

LC00730

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

A N A C T

RELATING TO PUBLIC UTILITIES AND BUSINESS REGULATION

Introduced By: Representatives Slater, Diaz, Williams, Dennigan, and Almeida

Date Introduced: January 26, 2006

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 39-1 of the General Laws entitled "Public Utilities
2 Commission" is hereby amended to read as follows:

~~CHAPTER 39-1~~

~~Public Utilities Commission~~

CHAPTER 39-1

CONSUMER PROTECTION ADVISORY COMMISSION

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8 SECTION 2. Sections 39-1-1, 39-1-2, 39-1-3, 39-1-4, 39-1-7, 39-1-11, 39-1-15, 39-1-18,
9 39-1-19, 39-1-21, 39-1-22, 39-1-23, 39-1-26, 39-1-28 and 39-1-38 of the General Laws in
10 Chapter 39-1 entitled "Public Utilities Commission" are hereby amended to read as follows:

11 **39-1-1. Declaration of policy -- Purposes.** -- (a) The general assembly finds and
12 therefore declares that:

13 (1) The businesses of distributing electrical energy, producing and transporting
14 manufactured and natural gas, operating water works and furnishing supplies of water for
15 domestic, industrial, and commercial use, offering to the public transportation of persons and
16 property, furnishing and servicing telephonic and wireless audio and visual communication
17 systems, and operation of community antenna television systems are affected with a public
18 interest;

19 (2) Supervision and reasonable regulation by the state of the manner in which such

1 businesses construct their systems and carry on their operations within the state are necessary to
2 protect and promote the convenience, health, comfort, safety, accommodation, and welfare of the
3 people, and are a proper exercise of the police power of the state;

4 (3) Preservation of the state's resources, commerce, and industry requires the assurance
5 of adequate public transportation and communication facilities, water supplies, and an abundance
6 of energy, all supplied to the people with reliability, at economical cost, and with due regard for
7 the preservation and enhancement of the environment, the conservation of natural resources,
8 including scenic, historic, and recreational assets, and the strengthening of long-range, land-use
9 planning;

10 (4) The regulation and control of banking and insurance, foreign surety companies, sale
11 of securities, building and loan associations, fraternal benefits and beneficiary societies,
12 manufacturing, transportation, possession and sale of alcoholic beverages are in the public
13 interest.

14 (5) The licensing and regulation of articles of bedding, upholstered furniture, and filling
15 materials are in the public interest.

16 (b) It is hereby declared to be the policy of the state to provide fair regulation of public
17 utilities and carriers in the interest of the public, to promote availability of adequate, efficient and
18 economical energy, communication, and transportation services and water supplies to the
19 inhabitants of the state, to provide just and reasonable rates and charges for such services and
20 supplies, without unjust discrimination, undue preferences or advantages, or unfair or destructive
21 competitive practices, and to co-operate with other states and agencies of the federal government
22 in promoting and coordinating efforts to achieve realization of this policy.

23 (c) To this end, there is hereby vested in the ~~public utilities~~ consumer protection
24 advocacy commission and the division of public utilities and carriers the exclusive power and
25 authority to supervise, regulate, and make orders governing the conduct of companies offering to
26 the public in intrastate commerce energy, communication, and transportation services and water
27 supplies for the purpose of increasing and maintaining the efficiency of the companies, according
28 desirable safeguards and convenience to their employees and to the public, and protecting them
29 and the public against improper and unreasonable rates, tolls and charges by providing full, fair,
30 and adequate administrative procedures and remedies, and by securing a judicial review to any
31 party aggrieved by such an administrative proceeding or ruling.

32 (d) The legislature also finds and declares the following:

33 (1) That lower retail electricity rates would promote the state's economy and the health
34 and general welfare of the citizens of Rhode Island;

1 (2) That current research and experience indicates that greater competition in the
2 electricity industry would result in a decrease in electricity rates over time;

3 (3) That greater competition in the electricity industry would stimulate economic growth;

4 (4) That it is in the public interest to promote competition in the electricity industry and
5 to establish performance based ratemaking for regulated utilities;

6 (5) That in connection with the transition to a more competitive electric utility industry,
7 public utilities should have a reasonable opportunity to recover transitional costs associated with
8 commitments prudently incurred in the past pursuant to their legal obligations to provide reliable
9 electric service at reasonable costs;

10 (6) That it shall be the policy of the state to encourage, through all feasible means and
11 measures, states where fossil-fueled electric generating units producing air emissions affecting
12 Rhode Island air quality are located to reduce such emissions over time to levels that enable cost
13 effective attainment of environmental standards within Rhode Island;

14 (7) That in a restructured electrical industry the same protections currently afforded to
15 low income customers shall continue.

16 **39-1-2. Definitions.** -- Terms used in this title shall be construed as follows, unless
17 another meaning is expressed or is clearly apparent from the language or context:

18 (1) "Administrator" means the administrator of the division of public utilities and
19 carriers;

20 (2) "Airport" and "landing field" mean and include all airports and landing fields other
21 than those owned by the state;

22 (3) "Chairperson" means the chairperson of the ~~public-utilities~~ [consumer protection](#)
23 [advocacy](#) commission;

24 (4) "Charter carrier" means and includes all carriers for hire or compensation within this
25 state not included in the definition of common carrier;

26 (5) "Commission" means the ~~public-utilities~~ [consumer protection advocacy](#) commission;

27 (6) "Commissioner" means a member of the ~~public-utilities~~ [consumer protection](#)
28 [advocacy](#) commission;

29 (7) "Common carrier", except when used in chapters 12, 13, and 14 of this title, means
30 and includes all carriers for hire or compensation including railroads, street railways, express,
31 freight and freight line companies, dining car companies, steam boat, motor boat, power boat,
32 hydrofoil, and ferry companies and all other companies operating any agency or facility for
33 public use in this conveyance over fixed routes, or between fixed termini within this state or
34 persons or property by or by a combination of land, air, or water;

1 (8) "Company" means and includes a person, firm, partnership, corporation, quasi-
2 municipal corporation, association, joint stock association or company, and his, her, its, or their
3 lessees, trustees, or receivers appointed by any court;

4 (9) "Customer" means a company taking service from an electric distribution company at
5 a single point of delivery or meter location;

6 (10) "Distribution facility" means plant or equipment used for the distribution of
7 electricity and which is not a transmission facility;

8 (11) "Division" means the division of public utilities and carriers;

9 (12) "Electric distribution company" means a company engaging in the distribution of
10 electricity or owning, operating, or controlling distribution facilities and shall be a public utility
11 pursuant to section 39-1-2(20);

12 (13) "Electric transmission company" means a company engaging in the transmission of
13 electricity or owning, operating, or controlling transmission facilities. An electric transmission
14 company shall not be subject to regulation as a public utility except as specifically provided in the
15 general laws, but shall be regulated by the federal energy regulatory commission and shall
16 provide transmission service to all nonregulated power producers and customers, whether
17 affiliated or not, on comparable, nondiscriminatory prices and terms. Electric transmission
18 companies shall have the power of eminent domain exercisable following a petition to the
19 commission pursuant to section 39-1-31;

20 (14) "Liquefied natural gas" means a fluid in the liquid state composed predominantly of
21 methane and which may contain minor quantities of ethane, propane, nitrogen, or other
22 components normally found in natural gas;

23 (15) "Manufacturing customers" means all customers that have on file with an electric
24 distribution company a valid certificate of exemption from the Rhode Island sales tax indicating
25 the customer's status as a manufacturer pursuant to section 44-18-30;

26 (16) "Motor carriers" means any carrier regulated by the administrator pursuant to
27 Chapters 3, 11, 12, 13 and 14 of this title;

28 (17) "Natural gas" means the combustible gaseous mixture of low-molecular-weight,
29 paraffin hydrocarbons, generated below the surface of the earth containing mostly methane and
30 ethane with small amounts of propane, butane, and hydrocarbons, and sometimes nitrogen,
31 carbon dioxide, hydrogen sulfide, and helium;

32 (18) "Nonprofit housing development corporation" means a nonprofit corporation, which
33 has been approved as a section 501(c)(3), 26 U.S.C. section 501(c)(3), corporation by the internal
34 revenue service, and which is organized and operated primarily for the purpose of providing

1 housing for low and moderate income persons;

2 (19) "Nonregulated power producer" means a company engaging in the business of
3 producing, manufacturing, generating, buying, aggregating, marketing or brokering electricity for
4 sale at wholesale or for retail sale to the public; provided however, that companies which
5 negotiate the purchase of electric generation services on behalf of customers and do not engage in
6 the purchase and resale of electric generation services shall be excluded from this definition. A
7 nonregulated power producer shall not be subject to regulation as a public utility except as
8 specifically provided in the general laws;

9 (20) "Public utility" means and includes every company that is an electric distribution
10 company and every company operating or doing business in intrastate commerce and in this state
11 as a railroad, street railway, common carrier, gas, liquefied natural gas, water, telephone,
12 telegraph, and pipeline company, and every company owning, leasing, maintaining, managing, or
13 controlling any plant or equipment or any part of any plant or equipment within this state for
14 manufacturing, producing, transmitting, distributing, delivering, or furnishing natural or
15 manufactured gas, directly or indirectly to or for the public, or any cars or equipment employed
16 on or in connection with any railroad or street railway for public or general use within this state,
17 or any pipes, mains, poles, wires, conduits, fixtures, through, over, across, under, or along any
18 public highways, parkways or streets, public lands, waters, or parks for the transmission,
19 transportation, or distribution of gas for sale to the public for light, heat, cooling, or power for
20 providing audio or visual telephonic or telegraphic communication service within this state or any
21 pond, lake, reservoir, stream, well, or distributing plant or system employed for the distribution of
22 water to the consuming public within this state including the water supply board of the city of
23 Providence; provided, that, except as provided in section 39-16-9 and in chapter 2072 of the
24 public laws, 1933, as amended, this definition shall not be construed to apply to any public
25 waterworks or water service owned and furnished by any city, town, water district, fire district, or
26 any other municipal or quasi-municipal corporation, excepting the water supply board of the city
27 of Providence, unless any city, town, water district, fire district, municipal, or quasi-municipal
28 corporation obtains water from a source owned or leased by the water resources board, either
29 directly or indirectly, or obtains a ban from the board pursuant to the provisions of chapter 15 of
30 title 46, or sells water, on a wholesale or retail basis, inside and outside the territorial limits of the
31 city or town, water district, fire district, municipal or quasi-municipal corporation, except,
32 however, that a public waterworks or water service owned and furnished by any city, town, water
33 district, fire district, or any other municipal or quasi-municipal corporation which sells water, on
34 a wholesale or retail basis, inside and outside its territorial limits shall not be construed as a

1 public utility if it has fewer than one-thousand five hundred (1500) total customer service
2 connections and provided outside sales do not exceed ten percent (10%) of the total water service
3 connections or volumetric sales and provided the price charged to outside customers, per unit of
4 water, is not greater than the price charged to inside customers for the same unit of water, nor to
5 the Rhode Island public transit authority, or to the production and/or distribution of steam, heat,
6 or water by Rhode Island port authority and economic development corporation in the town of
7 North Kingstown; and the term "public utility" shall also mean and include the Narragansett Bay
8 water quality management district commission; and provided that the ownership or operation of a
9 facility by a company which dispenses alternative fuel or energy sources at retail for use as a
10 motor vehicle fuel or energy source, and the dispensing of alternative fuel or energy sources at
11 retail from such a facility, does not make the company a public utility within the meaning of this
12 title solely because of that ownership, operation, or sale; and provided further that this exemption
13 shall not apply to presently regulated public utilities which sell natural gas or are dispensers of
14 other energy sources; and provided further, that the term "public utility" shall not include any
15 company;

16 (i) Producing or distributing steam or heat from a fossil fuel fired cogeneration plant
17 located at the university of Rhode Island South Kingstown, Rhode Island and

18 (ii) Producing and/or distributing thermal energy and/or electricity to a state owned
19 facility from a plant located on an adjacent site regardless of whether steam lines cross a public
20 highway.

