LC01482
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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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LC01482
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