21 (21) "Purchasing cooperatives" shall mean any association of electricity consumers
22 which join for the purpose of negotiating the purchase of power from a nonregulated power
23 producer, provided however, that purchasing cooperatives shall not be required to be legal entities
24 and are prohibited from being engaged in the re-sale of electric power;

25 (22) "Railroad" means and includes every railroad other than a street railway, by
26 whatsoever power operated for public use in the conveyance in this state of persons or property
27 for compensation, with all bridges, ferries, tunnels, switches, spurs, tracks, stations, wharves, and
28 terminal facilities of every kind, used, operated, controlled, leased, or owned by or in connection
29 with any railroad;

30 (23) "Retail access" means the use of transmission and distribution facilities owned by
31 an electric transmission company or an electric distribution company to transport electricity sold
32 by a nonregulated power producer to retail customers pursuant to section 39-1-27.3;

33 (24) "Street railway" means and includes every railway by whatsoever power operated or
34 any extension or extensions, branch, or branches thereof, for public use in the conveyance in this

1 state of persons or property for compensation, being mainly upon, along, above, or below any
2 street, avenue, road, highway, bridge, or public place in any city or town, and including all
3 switches, spurs, tracks, rights of trackage, subways, tunnels, stations, terminals and terminal
4 facilities of every kind, used, operated, controlled, or owned by or in connection with any street
5 railway;

6 (25) "Transmission facility" means plant or equipment used for the transmission of
7 electricity as determined by the federal energy regulatory commission pursuant to federal law as
8 of the date of the property transfers pursuant to section 39-1-27(c);

9 (26) Notwithstanding any provision of this section or any provision of the act entitled,
10 "An Act Relating to the Utility Restructuring Act of 1996" (hereinafter "Utility Restructuring
11 Act"), upon request by the affected electric utility, the commission may exempt from the Utility
12 Restructuring Act or any provision(s) thereof, an electric utility which meets the following
13 requirements: (i) the utility is not selling or distributing electricity outside of the service territory
14 in effect for that utility on the date of passage of the Utility Restructuring Act; and (ii) the number
15 of kilowatt hours sold or distributed annually by the utility to the public is less than five percent
16 (5%) of the total kilowatt hours consumed annually by the state. Provided however that nothing
17 contained in this section shall prevent the commission from allowing competition in the
18 generation of electricity in service territories of utilities exempted in whole or in part from the
19 Utility Restructuring Act pursuant to this section, as long as such allowance of competition is
20 conditioned upon payment to the exempted electric utility of a nonbypassable transition charge
21 calculated to recover the elements comparable in nature to the elements in section 39-1-27.4(b)
22 and (c) taking into consideration any unique circumstances applicable to the exempted electric
23 utility.;

24 [\(27\) "Department" means the department of business regulation;](#)

25 [\(28\) "Director" means the director of the department of business regulation.](#)

26 ~~39-1-3. Commission and division established -- Functions of commission --~~

27 ~~Administrator. -- Commission, department and division established -- Functions of~~

28 ~~commission -- Administrator -- Director. --~~ (a) To implement the legislative policy set forth in

29 section 39-1-1 and to serve as the agencies of the state in effectuating the legislative purpose,

30 there are hereby established a ~~public utilities~~ [consumer protection advocacy](#) commission and a

31 division of public utilities, [and department of business regulation](#) and carriers. The commission

32 shall serve as a quasi-judicial tribunal with jurisdiction, powers, and duties to implement and

33 enforce the standards of conduct under section 39-1-27.6 and to hold investigations and hearings

34 involving the rates, tariffs, tolls, and charges, and the sufficiency and reasonableness of facilities

1 and accommodations of railroad, gas, electric distribution, water, telephone, telegraph, and
2 pipeline public utilities, the location of railroad depots and stations, and the control of grade
3 crossings, the revocation, suspension, or alteration of certificates issued pursuant to section 39-
4 19-4, appeals under section 39-1-30, petitions under section 39-1-31, and proceedings under
5 section 39-1-32.

6 (b) The administrator shall be a person who is not a commissioner and who shall
7 exercise the jurisdiction, supervision, powers, and duties not specifically assigned to the
8 commission, including the execution of all laws relating to public utilities and carriers and all
9 regulations and orders of the commission governing the conduct and charges of public utilities
10 and who shall perform such other duties and have such powers as are hereinafter set forth. The
11 administrator shall be a person who is appointed by the governor for an initial term of six (6)
12 years. The administrator shall be appointed with the advice and consent of the senate. The
13 director of administration, with the approval of the governor, shall allocate the administrator to
14 one of the grades established by the pay plan for unclassified employees. The ~~public utilities~~
15 consumer protection advocacy administrator also shall have such powers and duties as provided
16 in section 46-15.3-20.

17 (c) There shall be within the consumer protection advocacy commission a department of
18 business regulation who shall carry out, except as otherwise provided by this title, this chapter;
19 chapters 1, 2 and 4 – 12, inclusive, of title 3; chapters 3, 20.5, 38, 49, 52, 53 and 58 of title 5;
20 chapter 31 of title 6; chapter 11 of title 7; chapters 1 – 29, inclusive, of title 19, except section 19-
21 24-6; chapter 26 of title 23; chapters 1 – 36, inclusive, of title 27. The director of business
22 regulation shall also perform the duties required by any and all other provisions of the general
23 laws and public laws insofar as those provisions relate to the director of revenue and regulation,
24 chief of the division of banking and insurance, chief of the division of intoxicating beverages, and
25 each of the divisions, except as otherwise provided by this title.

26 **39-1-4. Composition of commission -- Terms -- Vacancies. --** (a) The ~~public utilities~~
27 consumer protection advocacy commission shall consist of ~~five (5)~~ seven (7) electors selected
28 with regard to their qualifications and experience in law and government, energy matters,
29 economics and finance, engineering, business insurance and accounting, and appointed by the
30 governor with the advice and consent of the senate. At least three (3) of the five (5)
31 commissioners shall not be, nor shall have been within the previous five (5) years, an employee,
32 officer or director of any business whose activities are subject to regulation by the commission, or
33 any affiliate of it. The term of each commissioner shall be six (6) years. The director of
34 administration, with the approval of the governor, shall allocate the position of each

1 commissioner to one of the grades established by the pay plan for unclassified employees.

2 (b) Within thirty (30) days after January 1, 2004, the governor, with the advice and
3 consent of the senate, shall appoint one commissioner to serve until the first day of March, 2010,
4 and until his or her successor is appointed and qualified, and one commissioner to serve until the
5 first day of March, 2008, and until his or her successor is appointed and qualified. Within thirty
6 (30) days after January 1, 2007, the governor, with the advice and consent of the senate, shall
7 appoint two (2) commissioners to serve six (6) year terms and until his or her successor is
8 appointed and qualified. During the month prior to the expiration of the term of a commissioner,
9 the governor, with the advice and consent of the senate shall appoint a commissioner to succeed
10 the commissioner whose term will then next expire, to serve for a term of six (6) years
11 commencing on the first day of March then next following, and until his or her successor is
12 appointed and qualified. A commissioner shall be eligible to succeed him or herself. Upon the
13 expiration of the term of the chairperson, the governor may designate any commissioner as
14 chairperson.

15 (c) A vacancy in the office of a commissioner, other than by expiration, shall be filled in
16 like manner as an original appointment, but only for the unexpired portion of the term. If a
17 vacancy occurs when the senate is not in session, the governor shall appoint a person to fill the
18 vacancy, but only until the senate shall next convene and give its advice and consent to a new
19 appointment.

20 **39-1-7. Powers of commission -- Seal.** -- (a) The commission shall have the powers of a
21 court of record in the determination and adjudication of all matters over which it is given
22 jurisdiction. It may make orders and render judgments and enforce the same by any suitable
23 process issuable by the superior court. The commission shall have an official seal, which shall
24 have engraved thereon the words "State of Rhode Island and Providence Plantations. ~~Public~~
25 ~~Utilities Commission~~ "Consumer Protection Advocacy Commission Seal".

26 (b) The commission shall have the power to do a complete audit of the books of all
27 public utilities and insurance doing business in this state. The audit shall consider the cost of
28 energy acquisition and all other aspects which the commission deems necessary.

29 **39-1-11. Proceedings before commission.** -- The commission shall adopt reasonable
30 rules and regulations governing the procedure to be followed in any matter that may come before
31 it for a hearing, and in the hearing the commission shall not be bound by technical rules of
32 evidence. The commission shall sit as an impartial, independent body, and is charged with the
33 duty of rendering independent decisions affecting the public interest and private rights based
34 upon the law and upon the evidence presented before it by the division; the department and by the

1 parties in interest. The presence of one commissioner shall constitute a quorum at all hearings
2 provided that the concurrence of a majority of the commission shall be required for the rendering
3 of a decision.

4 **39-1-15. Investigators and examiners.** -- For effective administration, supervision, and
5 regulation of public utilities, communications carriers, [insurance](#) and common or contract
6 carriers, the administrator [and/or director](#), at his or her discretion, may designate examiners,
7 investigators, hearing officers, or one or more agents of the division [and/or department](#) to make
8 investigations and conduct hearings. In conducting investigations and hearings, the administrator
9 [and/or director](#) and every person designated therefor by him or her shall be vested with all the
10 powers conferred on the chairperson of the commission by section 39-1-13. Upon completion of
11 his or her investigation and hearing, the person hearing or investigating shall file his or her
12 recommended decision and findings in writing with the administrator [and/or director](#); and the
13 decision and findings, when approved by the administrator [and/or director](#), shall have the same
14 force and effect as a decision and findings by the administrator [and/or director](#). The administrator
15 [and/or director](#) may, however, at his or her discretion, upon considering the evidence in the matter
16 at issue and the written recommended decision as filed by the hearing officer, agent, examiner, or
17 investigator, decide the matter in hearing or under investigation him or herself, and in such case
18 the decision of the administrator [and/or director](#) with his or her findings shall become effective
19 when signed and filed by him or her.

20 **39-1-18. Hearings and records -- Certified copies.** -- (a) All hearings and orders of the
21 commission, [department](#) and of the division, and the records thereof, shall be public and any
22 person shall be permitted to record all or any portion of a hearing by way of camera, video or tape
23 recorder of any kind, unless a party to the hearing requests, and the chairperson, [director](#) or
24 administrator grants the request, that the recording be prohibited for the protection of attorney-
25 client privilege, confidentiality or other interest of the parties. All reports, records, files, books,
26 and accounts in the possession of the commission, [department](#) or the division shall be open to
27 inspection by the public at all reasonable times. The division [or department](#) may charge and
28 collect reasonable fees for copies of official documents, orders, papers, and records, and for
29 authenticating or certifying the same; provided that no fee shall be charged for single copies of
30 official documents, orders, papers, and records, furnished to public officers of the state for use in
31 their official capacity, or for the annual reports in the ordinary course of distribution.

32 (b) Effective as of September 1, 2003, all filings made to the division, [department](#) or
33 commission shall also be provided digitally in a manner established by the division [or](#)
34 [department](#). The commission, [department](#) and division may adopt rules exempting filings from

1 this requirement.

2 (c) In order to support the ability of the public and interested parties to stay informed of
3 the activities of the commission, [department](#) and the division, and to promote awareness of utility
4 restructuring, the division [or department](#) shall maintain a site on the internet through which the
5 public may access:

6 (1) Notices of and agendas of hearings;

7 (2) All filings that are available in digital format and that are not subject to protective
8 orders;

9 (3) All orders, rules and regulations of the commission, [director](#) or administrator;

10 (4) Announcements of, agendas for, and minutes of open meetings;

11 (5) A calendar of all forthcoming open meetings and hearings;

12 (6) Current tariffs of all public utilities who are subject to assessment pursuant to section
13 39-1-23; provided, however, that the division may require any public utility with extensive tariffs
14 to maintain a website and provide access to those tariffs via a link from the division's website;

15 (7) A listing of all public utilities and nonregulated power producers, together with
16 consumer contact information for each;

17 (8) Consumer information on billing dispute resolution, retail access, conservation, and
18 consumer assistance programs;

19 (9) Demand side management programs available to residential, commercial and
20 industrial customers;

21 (10) Other information as the division deems relevant and useful to the public.

22 **39-1-19. Personnel -- Legal representation.** -- (a) To carry out the purposes of this title,
23 the commission, [the department](#) and the division, within the appropriation therefor, are authorized
24 to employ such clerks, stenographers, engineers, accountants, and agents as may be required, who
25 shall be in the classified service, and may also retain and employ experts, consultants, and
26 assistants on a contract or other basis for rendering legal, financial, professional, technical or
27 other assistance or advice.

28 (b) When requested by the administrator, the attorney general or an assistant designated
29 by him or her shall appear and represent the division [or department](#) in any hearing, investigation,
30 action, or proceeding under this title or in reference to any act or proceeding of the division [or](#)
31 [department](#), and intervene in any action or proceeding in which is involved any question arising
32 under this title. In all cases in which the attorney general or an assistant intervenes on behalf of
33 the state as a customer of a public utility [or insurance company](#), or on behalf of the citizens of the
34 state, as customers of a public utility [or insurance company](#), the division [or department](#) may

1 employ legal counsel to represent it, as provided for in section 39-1-20.

2 **39-1-21. Access to premises of utility. – Access to premises of utility and insurance**
3 **companies.** -- The commissioners, the attorney general, and the agents of the division or
4 department, as provided in sections 39-1-15 and 39-1-20, while engaged in the performance of
5 their duties, may at all reasonable times enter any premises, buildings, cars, plant, or equipment,
6 or other places belonging to, or controlled by, any public utility, communications carrier, or
7 insurance company or contract carrier, and inspect the same or any part thereof, and any person
8 obstructing, hindering, or in any way causing to be obstructed or hindered, any commissioner or
9 the attorney general or any agent of the division or department, in the performance of his or her
10 duties, or who shall refuse to permit any commissioner, the attorney general, or any agent of the
11 division or department entrance into any premises, building, cars, plant, or equipment, or other
12 places belonging to or controlled by any public utility, communications carrier, or contract
13 carrier, in the performance of his or her duties as such, shall be deemed guilty of a misdemeanor
14 and fined not more than five hundred dollars (\$500).

15 **39-1-22. False returns.** -- A company subject to the supervision of the commission,
16 department or division which furnishes it with a sworn or affirmed report, return, or statement,
17 which the company knows or should know contains false figures or information regarding any
18 material matter lawfully required of it, and any company which fails within a reasonable time to
19 obey a final order of the commission, department or division, shall be fined not more than twenty
20 thousand dollars (\$20,000).

21 **39-1-23. Administrative expenses -- Assessment against utilities.** -- (a) The
22 administrator shall aggregate the expenses of the division, including expenses incurred by the
23 attorney general pursuant to section 39-1-19, and expenses incurred by the commission for each
24 upcoming fiscal year and shall apportion and assess these expenses among the state's regulated
25 utilities based upon approved budgets. When submitting the budget, the budget office shall
26 clearly indicate the revenues from assessments. Included within this prospective assessment shall
27 be those expenses expected to be incurred by the attorney general pursuant to section 39-1-19 for
28 the upcoming fiscal year. The expenses anticipated by the attorney general and the commission
29 for each upcoming fiscal year shall be communicated to the administrator within thirty (30) days
30 of request by the administrator. The administrator shall thereupon apportion and assess one
31 hundred percent (100%) of such expenses among the several public utility companies and
32 common carriers located in this state in the proportion that the gross intrastate utility operating
33 revenues of each public utility company and common carrier shall bear to the total gross intrastate
34 utility operating revenues for the last preceding fiscal year of all public utility companies and

1 common carriers; provided, however, that any public utility or common carrier, whose gross
2 intrastate revenues in any fiscal year as reported to the administrator do not exceed one hundred
3 thousand dollars (\$100,000), shall not be subject to the assessment under the provisions hereof;
4 and, provided further, that all motor carriers subject to the provisions of chapter 12 of this title
5 shall not be subject to the assessment under the provisions hereof. The sum so apportioned and
6 assessed shall be in addition to any taxes payable to the state under any other provision of law.
7 The assessments shall be divided between the commission and the division based upon the
8 approved budgets.

9 (b) The administrator shall apply any budgetary balance or shortfalls remaining from a
10 prior annual assessment toward the next upcoming fiscal year assessment to the division or the
11 commission as appropriate.

12 (c) Upon collection from the several public utility companies and common carriers
13 operating in this state, assessments and any state appropriations shall be deposited in an account
14 to be known as the public utilities ~~commission~~ funding account. This fund shall be a restricted
15 receipt account and shall be kept by the general treasurer separately and shall be paid out by the
16 general treasurer only upon receipt of properly authenticated vouchers signed by the administrator
17 or his or her designee for the division's share of the account. The same procedure shall be
18 followed for the commission except that such vouchers shall be signed by the commission
19 chairperson or his or her designee. The general treasurer shall provide for separate accounting of
20 the division and commission budget and expenses. The moneys in the public utilities fund shall
21 be expended by the administrator or the commission, as appropriate for meeting the expenses of
22 the operation of the commission, the division and those expenses incurred by the attorney general,
23 pursuant to section 39-1-19.

24 (d) The legislature may appropriate from the general funds such sums as are necessary
25 for the regulation of public utilities [and insurance companies](#).

26 **39-1-26. Public utilities reserve fund created -- Appropriations -- Recovery of**
27 **expenses from utility companies.** -- (a) There is hereby created a fund to be known as the public
28 utilities reserve account, an account within the ~~public utilities~~ [consumer protection advocacy](#)
29 commission in the general fund. Such account, hereinafter referred to as the "fund", shall be used
30 for the purpose of providing the financial means for the commission and division to purchase
31 materials, and to employ on a contract or other basis, legal counsel, official stenographers,
32 engineers, accountants, economists, and other expert witnesses, and for other necessary expenses
33 of the commission and division in investigations and hearings related to applications and filings
34 made by public utilities, or commission or division initiated investigations into utility operating

1 practices, or appeals to federal courts. The general assembly shall annually appropriate to the
2 fund a sum equal to twenty-five one thousandths of one percent (.00025%) of the gross annual
3 operating revenues of gas, electric, and telephone companies attributable to their conduct of
4 intrastate operations in this state during the year next preceding; provided, however, that if at
5 June 30, in any year the balance in the fund shall be in excess of one hundred thousand dollars
6 (\$100,000), the amount of the excess shall forthwith be transferred to the general fund of the
7 state. Prebilled revenue shall be excluded from an excess balance to be transferred to the general
8 fund. The state controller is authorized and directed to draw his or her orders upon the general
9 treasurer for the payment from the fund of such sums as may be required from time to time upon
10 receipt by him or her of proper vouchers approved by the administrator.

11 (b) The public utility making an application or filing to the commission or division, or
12 subject to a commission or division initiated investigation, or any public utility distributing
13 electricity or gas whose retail rates would be affected by a filing made by the administrator or a
14 federally regulated electric or gas company before an agency of the federal government or a
15 federal court, shall be charged with and shall pay a portion of the expenses reasonably so incurred
16 by the commission and by the division for the purchase of materials and for the employment of
17 legal counsel, official stenographers, engineers, accountants, and expert witnesses, and for travel
18 and other necessary expenses as are reasonably attributable to the investigation or the hearing of
19 the proposal by the commission and the division, or to the administrator's representation of the
20 state before the agency of the federal government. The administrator or the commission
21 chairperson as appropriate, shall ascertain the expenses and shall determine the amount to be paid
22 by the public utility company or companies, and bills shall be rendered therefor either at the
23 conclusion of the investigation or hearing, or from time to time during its progress, and the
24 amount of each bill so rendered shall be paid by the public utility to the administrator or the
25 commission, as appropriate, within thirty (30) days from the date of its rendition unless, within
26 the thirty (30) day time period, the public utility so billed shall request an opportunity to be heard
27 by the commission as to the amount thereof. The commission shall comply with any such request.
28 Any amount of the bill not paid within thirty (30) days from the date of service of the
29 determination upon the hearing, or, if none shall be requested, within thirty (30) days from the
30 date of rendition of the bill, shall draw interest at the rate of twelve percent (12%) per annum. At
31 the discretion of the administrator, or the commission chairperson, as appropriate, utility
32 companies may be prebilled for contractual services utilized by the commission or division. Any
33 revenue received from public utilities not expended upon the completion of the case will be
34 promptly reimbursed to the utility company. The total amount which may be charged to any

1 public utility under authority of this section for proceedings before the commission or division in
2 any calendar year shall not exceed two hundred fifty thousand dollars (\$250,000); in addition, the
3 total amount which may be charged against any public utility under authority of this section for
4 the administrator's representation of the state before agencies of the federal government in any
5 calendar year shall not exceed two hundred fifty thousand dollars (\$250,000). All moneys
6 collected by the administrator or the commission pursuant to this section shall be paid by him or
7 her monthly to the general treasurer to be added to the public utilities reserve fund.

8 (c) The division of public utilities shall adopt by regulation, a fee schedule for all
9 telecommunications filings, including initial applications and annual registrations, by
10 telecommunications providers which are not otherwise subject to the provisions of subsections (a)
11 or (b). The money assessed and paid shall be paid into the general fund and shall not be a part of
12 the public utilities reserve fund.

13 (d) The general assembly shall annually appropriate such sums as it may deem necessary
14 for the salaries of the commissioners and their expenses incurred in the performance of their
15 duties, and for the operations of the commission and the division and payment of such office
16 expenses and assistance as from time to time may be required. The state controller is authorized
17 and directed to draw his or her orders upon the general treasurer for the payment of such sum, or
18 so much thereof, as may be required from time to time upon receipt by him or her of vouchers
19 approved by the administrator or his or her authorized agent.

20 **39-1-28. Acceptance of grants.** -- The commission, [department](#) and the division are
21 authorized and empowered to apply for and receive and accept in the name of the state grants, of
22 property, money and services and other assistance offered or made available to them by any
23 person, any political subdivision or entity, or any other agency, governmental or private,
24 including the United States or any of its agencies and instrumentalities, which they may use for
25 any purpose in furtherance of their powers and duties; provided, however, that acceptance of any
26 grant shall not make the state in any manner legally or equitably liable to the donor relative to the
27 use of the grant. The grants received shall not be covered into the general fund of the state, but
28 shall be kept by the general treasurer in a separate fund for the commission, [department](#) and
29 division and shall be paid out by him or her only upon receipt of properly authenticated vouchers
30 signed by the chairperson of the commission or the administrator as appropriate, without the
31 necessity of appropriation or reappropriation by the general assembly.

32 **39-1-38. Liberal construction -- Incidental powers -- Severability.** -- The provisions of
33 this title shall be interpreted and construed liberally in aid of its declared purpose. The
34 commission, [the department](#) and the division shall have, in addition to powers specified in this

1 chapter, all additional, implied, and incidental power which may be proper or necessary to
2 effectuate their purposes. No rule, order, act or regulation of the commission, [the department](#) and
3 of the division shall be declared inoperative, illegal, or void for any omission of a technical
4 nature. If any provision of this title, or of any rule or regulation made thereunder, or the
5 application thereof to any company of circumstance, is held invalid by a court of competent
6 jurisdiction, the remainder of the title, rule, or regulation, and the application of such provision to
7 other companies or circumstances shall not be affected thereby. The invalidity of any section or
8 sections or parts of any section or sections of this title shall not affect the validity of the
9 remainder of the title.

10 SECTION 3. Chapter 39-1 of the General Laws entitled "Public Utilities Commission" is
11 hereby amended by adding thereto the following section:

12 **39-1-37.1. Director -- Department of Business Regulation -- Director defined --**
13 **Continuity of functions.** – [Whenever in any general or public law the words "department of](#)
14 [business regulation director" shall appear, the same would be deemed to refer to and mean the](#)
15 [director of the department of business regulation within the consumer protection advocacy](#)
16 [commission. The governor is authorized to transfer or reallocate by executive order the whole or](#)
17 [any part of the appropriations for the department of business regulation.](#)

18 SECTION 4. Section 39-20-2 of the General Laws in Chapter 39-20 entitled "Ownership
19 of Electric Generating Facilities" is hereby amended to read as follows:

20 **39-20-2. Definitions.** -- In this chapter, unless the context otherwise requires, the
21 following words shall have the following meanings:

22 (1) "Commission" means the ~~public utilities~~ [consumer protection advocacy](#) commission.

23 (2) "Division" means the division of public utilities and carriers.

24 (3) "Domestic electric utility" means an electric utility organized under the laws of, or
25 having its principal place of business in, this state.

26 (4) "Electric generating facilities" means electric generating units rated five hundred
27 (500) megawatts or above, and generating stations in commercial generation on or before January
28 1, 1990 that are subsequently altered or modified to increase the rating of such stations by at least
29 two hundred (200) megawatts, and related facilities including those for the transmission of the
30 capacity and related energy from such units or stations.

31 (5) "Electric utility" means any individual, partnership, corporation, association, or
32 entity, or subdivision thereof, private, governmental or other, wherever resident or organized,
33 primarily engaged in the generation and sale or purchase and sale of electricity, or the
34 transmission thereof, for ultimate consumption by the public.

1 (6) "Foreign electric utility" means any electric utility other than a domestic electric
2 utility.

3 SECTION 5. Section 39-24-2 of the General Laws in Chapter 39-24 entitled "Long-range
4 Energy Plans" is hereby amended to read as follows:

5 **39-24-2. Filing by gas companies.** -- Every gas company whose total annual sales in the
6 preceding calendar year exceeds five million cubic feet (5,000,000 cu. ft.) shall submit, every two
7 (2) years, to the ~~public utilities~~ consumer protection advocacy commission a long-range energy
8 plan for the five (5) year period subsequent to the date the plan is submitted, and shall apprise the
9 commission in the interim of any changes which substantially affect the plan. The public utilities
10 commission shall by rule specify such information as it shall reasonably require, to include but
11 not be limited to the company's peak demand forecasts, annual sales in cubic feet, major proposed
12 additions to plant, and an analysis of the cost and financing of any proposed additions to plant or
13 purchases. The filing shall include all assumptions and methodologies used by the company in
14 formulating the plan.

15 SECTION 6. Section 39-26-2 of the General Laws in Chapter 39-26 entitled "Renewable
16 Energy Standard" is hereby amended to read as follows:

17 **39-26-2. Definitions.** -- When used in this chapter:

18 (1) Alternative compliance payment: means a payment to the Renewable Energy
19 Development Fund of fifty dollars (\$50.00) per megawatt-hour of renewable energy obligation, in
20 2003 dollars, adjusted annually up or down by the consumer price index, which may be made in
21 lieu of standard means of compliance with this statute;

22 (2) Commission: means the Rhode Island ~~public utilities~~ consumer protection advocacy
23 commission;

24 (3) Compliance year: means a calendar year beginning January 1 and ending December
25 31, for which an obligated entity must demonstrate that it has met the requirements of this statute;

26 (4) Customer-sited generation facility: means a generation unit that is interconnected on
27 the end-use customer's side of the retail electricity meter in such a manner that it displaces all or
28 part of the metered consumption of the end-use customer;

29 (5) Electrical energy product: means an electrical energy offering, including but not
30 limited to last resort and standard offer service, that can be distinguished by its generation
31 attributes or other characteristics, and that is offered for sale by an obligated entity to end-use
32 customers;

33 (6) Eligible biomass fuel: means fuel sources including brush, stumps, lumber ends and
34 trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood that is not

1 mixed with other solid wastes; agricultural waste, food and vegetative material; energy crops;
2 landfill methane; biogas; or neat bio-diesel and other neat liquid fuels that are derived from such
3 fuel sources;

4 (7) Eligible renewable energy resource: means resources as defined in section 39-26-4;

5 (8) End-use customer: means a person or entity in Rhode Island that purchases electrical
6 energy at retail from an obligated entity;

7 (9) Existing renewable energy resources: means generation units using eligible
8 renewable energy resources and first going into commercial operation before December 31, 1997;

9 (10) Generation attributes: means the nonprice characteristics of the electrical energy
10 output of a generation unit including, but not limited to, the unit's fuel type, emissions, vintage
11 and policy eligibility;

12 (11) Generation unit: means a facility that converts a fuel or an energy resource into
13 electrical energy;

14 (12) NE-GIS: means the generation information system operated by NEPOOL, its
15 designee or successor entity, which includes a generation information database and certificate
16 system, and that accounts for the generation attributes of electrical energy consumed within
17 NEPOOL;

18 (13) NE-GIS certificate: means an electronic record produced by the NE-GIS that
19 identifies the relevant generation attributes of each megawatt-hour accounted for in the NE-GIS;

20 (14) NEPOOL: means the New England Power Pool or its successor;

21 (15) New renewable energy resources: means generation units using eligible renewable
22 energy resources and first going into commercial operation after December 31, 1997; or the
23 incremental output of generation units using eligible renewable energy resources that have
24 demonstrably increased generation in excess of ten percent (10%) using eligible renewable
25 energy resources through capital investments made after December 31, 1997; but in no case
26 involve any new impoundment or diversion of water with an average salinity of twenty (20) parts
27 per thousand or less;

28 (16) Obligated entity: means a person or entity that sells electrical energy to end-use
29 customers in Rhode Island, including, but not limited to: nonregulated power producers and
30 electric utility distribution companies, as defined in section 39-1-2, supplying standard offer
31 service, last resort service, or any successor service to end-use customers; including Narragansett
32 Electric, but not to include Block Island Power Company as described in section 39-26-7 or
33 Pascoag Utility District;

34 (17) Off-grid generation facility: means a generation unit that is not connected to a utility

1 transmission or distribution system;

2 (18) Reserved certificate: means a NE-GIS certificate sold independent of a transaction
3 involving electrical energy, pursuant to Rule 3.4 or a successor rule of the operating rules of the
4 NE-GIS;

5 (19) Reserved certificate account: means a specially designated account established by
6 an obligated entity, pursuant to Rule 3.4 or a successor rule of the operating rules of the NE-GIS,
7 for transfer and retirement of reserved certificated from the NE-GIS;

8 (20) Self-generator: means an end-use customer in Rhode Island that displaces all or part
9 of its retail electricity consumption, as metered by the distribution utility to which it
10 interconnects, through the use of a customer-sited generation facility;

11 (21) Small hydro facility: means a facility employing one or more hydroelectric turbine
12 generators and with an aggregate capacity not exceeding thirty (30) megawatts. For purposes of
13 this definition, "facility" shall be defined in a manner consistent with Title 18 of the Code of
14 Federal Regulations, section 92.201 et seq.; provided, however, that the size of the facility is
15 limited to thirty (30) megawatts, rather than eighty (80) megawatts.

16 SECTION 7. Section 39-1-17 of the General Laws in Chapter 39-1 entitled "Public
17 Utilities Commission" is hereby repealed.

18 ~~39-1-17. Consumers' council participation. -- In any inquiry into or examination of any
19 matter wherein tariffs, rates, or charges for or the cost of or the quality, standard, or extent of any
20 service or commodities are requested by the division, and in every formal hearing conducted by
21 the division, the consumers' council shall be deemed to be an interested party for all purposes,
22 and as such, shall receive all notices and may file complaints, institute proceedings, participate as
23 a party in administrative hearings, and institute or participate in any appeal to the supreme court
24 as an aggrieved party.~~

25 SECTION 8. Title 39 of the General Laws entitled "Public Records" is hereby amended
26 by adding thereto the following chapter:

27 CHAPTER 28

28 DEPARTMENT OF BUSINESS REGULATION

29 39-28-1. Establishment -- Head of department. -- There shall be a department of
30 business regulation. The head of the department shall be the director of business regulation who
31 shall carry out, except as otherwise provided by this title, this chapter; chapters 1, 2, and 4 -- 12,
32 inclusive, of title 3; chapters 3, 20.5, 38, 49, 52, 53 and 58 of title 5; chapter 31 of title 6; chapter
33 11 of title 7; chapters 1 -- 29, inclusive, of title 19, except section 19-24-6; chapter 26 of title 23;
34 chapters 1 -- 36, inclusive, of title 27. The director of business regulation shall also perform the

1 duties required by any and all other provisions of the general laws and public laws insofar as
2 those provisions relate to the director of revenue and regulation, chief of the division of banking
3 and insurance, chief of the division of intoxicating beverages, and each of the divisions, except as
4 otherwise provided by this title. The department of business regulation shall be within the
5 consumer protection advocacy commission created by chapter 39-1. The director shall report to
6 and be supervised by the consumer protection advocacy commission.

7 **39-28-2. Functions of department. --** (1) It shall be the function of the department of
8 business regulation:

9 (a) To regulate and control banking and insurance, foreign surety companies, sale of
10 securities, building and loan associations, fraternal benefit and beneficiary societies;

11 (b) To regulate and control the manufacture, transportation, possession, and sale of
12 alcoholic beverages;

13 (c) To license and regulate the manufacture and sale of articles of bedding, upholstered
14 furniture, and filling materials.

15 (2) Whenever any hearing is required or permitted to be held pursuant to law or
16 regulation of the department of business regulation, and whenever no statutory provision exists
17 providing that notice be given to interested parties prior to hearing, no such hearing shall be held
18 without notice in writing being given at least ten (10) days prior to such hearing to all interested
19 parties. For purposes of this section, an "interested party" shall be deemed to include the party
20 subject to regulation hereunder, and any party entitled to appear at the hearing. Notice to the party
21 that will be subject to regulation, and any party who has made known his or her intention to
22 appear at the hearing shall be sufficient if it be in writing and mailed, first class mail, to the party
23 at his or her regular business address. Notice to the general public shall be sufficient hereunder if
24 it be by publication in a newspaper of general circulation in the municipality affected by the
25 regulation.

26 **39-28-2.1. Reporting by certain insurers -- Settlements. --** (a) Every insurer providing
27 professional liability insurance to licensed physicians, dentists, or dental hygienists shall send a
28 complete report to the board of medical licensure and discipline established pursuant to chapter
29 37 of title 5, or the board of examiners in dentistry established pursuant to chapter 31.1 of title 5
30 and the department of business regulation as to any claim, notice, settlement, judgment, or
31 arbitration award of a claim or action for damages for death or personal injury caused by such
32 person's negligence, error, or omission in practice or his or her rendering of unauthorized
33 professional services. The report shall be sent within thirty (30) days after service of such
34 arbitration award on the parties or notice of the claim, settlement, judgment, or arbitration award.

1 (b) Notwithstanding any other provision of law, an insurer shall have the contractual
2 right to settle any claim up to the limits of the policy without the insured's consent, unless the
3 policy by its express terms prohibits the insurer from settling any claim without the consent of the
4 insured.

5 (c) All insurers doing business in the state of Rhode Island in liability insurance for
6 health care professionals, dentists, or dental hygienists shall file an annual report with the
7 commissioner of insurance. This report must be filed for each year by March 1 of the next year.
8 The information required for each year shall include, for each rating class:

9 (1) The number of insured;

10 (2) The total premiums paid;

11 (3) The total number of claims made, the years in which the incidents giving rise to the
12 claims occurred, and the total number of those claims outstanding at the end of the year;

13 (4) The total amount of claims paid, the years in which the incidents giving rise to the
14 claims occurred, and the amount of the costs which can be identified with these claims for
15 investigation, processing, and defense of these claims; and

16 (5) The number of lawsuits filed.

17 **39-28-2.2. Reporting -- Court judgments against licensed physicians, dentists, or**
18 **dental hygienists. -- Within ten (10) days after a judgment by a court of this state that a licensed**
19 **physician, dentist, or dental hygienist has committed a crime or is civilly liable for any death or**
20 **personal injury caused by his or her negligence, error or omission in practice, or his or her**
21 **rendering unauthorized professional services, the clerk of the court which rendered the judgment**
22 **shall report the same to the board of medical licensure and discipline established pursuant to**
23 **chapter 37 of title 5 or the board of examiners in dentistry established pursuant to chapter 31.1 of**
24 **title 5 and the department of business regulation.**

25 **39-28-2.3. Minimum policy provisions. -- The commissioner of insurance shall**
26 **promulgate, on or before January 1, 1987, rules and regulations establishing the minimum**
27 **provisions which all professional liability insurance policies for licensed health care providers,**
28 **dentists, or dental hygienists must contain. The commissioner shall establish a "merit rating plan"**
29 **which shall be based in part on the past claims paid on behalf of the insured.**

30 **39-28-3. Banking and insurance division. -- Within the department of business**
31 **regulation of the consumer protection advocacy commission there shall be a banking and**
32 **insurance division. The division shall have offices which shall be assigned to it by the department**
33 **of administration. A superintendent shall be in charge of such division, reporting to the director,**
34 **deputy director and/or health insurance commissioner as appropriate.**

1 **39-28-4. Administrator of banking and insurance.** -- (a) The director of business
2 regulation shall, in addition to his or her regular duties, act as administrator of banking and
3 insurance and shall administer the functions of the department relating to the regulation and
4 control of banking and insurance, foreign surety companies, sale of securities, building and loan
5 associations, and fraternal benefit and beneficiary societies.

6 (b) Wherever the words "banking administrator" or "insurance administrator" occur in
7 this chapter or any general law, public law, act, or resolution of the general assembly or
8 department regulation, they shall be construed to mean banking commissioner and insurance
9 commissioner except as delineated in subsection (d) below.

10 (c) "Health insurance" shall mean "health insurance coverage," as defined in sections 27-
11 18.5-2 and 27-18.6-2; "health benefit plan," as defined in section 27-50-3 and a "medical
12 supplement policy," as defined in section 27-18.2-1 or coverage similar to a Medicare supplement
13 policy that is issued to an employer to cover retirees.

14 (d) Whenever the words "commissioner," "insurance commissioner", "Health insurance
15 commissioner" or "director" appear in title 27 or title 42, those words shall be construed to mean
16 the health insurance commissioner established pursuant to section 42-14.5-1 with respect to all
17 matters relating to health insurance. The health insurance commissioner shall have sole and
18 exclusive jurisdiction over enforcement of those statutes with respect to all matters relating to
19 health insurance.

20 **39-28-5. Restrictions on interests of administrator.** -- The administrator of banking
21 and insurance shall not engage in any other business or be an officer of or directly or indirectly
22 interested in any national bank doing business in this state, or in any bank, savings bank, or trust
23 company organized under the laws of this state, nor be directly or indirectly interested in any
24 corporation, business, or occupation that requires his or her official supervision; nor shall the
25 administrator become indebted to any bank, savings bank, or trust company organized under the
26 laws of this state, nor shall he or she engage or be interested in the sale of securities as a business,
27 or in the negotiation of loans for others.

28 **39-28-6. Application for or acceptance of loan by bank examiner.** -- Every examiner
29 or assistant examiner authorized by law to report the condition of a financial institution
30 incorporated under the laws of this state -- including, but not limited to, banks, savings banks,
31 bank associations, trust companies, loan and investment companies, savings and loan companies,
32 building loan associations, credit unions, deposit insurance companies, and any other depository
33 required by law to file reports with the director of business regulation -- who applies for or
34 accepts or is granted a loan of any kind, whether in his or her name or in the name of a member of

1 his or her immediate family, or in the name of a business or partnership in which he or she has a
2 substantial interest, from any financial institution examined by him or her at any time, shall be
3 required to report the same in writing to the director of business regulation within five (5)
4 business days. A violation of this section may be a ground for disqualification or suspension of
5 license.

6 **39-28-7. Deputies to administrator.** -- The administrator of banking and insurance may
7 appoint one or more deputies to assist him or her in the performance of his or her duties, who
8 shall be removable at the pleasure of the administrator, and the administrator in his or her official
9 capacity shall be liable for any deputy's misconduct or neglect of duty in the performance of his
10 or her official duties. Service of process upon any deputy, or at the office of the administrator
11 upon some person there employed, at any time, shall be as effectual as service upon the
12 administrator.

13 **39-28-8. Clerical assistance and expenses.** -- The administrator of banking and
14 insurance may employ such clerical assistance and incur such office and traveling expenses for
15 him or herself, his or her deputies and assistants as may be necessary in the performance of his or
16 her other duties, and as provided by this title, within the amounts appropriated therefor.

17 **39-28-9. Payment of expenses -- Fees.** -- The general assembly shall annually
18 appropriate such sum as it may deem necessary for the payment of the salary of the administrator
19 of banking and insurance, for the payment of the salaries of his or her deputies and for the
20 payment of the clerical and other assistance, office and traveling expenses of the administrator of
21 banking and insurance, his or her deputies and assistants, and the state controller is hereby
22 authorized and directed to draw his or her orders for the payment of those sums, or so much of
23 them as may from time to time be required, upon receipt by him or her of proper vouchers,
24 approved by the director of business regulation. All fees, charges for examinations and other
25 collections received by him or her as administrator of banking, insurance, and securities shall be
26 paid to the general treasurer for the use of the state.

27 **39-28-10. Actuary.** -- The administrator of banking and insurance may appoint an
28 actuary to assist him or her in the performance of his or her duties, including, but not limited to,
29 evaluating fire, casualty and other insurance rates. The actuary shall serve under the direction of
30 the administrator and shall be removable at the pleasure of the administrator. Insurance
31 companies doing business in this state shall be assessed according to a schedule of their direct
32 writings of insurance in this state to pay for the compensation of the actuary.

33 **39-28-11. Subpoena power -- False swearing.** -- In connection with any matters having
34 to do with the discharge of his or her duties pursuant to this chapter, the director, in all cases of

1 every nature pending before him or her, is hereby authorized and empowered to summon
2 witnesses to attend and testify in like manner as in either the supreme or the superior courts. The
3 director is authorized to compel the production of all papers, books, documents, records,
4 certificates or other legal evidence that may be necessary for the determination and the decision
5 of any question or the discharge of any duty required by law of the department, including the
6 function of the director as a member of the board of bank incorporation and board of building-
7 loan association incorporation, by issuing a subpoena duces tecum signed by the director. Every
8 person who disobeys this writ shall be considered in contempt of the department, and the
9 department may punish that and any other contempt of the authority in like manner as contempts
10 may be punished in either the supreme or the superior court. Any person who shall wilfully swear
11 falsely in any proceedings, matter or hearing before the department shall be deemed guilty of the
12 crime of perjury.

13 **39-28-12. Sales of businesses.** -- Any person, firm, or corporation acting as a broker for
14 the sale of an existing business or the transfer of all or a substantial part of the materials, supplies,
15 merchandise, or other inventory of an existing business or for the making of a bulk transfer under
16 chapter 6 of title 6A for a fee, charge, or commission shall be required to post a bond in the sum
17 of twenty thousand dollars (\$20,000) with the department of business regulation with surety or
18 sureties approved by the director of the department. Provided, however, that the provisions of this
19 section shall not apply to attorneys, any person licensed as a real estate broker, or real estate
20 salesman pursuant to the provisions of chapter 20.5 of title 5, except that no person, firm, or
21 corporation shall act or hold himself or herself out as a business broker unless he or she holds a
22 real estate broker's license issued by the department of business regulation that has not been
23 revoked.

24 **39-28-13. Transfer of powers and functions from department of business regulation.**

25 -- There are hereby transferred to the department of administration:

26 (A) Those functions of the department of business regulation which were administered
27 through or with respect to departmental programs in the performance of strategic planning as
28 defined in subsection 42-11-10(c);

29 (B) All officers, employees, agencies, advisory councils, committees, commissions, and
30 task forces of the department of business regulation who were performing strategic planning
31 functions as defined in subsection 42-11-10(c); and

32 (C) So much of dher functions or parts of functions and employees and resources,
33 physical and funded, related thereto of the director of business regulation as are incidental to and
34 necessary for the performance of the functions transferred by subdivisions (A) and (B).

1 **39-28-14. License applications -- Investigation.** -- After receipt of any application for a
2 license, permit, and/or registration that is subject to the jurisdiction of the department of business
3 regulation, the director of business regulation or his or her designee shall conduct an investigation
4 to determine whether the facts set forth in the application are true and shall receive from the
5 department of the attorney general all records of criminal information which it has or shall
6 receive indicating any criminal activity on the part of the individual signing the application. The
7 department of the attorney general shall provide the information subject to the rules and
8 regulations promulgated by the attorney general regarding the production of that information.

9 **39-28-15. Insurance -- Administrative penalties.** -- (a) Whenever the director shall
10 have cause to believe that a violation of title 27 or the regulations promulgated thereunder has
11 occurred by a licensee, the director may, in accordance with the requirements of the
12 Administrative Procedures Act, chapter 35 of this title:

- 13 (1) Revoke or suspend a license;
- 14 (2) Levy an administrative penalty in an amount not less than one hundred dollars (\$100)
15 nor more than fifty thousand dollars (\$50,000);
- 16 (3) Order the violator to cease such actions;
- 17 (4) Require the licensee to take such actions as are necessary to comply with title 27 or
18 the regulations thereunder; or
- 19 (5) Any combination of the above penalties.

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

22 **39-28-16. Order to cease and desist.** -- If the director has reason to believe that any
23 person, firm, corporation or association is conducting any activities requiring licensure under title
24 27 without obtaining a license, or who after the denial, suspension or revocation of a license
25 conducts any activities requiring licensure under title 27, the department may issue its order to
26 that person, firm, corporation or association commanding them to appear before the department at
27 a hearing to be held no sooner than ten (10) days nor later than twenty (20) days after issuance of
28 that order to show cause why the department should not issue an order to that person to cease and
29 desist from the violation of the provisions of title 27. The order to show cause may be served on
30 any person, firm, corporation or association named in the order in the same manner that summons
31 in a civil action may be served, or by mailing a copy of the order, certified mail, return receipt
32 requested, to that person at any address at which he or she has done business or at which he or she
33 lives. If, upon that hearing, the department is satisfied that the person is in fact violating any
34 provision of title 27, then the department may order that person, in writing, to cease and desist

1 from that violation. All hearings shall be governed in accordance with chapter 35 of this title, the
2 Administrative Procedures Act. If that person fails to comply with an order of the department
3 after being afforded a hearing, the superior court in Providence county has jurisdiction upon
4 complaint of the department to restrain and enjoin that person from violating this chapter.

5 **3-28-17. Rules and regulations.** -- The director of the department of business regulation
6 may promulgate such rules and regulations as are necessary and proper to carry out the duties
7 assigned to him or her by this title or any other provision of law.

8 **39-28-18. Form and rate filing fees.** -- The following fees shall be charged for the
9 services of the division of insurance in reviewing policy or certificate forms, as those terms are
10 defined in subsection 27-29-2(f), and related forms and rates that are required by law to be
11 submitted by insurers, as that term is defined in subsection 27-29-2(e), for review and approval
12 by the director prior to use:

13 (a) For each policy or certificate form included in a single package, including any related
14 forms, rates, and other documents submitted in the same package -- forty dollars (\$40.00);

15 (b) For related forms or revised rates in connection with a policy that has been previously
16 approved, submitted in a single package, charged based upon the number of policies involved --
17 twenty-five dollars (\$25.00); and

18 (c) Fees shall be submitted with each filing and shall be deposited as general revenue.
19 These fees shall be in addition to any taxes and fees otherwise payable to the state.

20 **39-28-19. Cost of legal fees.** -- The director is hereby authorized and may in his or her
21 discretion recover the reasonable cost of legal services provided by in-house attorneys of the
22 office of legal counsel of the department of business regulation and incurred by the department of
23 business regulation in matters pertaining to rate filings and examinations. Nothing in this section
24 shall limit the power of the director to retain legal counsel and to recover the costs of such legal
25 counsel pursuant to other provisions of the general laws.

26 SECTION 9. Title 39 of the General Laws entitled "Public Utilities and Carriers" is
27 hereby amended by adding thereto the following chapter:

28 CHAPTER 28.1

29 DEPARTMENT OF BUSINESS REGULATION -- MEDICAL MALPRACTICE INSURANCE

30 **39-28.1-1. Finding required.** -- Upon a finding by the director of business regulation
31 that a competitive, stable market for medical malpractice insurance is lacking in the state of
32 Rhode Island and that as a consequence thereof, there is peril to the public health, safety, and
33 welfare of the people of the state of Rhode Island, the director is authorized to promulgate a
34 regulation addressed to the solution of the problem which may encompass among others, the

1 following provisions:

2 (A) Creation of a joint underwriting association consisting of all insurers authorized to
3 write, within this state on a direct basis, personal injury liability insurance as defined in section
4 27-9-2, including insurers covering these perils in multiple peril package policies. Every insurer
5 shall be a member of the association and shall remain a member as a condition of its authority to
6 continue to transact these kinds of insurance in this state.

7 (B) To effectuate the purpose of the association which is to provide a market for medical
8 malpractice insurance on a self-supporting basis, the association shall be authorized to issue
9 policies of medical malpractice and incidental liability insurance to physicians, hospitals, and
10 other health care providers, but need not be the exclusive agency through which this insurance
11 may be written on a primary basis in this state.

12 (C) Policies issued by the association shall be subject to a group retrospective rating plan
13 to be approved by the director of business regulation and shall be calculated to be self-supporting.

14 (D) The creation and administration of a stabilization reserve fund and initial
15 policyholder contribution to the fund. The purpose of the fund shall be the discharge when due of
16 any retrospective premium charges payable by policyholders of the association under the group
17 retrospective rating plan authorized by regulation. Any monies remaining in the fund after all
18 retrospective premium charges have been paid shall be returned to policyholders.

19 (E) Upon certification by the association to the director that the estimated amount of any
20 deficit remaining after the stabilization reserve fund has been exhausted in payment of the
21 maximum final premium for all policyholders of the association, the director shall authorize
22 members of the association to commence recoupment by one of the following procedures:

23 (1) Applying a surcharge to be determined by the association at a rate not to exceed one
24 percent (1%) of the annual premiums on future policies affording those kinds of insurance which
25 form the basis for their participation in the association, under procedures established by the
26 association; or

27 (2) Deducting their share of the deficit from past or future taxes due the state of Rhode
28 Island.

29 (F) Organization of a plan of operation, use of policies written on a "claim made" or
30 "occurrence" basis, participation of members of the association and all other powers necessary to
31 effectuate the purposes of the regulation.

32 (G) Any joint underwriting association created pursuant to the authority granted in this
33 chapter shall be exempt from taxation on gross premiums and stabilization reserve funds received
34 for medical malpractice insurance as provided for in section 44-17-1. This provision shall be

1 applied retroactively to June 16, 1975, but in no way shall allow an exemption from taxation for
2 premiums received other than for medical malpractice insurance.

3 (H) Any joint underwriting association created pursuant to the authority granted in this
4 chapter (including the related stabilization reserve fund) shall be an integral part of the state
5 government, and its activities shall constitute the performance of an essential governmental
6 function of the state of Rhode Island. This subdivision shall be applied retroactively to June 16,
7 1975.

8 **39-28.1-2. Malpractice insurance.** -- (a) The director of business regulation shall
9 promulgate rules and regulations requiring all licensed medical and dental professional and all
10 licensed health care providers to be covered by professional liability insurance insuring the
11 practitioner for claims of bodily injury or death arising out of malpractice, professional error, or
12 mistake. The director of the department of business regulation is hereby authorized to promulgate
13 regulations establishing the minimum insurance coverage limits which shall be required;
14 provided, however, that such limits shall not be less than one hundred thousand dollars
15 (\$100,000) for claims arising out of the same professional service and three hundred thousand
16 dollars (\$300,000) in the aggregate. The director of the department of business regulation is
17 further authorized to establish rules and regulations allowing persons or entities with sufficient
18 financial resources to be self-insurers.

19 (b) Every licensed health care provider in direct patient care within a licensed hospital
20 shall obtain liability insurance in a minimum amount determined by the board of trustees of that
21 hospital.

22 SECTION 10. Title 39 of the General Laws entitled "Public Utilities and Carriers" is
23 hereby amended by adding thereto the following chapter:

24 CHAPTER 28.2

25 DEPARTMENT OF BUSINESS REGULATION -- AUTOMOBILE WRECKING AND
26 SALVAGE YARDS

27 **39-28.2-1. Definitions.** -- (a) "Auto wrecking processor" or "auto salvage processor", as
28 used in this chapter, shall mean a person, firm, corporation, or association that destroys, junks,
29 dismantles, processes, or stores for later dismantling or destruction motor vehicles or parts
30 thereof.

31 (b) "Auto wrecking yard" or "auto salvage yard", as used in this chapter, shall mean land
32 upon which a person, firm, corporation, or association destroys, junks, dismantles, or stores for
33 later dismantling or destruction motor vehicles or parts thereof, and may engage in the sale of
34 used motor vehicle parts, or scrap therefrom.

1 (c) "Department" or "licensor", as used in this chapter, shall mean the "department of
2 business regulation".

3 **39-28.2-2. Duties of the department of business regulation.** -- (a) The department is
4 hereby authorized to establish rules and regulations as appropriate in the public interest. An
5 annual report of its activities, meetings, programs, policies, findings, and recommendations shall
6 be filed by the department of business regulation with the general assembly. The records of the
7 department shall be open to inspection.

8 (b) The department shall conduct a town-by-town verification of the number of salvage
9 yards and shops operating within the state and otherwise compile an updated listing of the same.
10 All owners and operators shall be provided new application forms for the completion of licensing
11 data and given notice that the application must be completed and returned within ninety (90) days
12 in order to receive consideration as a license holder. The application and licensing form shall
13 contain sufficient data to enable the department to understand the scope of work and business at
14 the location, reflect full ownership by all corporations and persons interested, indicate employees
15 and provide other data on the business as may be indicated and in the public interest.

16 **39-28.2-3. License required.** -- No person shall establish or operate an auto wrecking
17 yard or auto salvage yard without a license therefor as provided in this chapter and in chapter 21
18 of title 5. The license issued to a licensee for the operation of an auto wrecking yard or auto
19 salvage yard shall be utilized solely at that location specified on the license, and said location
20 shall be used substantially for that operation, and not as a subordinate of a related business. The
21 subordinate or related business, if any, will be separate and apart from the auto wrecking yard and
22 auto salvage yard operation.

23 **39-28.2-4. Application for license.** -- Application for license shall be made to the
24 department upon the form prescribed by it. The department may require in the application or
25 otherwise information relating to the location at which the business is to be conducted, the nature
26 of the business, the name and residence of the applicant; if the applicant is a partnership, the
27 name and residence of each partner; and if the applicant is a corporation, the names and
28 residences of its principal officers and directors. The department may further require information
29 relating to the applicant's financial status, his or her business integrity, whether the applicant has
30 complied with chapter 21 of title 5, and whether the applicant conforms to all local ordinances
31 pertaining to and governing the operation of auto wrecking and salvage yards, and any other
32 pertinent information, all of which may be considered by the department in determining whether
33 the granting of the application is in the public interest. Every application shall be verified by the
34 oath or affirmation of the applicant, if an individual, or by one of the partners if the applicant is a

1 partnership, or by an officer of the corporation if the applicant is a corporation, and shall be
2 accompanied by the required fee.

3 **39-28.2-5. Term of licenses.** -- The director of the department of business regulation
4 shall promulgate rules mandating the term of license for each license issued pursuant to this
5 chapter; however, no license shall remain in force for a period in excess of three (3) years.

6 **39-28.2-6. License fees -- Renewal applications.** -- Any fee for the initial issuance or
7 renewal of a license shall be determined by multiplying the per annum rate of the number of years
8 in the term of license. The total fee for the entire term of license shall be paid prior to the issuance
9 of the initial license or of the renewal. The application for renewal shall be made not less than
10 thirty (30) days from date of expiration. Upon payment of the required fee, the license shall be
11 renewed.

12 **39-28.2-7. License fee.** -- Every application to the department for renewal of an existing
13 license or the issuance of a new license shall be accompanied by a fee of one hundred and twenty
14 dollars (\$120) per annum, payable to the state of Rhode Island. In the event the application is
15 denied, the fee shall be returned to the applicant.

16 **39-28.2-8. Display and transfer of license.** -- Every license hereunder issued shall
17 specify the location of each wrecking yard or salvage yard and must be conspicuously displayed
18 at that location, or if the licensee wishes to change his or her location, an application shall be filed
19 with the department requesting the change, and the permission of the department shall be
20 necessary for a change of location. The license shall not be transferable or assignable without the
21 express written consent of the department which shall, if it approves the transfer or assignment,
22 issue a new license to the transferee or assignee subject to the terms and conditions of this
23 chapter; provided, however, that the full fee of sixty dollars (\$60.00) per annum for each year of
24 the term of license shall be paid in full for the new license regardless of the unexpired term of the
25 license to be transferred.

26 **39-28.2-9. Requirements.** -- No new license shall be granted under the provisions of this
27 chapter unless:

28 (A) The applicant shall have complied with and obtained a license under the licensing
29 ordinances enacted pursuant to the provisions of section 5-21-1 entitled "second-hand dealers."

30 (B) If the applicant proposes to establish an automobile wrecking yard in a municipality
31 not issuing licenses under the provisions of chapter 21 of title 5, the location must be:

32 (1) More than one thousand feet (1,000') from the nearest edge of any highway on the
33 interstate or primary system;

34 (2) More than six hundred feet (600') from any other state highway;

1 (3) More than three hundred feet (300') from any park, bathing beach, playground,
2 school, church or cemetery and not within view therefrom;

3 (4) Screened from view and enclosed by a properly maintained fence at least six feet (6')
4 high except where a natural barrier provides appropriate screening; and

5 (5) In size amounting to at least two (2) acres of land and shall be one contiguous lot.

6 (C) A description of the land upon which the location intended to be licensed in
7 accordance with subdivision (B) shall be made available to the department by a surveyor's survey
8 plan, a city or town assessor's map, or an aerial cartographic chart reflecting the area.

9 **39-28.2-10. Denial or revoking of licenses.** -- The department may deny an application
10 for a license, or suspend or revoke a license after it has been granted, or refuse to renew a license
11 for any of the following reasons:

12 (A) Proof of unfitness of the applicant or licensee to engage in this business.

13 (B) A material misstatement by the applicant or licensee in his application for a license
14 or renewal thereof.

15 (C) Willful failure of the applicant or licensee to comply with the provisions of this
16 chapter or with any rule or regulation promulgated by the board.

17 (D) Proof that the applicant or licensee has wilfully defrauded the owner of a motor
18 vehicle.

19 **39-28.2-11. Procedure for suspension or revocation of license.** -- No license shall be
20 suspended or revoked nor shall any renewal be refused except after a hearing thereon in
21 accordance with the provisions of the Administrative Procedures Act in chapter 35 of this title.

22 **39-28.2-12. Bond.** -- No person shall establish or operate an auto wrecking yard or auto
23 salvage yard, without the applicant thereof having executed and filed a bond to the state with such
24 surety as the department requires.

25 **39-28.2-13. Power of department in hearings.** -- The department shall have the power
26 in hearings arising under this chapter to determine the place where the hearing shall be held, to
27 administer oaths, to subpoena witnesses, to take depositions of witnesses residing without the
28 state in the manner provided for in civil actions before courts of this state, and to pay witness fees
29 and the mileage for attendance as is provided for witnesses in civil actions in the superior court.

30 **39-28.2-14. Penalties.** -- Any person, firm, corporation, or association violating any of
31 the provisions of this chapter shall upon conviction be guilty of a misdemeanor. Any person, firm,
32 corporation, or association who is convicted for violation of any section of this chapter shall be
33 punished by a fine not to exceed five hundred dollars (\$500) or by imprisonment for a term not to
34 exceed one year, or both fine and imprisonment for each violation of the provisions of this

1 chapter.

2 **39-28.2-15. Records of transactions to be maintained.** -- Every license holder shall
3 maintain a record in the form prescribed by the department to show:

4 (A) The motor and serial number of every vehicle acquired to be wrecked or dismantled,
5 the date of acquisition, and the name and residence of the person from whom the vehicle was
6 acquired.

7 (B) A description sufficient to identify every motor vehicle body, engine, or other major
8 component which is sold, the vehicle identification number, the date of the sale, and the name and
9 residence of the person to whom sold.

10 (C) Any other records the department deems necessary.

11 **39-28.2-16. Inspection of records.** -- All records kept in accordance with the provisions
12 of this chapter shall be open to inspection by the department and its duly authorized
13 representatives, by the division of motor vehicles and by any state or municipal official or police
14 officer during reasonable business hours.

15 **39-28.2-17. License limitation.** -- No license shall be issued which would permit
16 operation on Sundays or holidays.

17 **39-28.2-18. Severability.** -- If any clause, sentence, paragraph, or part of this chapter or
18 the application thereof to any person or circumstance shall, for any reason, be judged by a court
19 of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the
20 remainder of this chapter or its application to other persons or circumstances.

21 **39-28.2-19. Effect on Junkyard Control Act.** -- Nothing in this chapter contained shall
22 be deemed to amend or repeal any provision of chapter 14 in title 24, or of chapter 21 in title 5.

23 **39-28.2-20. Cease and desist orders.** -- If the department shall have reason to believe
24 that any person, firm, corporation, or association is violating the provisions of this chapter, the
25 department may issue its order to that person, firm, corporation, or association commanding them
26 to appear before the department at a hearing to be held not sooner than ten (10) days nor later
27 than twenty (20) days after issuance of the order to show cause why the commission should not
28 issue an order to the person to cease and desist from the violation of the provisions of this
29 chapter. An order to show cause may be served on any person, firm, corporation, or association
30 named therein by any person in the same manner that a summons in a civil action may be served,
31 or by mailing a copy of the order to the person at any address at which he or she has done
32 business or at which he or she lives. If upon the hearing the department shall be satisfied that the
33 person is in fact violating any provision of this chapter, then the department shall order that
34 person, in writing, to cease and desist from the violation. At any hearing, any person subject to an

1 order of the department to cease and desist may be represented by counsel. The department shall
2 not be bound by common law rules of evidence, but may receive and consider any statements,
3 documents, and things which shall be considered by them necessary or useful in arriving at their
4 decision. If that person shall thereafter fail to comply with the order of the department, the
5 superior court for Providence County shall have jurisdiction upon the complaint of the
6 department to restrain and enjoin that person from violating this chapter. The complaint shall be
7 in the form of a civil action. The findings and order of the department shall constitute prima facie
8 evidence that the person ordered by the department to cease and desist has violated the provisions
9 of this chapter. The attorney general shall afford the department any necessary assistance in
10 obtaining relief in the superior court.

11 **39-28.2-21. Storage of wrecked or junked vehicles.** -- The storage of wrecked or
12 junked vehicles or parts thereof, outside the confines of the fenced area or natural barrier is
13 strictly prohibited.

14 SECTION 11. Chapter 42-14 of the General Laws entitled "Department of Business
15 Regulation" is hereby repealed in its entirety.

16 **CHAPTER 42-14**

17 **Department of Business Regulation**

18 ~~**42-14-1. Establishment -- Head of department.** -- There shall be a department of~~
19 ~~business regulation. The head of the department shall be the director of business regulation who~~
20 ~~shall carry out, except as otherwise provided by this title, this chapter; chapters 1, 2, and 4—12,~~
21 ~~inclusive, of title 3; chapters 3, 20.5, 38, 49, 52, 53 and 58 of title 5; chapter 31 of title 6; chapter~~
22 ~~11 of title 7; chapters 1—29, inclusive, of title 19, except section 19-24-6; chapter 26 of title 23;~~
23 ~~chapters 1—36, inclusive, of title 27. The director of business regulation shall also perform the~~
24 ~~duties required by any and all other provisions of the general laws and public laws insofar as~~
25 ~~those provisions relate to the director of revenue and regulation, chief of the division of banking~~
26 ~~and insurance, chief of the division of intoxicating beverages, and each of the divisions, except as~~
27 ~~otherwise provided by this title.~~

28 ~~**42-14-2. Functions of department.** -- (1) It shall be the function of the department of~~
29 ~~business regulation:~~

30 ~~-(a) To regulate and control banking and insurance, foreign surety companies, sale of~~
31 ~~securities, building and loan associations, fraternal benefit and beneficiary societies;~~

32 ~~-(b) To regulate and control the manufacture, transportation, possession, and sale of~~
33 ~~alcoholic beverages;~~

34 ~~-(c) To license and regulate the manufacture and sale of articles of bedding, upholstered~~

1 ~~furniture, and filling materials.~~

2 ~~-(2) Whenever any hearing is required or permitted to be held pursuant to law or~~
3 ~~regulation of the department of business regulation, and whenever no statutory provision exists~~
4 ~~providing that notice be given to interested parties prior to hearing, no such hearing shall be held~~
5 ~~without notice in writing being given at least ten (10) days prior to such hearing to all interested~~
6 ~~parties. For purposes of this section, an "interested party" shall be deemed to include the party~~
7 ~~subject to regulation hereunder, the Rhode Island consumers' council, and any party entitled to~~
8 ~~appear at the hearing. Notice to the party that will be subject to regulation, the Rhode Island~~
9 ~~consumers' council, and any party who has made known his or her intention to appear at the~~
10 ~~hearing shall be sufficient if it be in writing and mailed, first class mail, to the party at his or her~~
11 ~~regular business address. Notice to the general public shall be sufficient hereunder if it be by~~
12 ~~publication in a newspaper of general circulation in the municipality affected by the regulation.~~

13 ~~**42-14-2.1. Reporting by certain insurers -- Settlements.**~~ (a) Every insurer providing
14 professional liability insurance to licensed physicians, dentists, or dental hygienists shall send a
15 complete report to the board of medical licensure and discipline established pursuant to chapter
16 37 of title 5, or the board of examiners in dentistry established pursuant to chapter 31.1 of title 5
17 and the department of business regulation as to any claim, notice, settlement, judgment, or
18 arbitration award of a claim or action for damages for death or personal injury caused by such
19 person's negligence, error, or omission in practice or his or her rendering of unauthorized
20 professional services. The report shall be sent within thirty (30) days after service of such
21 arbitration award on the parties or notice of the claim, settlement, judgment, or arbitration award.

22 ~~-(b) Notwithstanding any other provision of law, an insurer shall have the contractual~~
23 ~~right to settle any claim up to the limits of the policy without the insured's consent, unless the~~
24 ~~policy by its express terms prohibits the insurer from settling any claim without the consent of the~~
25 ~~insured.~~

26 ~~-(c) All insurers doing business in the state of Rhode Island in liability insurance for~~
27 ~~health care professionals, dentists, or dental hygienists shall file an annual report with the~~
28 ~~commissioner of insurance. This report must be filed for each year by March 1 of the next year.~~
29 ~~The information required for each year shall include, for each rating class:~~

30 ~~-(1) The number of insured;~~

31 ~~-(2) The total premiums paid;~~

32 ~~-(3) The total number of claims made, the years in which the incidents giving rise to the~~
33 ~~claims occurred, and the total number of those claims outstanding at the end of the year;~~

34 ~~-(4) The total amount of claims paid, the years in which the incidents giving rise to the~~

1 ~~claims occurred, and the amount of the costs which can be identified with these claims for~~
2 ~~investigation, processing, and defense of these claims; and~~

3 ~~(5) The number of lawsuits filed.~~

4 ~~**42-14-2.2. Reporting -- Court judgments against licensed physicians, dentists, or**~~
5 ~~**dental hygienists.** -- Within ten (10) days after a judgment by a court of this state that a licensed~~
6 ~~physician, dentist, or dental hygienist has committed a crime or is civilly liable for any death or~~
7 ~~personal injury caused by his or her negligence, error or omission in practice, or his or her~~
8 ~~rendering unauthorized professional services, the clerk of the court which rendered the judgment~~
9 ~~shall report the same to the board of medical licensure and discipline established pursuant to~~
10 ~~chapter 37 of title 5 or the board of examiners in dentistry established pursuant to chapter 31.1 of~~
11 ~~title 5 and the department of business regulation.~~

12 ~~**42-14-2.3. Minimum policy provisions.** -- The commissioner of insurance shall~~
13 ~~promulgate, on or before January 1, 1987, rules and regulations establishing the minimum~~
14 ~~provisions which all professional liability insurance policies for licensed health care providers,~~
15 ~~dentists, or dental hygienists must contain. The commissioner shall establish a "merit rating plan"~~
16 ~~which shall be based in part on the past claims paid on behalf of the insured.~~

17 ~~**42-14-2.4. [Repealed.]** --~~

18 ~~**42-14-3. [Repealed.]** --~~

19 ~~**42-14-4. Banking and insurance division. [Contingent effective date; see other**~~
20 ~~**version.]** -- Within the department of business regulation there shall be a banking and insurance~~
21 ~~division. The division shall have offices which shall be assigned to it by the department of~~
22 ~~administration.~~

23 ~~**42-14-4. Banking and insurance divisions. [Contingent effective date; see notes.]** --~~
24 ~~Within the department of business regulation there shall be a banking division and an insurance~~
25 ~~division. The divisions shall have offices which shall be assigned to them by the department of~~
26 ~~administration.~~

27 ~~A superintendent shall be in charge of each division, reporting to the director, deputy~~
28 ~~director and/or health insurance commissioner as appropriate.~~

29 ~~**42-14-5. Administrator of banking and insurance. [Contingent effective date; see**~~
30 ~~**other version.]** -- (a) The director of business regulation shall, in addition to his or her regular~~
31 ~~duties, act as administrator of banking and insurance and shall administer the functions of the~~
32 ~~department relating to the regulation and control of banking and insurance, foreign surety~~
33 ~~companies, sale of securities, building and loan associations, and fraternal benefit and beneficiary~~
34 ~~societies.~~

1 ~~-(b) Wherever the words "banking administrator" or "insurance administrator" occur in~~
2 ~~this chapter or any general law, public law, act, or resolution of the general assembly or~~
3 ~~department regulation, they shall be construed to mean banking commissioner and insurance~~
4 ~~commissioner.~~

5 ~~**42-14-5. Administrator of banking and insurance. [Contingent effective date; see**~~
6 ~~**notes.]**~~ (a) The director of business regulation shall, in addition to his or her regular duties, act
7 as administrator of banking and insurance and shall administer the functions of the department
8 relating to the regulation and control of banking and insurance, foreign surety companies, sale of
9 securities, building and loan associations, and fraternal benefit and beneficiary societies.

10 ~~-(b) Wherever the words "banking administrator" or "insurance administrator" occur in~~
11 ~~this chapter or any general law, public law, act, or resolution of the general assembly or~~
12 ~~department regulation, they shall be construed to mean banking commissioner and insurance~~
13 ~~commissioner except as delineated in subsection (d) below.~~

14 ~~-(c) "Health insurance" shall mean "health insurance coverage," as defined in sections 27-~~
15 ~~18.5-2 and 27-18.6-2, "health benefit plan," as defined in section 27-50-3 and a "medical~~
16 ~~supplement policy," as defined in section 27-18.2-1 or coverage similar to a Medicare supplement~~
17 ~~policy that is issued to an employer to cover retirees.~~

18 ~~-(d) Whenever the words "commissioner," "insurance commissioner," "Health insurance~~
19 ~~commissioner" or "director" appear in Title 27 or Title 42, those words shall be construed to~~
20 ~~mean the health insurance commissioner established pursuant to section 42-14.5-1 with respect to~~
21 ~~all matters relating to health insurance. The health insurance commissioner shall have sole and~~
22 ~~exclusive jurisdiction over enforcement of those statutes with respect to all matters relating to~~
23 ~~health insurance.~~

24 ~~**42-14-6. Restrictions on interests of administrator.**~~ The administrator of banking
25 and insurance shall not engage in any other business or be an officer of or directly or indirectly
26 interested in any national bank doing business in this state, or in any bank, savings bank, or trust
27 company organized under the laws of this state, nor be directly or indirectly interested in any
28 corporation, business, or occupation that requires his or her official supervision; nor shall the
29 administrator become indebted to any bank, savings bank, or trust company organized under the
30 laws of this state, nor shall he or she engage or be interested in the sale of securities as a business,
31 or in the negotiation of loans for others.

32 ~~**42-14-6.1. Application for or acceptance of loan by bank examiner.**~~ Every examiner
33 or assistant examiner authorized by law to report the condition of a financial institution
34 incorporated under the laws of this state including, but not limited to, banks, savings banks,

1 ~~bank associations, trust companies, loan and investment companies, savings and loan companies,~~
2 ~~building loan associations, credit unions, deposit insurance companies, and any other depository~~
3 ~~required by law to file reports with the director of business regulation—who applies for or~~
4 ~~accepts or is granted a loan of any kind, whether in his or her name or in the name of a member of~~
5 ~~his or her immediate family, or in the name of a business or partnership in which he or she has a~~
6 ~~substantial interest, from any financial institution examined by him or her at any time, shall be~~
7 ~~required to report the same in writing to the director of business regulation within five (5)~~
8 ~~business days. A violation of this section may be a ground for disqualification or suspension of~~
9 ~~license.~~

10 ~~**42-14-7. Deputies to administrator.**—The administrator of banking and insurance may~~
11 ~~appoint one or more deputies to assist him or her in the performance of his or her duties, who~~
12 ~~shall be removable at the pleasure of the administrator, and the administrator in his or her official~~
13 ~~capacity shall be liable for any deputy's misconduct or neglect of duty in the performance of his~~
14 ~~or her official duties. Service of process upon any deputy, or at the office of the administrator~~
15 ~~upon some person there employed, at any time, shall be as effectual as service upon the~~
16 ~~administrator.~~

17 ~~**42-14-8. Clerical assistance and expenses.**—The administrator of banking and~~
18 ~~insurance may employ such clerical assistance and incur such office and traveling expenses for~~
19 ~~him or herself, his or her deputies and assistants as may be necessary in the performance of his or~~
20 ~~her other duties, and as provided by this title, within the amounts appropriated therefor.~~

21 ~~**42-14-9. Payment of expenses — Fees.**—The general assembly shall annually~~
22 ~~appropriate such sum as it may deem necessary for the payment of the salary of the administrator~~
23 ~~of banking and insurance, for the payment of the salaries of his or her deputies and for the~~
24 ~~payment of the clerical and other assistance, office and traveling expenses of the administrator of~~
25 ~~banking and insurance, his or her deputies and assistants, and the state controller is hereby~~
26 ~~authorized and directed to draw his or her orders for the payment of those sums, or so much of~~
27 ~~them as may from time to time be required, upon receipt by him or her of proper vouchers,~~
28 ~~approved by the director of business regulation. All fees, charges for examinations and other~~
29 ~~collections received by him or her as administrator of banking, insurance, and securities shall be~~
30 ~~paid to the general treasurer for the use of the state.~~

31 ~~**42-14-10. Actuary.**—The administrator of banking and insurance may appoint an~~
32 ~~actuary to assist him or her in the performance of his or her duties, including, but not limited to,~~
33 ~~evaluating fire, casualty and other insurance rates. The actuary shall serve under the direction of~~
34 ~~the administrator and shall be removable at the pleasure of the administrator. Insurance~~

1 ~~companies doing business in this state shall be assessed according to a schedule of their direct~~
2 ~~writings of insurance in this state to pay for the compensation of the actuary.~~

3 ~~**42-14-11. Subpoena power -- False swearing.** -- In connection with any matters having~~
4 ~~to do with the discharge of his or her duties pursuant to this chapter, the director, in all cases of~~
5 ~~every nature pending before him or her, is hereby authorized and empowered to summon~~
6 ~~witnesses to attend and testify in like manner as in either the supreme or the superior courts. The~~
7 ~~director is authorized to compel the production of all papers, books, documents, records,~~
8 ~~certificates or other legal evidence that may be necessary for the determination and the decision~~
9 ~~of any question or the discharge of any duty required by law of the department, including the~~
10 ~~function of the director as a member of the board of bank incorporation and board of building-~~
11 ~~loan association incorporation, by issuing a subpoena duces tecum signed by the director. Every~~
12 ~~person who disobeys this writ shall be considered in contempt of the department, and the~~
13 ~~department may punish that and any other contempt of the authority in like manner as contempts~~
14 ~~may be punished in either the supreme or the superior court. Any person who shall wilfully swear~~
15 ~~falsely in any proceedings, matter or hearing before the department shall be deemed guilty of the~~
16 ~~crime of perjury.~~

17 ~~**42-14-12. Sales of businesses.** -- Any person, firm, or corporation acting as a broker for~~
18 ~~the sale of an existing business or the transfer of all or a substantial part of the materials, supplies,~~
19 ~~merchandise, or other inventory of an existing business or for the making of a bulk transfer under~~
20 ~~chapter 6 of title 6A for a fee, charge, or commission shall be required to post a bond in the sum~~
21 ~~of twenty thousand dollars (\$20,000) with the department of business regulation with surety or~~
22 ~~sureties approved by the director of the department. Provided, however, that the provisions of this~~
23 ~~section shall not apply to attorneys, any person licensed as a real estate broker, or real estate~~
24 ~~salesman pursuant to the provisions of chapter 20.5 of title 5, except that no person, firm, or~~
25 ~~corporation shall act or hold himself or herself out as a business broker unless he or she holds a~~
26 ~~real estate broker's license issued by the department of business regulation that has not been~~
27 ~~revoked.~~

28 ~~**42-14-13. Transfer of powers and functions from department of business regulation.**~~

29 ~~-- There are hereby transferred to the department of administration:~~

30 ~~-(A) Those functions of the department of business regulation which were administered~~
31 ~~through or with respect to departmental programs in the performance of strategic planning as~~
32 ~~defined in section 42-11-10(c);~~

33 ~~-(B) All officers, employees, agencies, advisory councils, committees, commissions, and~~
34 ~~task forces of the department of business regulation who were performing strategic planning~~

1 functions as defined in section 42-11-10(c); and

2 ~~-(C) So much of other functions or parts of functions and employees and resources,~~
3 ~~physical and funded, related thereto of the director of business regulation as are incidental to and~~
4 ~~necessary for the performance of the functions transferred by subdivisions (A) and (B).~~

5 ~~**42-14-14. License applications -- Investigation.** -- After receipt of any application for a~~
6 ~~license, permit, and/or registration that is subject to the jurisdiction of the department of business~~
7 ~~regulation, the director of business regulation or his or her designee shall conduct an investigation~~
8 ~~to determine whether the facts set forth in the application are true and shall receive from the~~
9 ~~department of the attorney general all records of criminal information which it has or shall~~
10 ~~receive indicating any criminal activity on the part of the individual signing the application. The~~
11 ~~department of the attorney general shall provide the information subject to the rules and~~
12 ~~regulations promulgated by the attorney general regarding the production of that information.~~

13 ~~**42-14-15. [Repealed.]** --~~

14 ~~**42-14-16. Insurance -- Administrative penalties.** -- (a) Whenever the director shall~~
15 ~~have cause to believe that a violation of title 27 or the regulations promulgated thereunder has~~
16 ~~occurred by a licensee, the director may, in accordance with the requirements of the~~
17 ~~Administrative Procedures Act, chapter 35 of this title:~~

18 ~~-(1) Revoke or suspend a license;~~

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

21 ~~-(3) Order the violator to cease such actions;~~

22 ~~-(4) Require the licensee to take such actions as are necessary to comply with title 27 or~~
23 ~~the regulations thereunder; or~~

24 ~~-(5) Any combination of the above penalties.~~

25 ~~-(b) Any monetary penalties assessed pursuant to this section shall be as general~~
26 ~~revenues.~~

27 ~~**42-14-16.1. Order to cease and desist.** -- If the director has reason to believe that any~~
28 ~~person, firm, corporation or association is conducting any activities requiring licensure under title~~
29 ~~27 without obtaining a license, or who after the denial, suspension or revocation of a license~~
30 ~~conducts any activities requiring licensure under title 27, the department may issue its order to~~
31 ~~that person, firm, corporation or association commanding them to appear before the department at~~
32 ~~a hearing to be held no sooner than ten (10) days nor later than twenty (20) days after issuance of~~
33 ~~that order to show cause why the department should not issue an order to that person to cease and~~
34 ~~desist from the violation of the provisions of title 27. The order to show cause may be served on~~

1 ~~any person, firm, corporation or association named in the order in the same manner that summons~~
2 ~~in a civil action may be served, or by mailing a copy of the order, certified mail, return receipt~~
3 ~~requested, to that person at any address at which he or she has done business or at which he or she~~
4 ~~lives. If, upon that hearing, the department is satisfied that the person is in fact violating any~~
5 ~~provision of title 27, then the department may order that person, in writing, to cease and desist~~
6 ~~from that violation. All hearings shall be governed in accordance with chapter 35 of this title, the~~
7 ~~"Administrative Procedures Act." If that person fails to comply with an order of the department~~
8 ~~after being afforded a hearing, the superior court in Providence county has jurisdiction upon~~
9 ~~complaint of the department to restrain and enjoin that person from violating this chapter.~~

10 ~~**42-14-17. Rules and regulations.** --- The director of the department of business~~
11 ~~regulation may promulgate such rules and regulations as are necessary and proper to carry out the~~
12 ~~duties assigned to him or her by this title or any other provision of law.~~

13 ~~**42-14-18. Form and rate filing fees.** --- The following fees shall be charged for the~~
14 ~~services of the division of insurance in reviewing policy or certificate forms, as those terms are~~
15 ~~defined in section 27-29-2(f), and related forms and rates that are required by law to be submitted~~
16 ~~by insurers, as that term is defined in section 27-29-2(e), for review and approval by the director~~
17 ~~prior to use:~~

18 ~~(a) For each policy or certificate form included in a single package, including any related~~
19 ~~forms, rates, and other documents submitted in the same package --- forty dollars (\$40.00); and~~

20 ~~(b) For related forms or revised rates in connection with a policy that has been~~
21 ~~previously approved, submitted in a single package, charged based upon the number of policies~~
22 ~~involved --- twenty five dollars (\$25.00).~~

23 ~~(c) Fees shall be submitted with each filing and shall be deposited as general revenue.~~

24 ~~These fees shall be in addition to any taxes and fees otherwise payable to the state.~~

25 ~~**42-14-19. Cost of legal fees.** --- The director is hereby authorized and may in his or her~~
26 ~~discretion recover the reasonable cost of legal services provided by in-house attorneys of the~~
27 ~~office of legal counsel of the department of business regulation and incurred by the department of~~
28 ~~business regulation in matters pertaining to rate filings and examinations. Nothing in this section~~
29 ~~shall limit the power of the director to retain legal counsel and to recover the costs of such legal~~
30 ~~counsel pursuant to other provisions of the general laws.~~

31 SECTION 12. Chapter 42-14.1 of the General Laws entitled "Department of Business
32 Regulation - Medical Malpractice Insurance" is hereby repealed in its entirety.

33 ~~CHAPTER 42-14.1~~

34 ~~Department of Business Regulation --- Medical Malpractice Insurance~~

1 ~~**42-14.1-1. Finding required.** -- Upon a finding by the director of business regulation~~
2 ~~that a competitive, stable market for medical malpractice insurance is lacking in the state of~~
3 ~~Rhode Island and that as a consequence thereof, there is peril to the public health, safety, and~~
4 ~~welfare of the people of the state of Rhode Island, the director is authorized to promulgate a~~
5 ~~regulation addressed to the solution of the problem which may encompass among others, the~~
6 ~~following provisions:~~

7 ~~(A) Creation of a joint underwriting association consisting of all insurers authorized to~~
8 ~~write, within this state on a direct basis, personal injury liability insurance as defined in section~~
9 ~~27-9-2, including insurers covering these perils in multiple peril package policies. Every insurer~~
10 ~~shall be a member of the association and shall remain a member as a condition of its authority to~~
11 ~~continue to transact these kinds of insurance in this state.~~

12 ~~(B) To effectuate the purpose of the association which is to provide a market for medical~~
13 ~~malpractice insurance on a self-supporting basis, the association shall be authorized to issue~~
14 ~~policies of medical malpractice and incidental liability insurance to physicians, hospitals, and~~
15 ~~other health care providers, but need not be the exclusive agency through which this insurance~~
16 ~~may be written on a primary basis in this state.~~

17 ~~(C) Policies issued by the association shall be subject to a group retrospective rating plan~~
18 ~~to be approved by the director of business regulation and shall be calculated to be self-supporting.~~

19 ~~(D) The creation and administration of a stabilization reserve fund and initial~~
20 ~~policyholder contribution to the fund. The purpose of the fund shall be the discharge when due of~~
21 ~~any retrospective premium charges payable by policyholders of the association under the group~~
22 ~~retrospective rating plan authorized by regulation. Any monies remaining in the fund after all~~
23 ~~retrospective premium charges have been paid shall be returned to policyholders.~~

24 ~~(E) Upon certification by the association to the director that the estimated amount of any~~
25 ~~deficit remaining after the stabilization reserve fund has been exhausted in payment of the~~
26 ~~maximum final premium for all policyholders of the association, the director shall authorize~~
27 ~~members of the association to commence recoupment by one of the following procedures:~~

28 ~~(1) Applying a surcharge to be determined by the association at a rate not to exceed one~~
29 ~~percent (1%) of the annual premiums on future policies affording those kinds of insurance which~~
30 ~~form the basis for their participation in the association, under procedures established by the~~
31 ~~association; or~~

32 ~~(2) Deducting their share of the deficit from past or future taxes due the state of Rhode~~
33 ~~Island.~~

34 ~~(F) Organization of a plan of operation, use of policies written on a "claim made" or~~

1 ~~"occurrence" basis, participation of members of the association and all other powers necessary to~~
2 ~~effectuate the purposes of the regulation.~~

3 ~~-(G) Any joint underwriting association created pursuant to the authority granted in this~~
4 ~~chapter shall be exempt from taxation on gross premiums and stabilization reserve funds received~~
5 ~~for medical malpractice insurance as provided for in section 44-17-1. This provision shall be~~
6 ~~applied retroactively to June 16, 1975, but in no way shall allow an exemption from taxation for~~
7 ~~premiums received other than for medical malpractice insurance.~~

8 ~~-(H) Any joint underwriting association created pursuant to the authority granted in this~~
9 ~~chapter (including the related stabilization reserve fund) shall be an integral part of the state~~
10 ~~government, and its activities shall constitute the performance of an essential governmental~~
11 ~~function of the state of Rhode Island. This subdivision shall be applied retroactively to June 16,~~
12 ~~1975.~~

13 ~~**42-14.1-2. Malpractice insurance.** --- (a) The director of business regulation shall~~
14 ~~promulgate rules and regulations requiring all licensed medical and dental professional and all~~
15 ~~licensed health care providers to be covered by professional liability insurance insuring the~~
16 ~~practitioner for claims of bodily injury or death arising out of malpractice, professional error, or~~
17 ~~mistake. The director of the department of business regulation is hereby authorized to promulgate~~
18 ~~regulations establishing the minimum insurance coverage limits which shall be required, provided~~
19 ~~however that such limits shall not be less than one hundred thousand dollars (\$100,000) for~~
20 ~~claims arising out of the same professional service and three hundred thousand dollars (\$300,000)~~
21 ~~in the aggregate. The director of the department of business regulation is further authorized to~~
22 ~~establish rules and regulations allowing persons or entities with sufficient financial resources to~~
23 ~~be self insurers.~~

24 ~~-(b) Every licensed health care provider in direct patient care within a licensed hospital~~
25 ~~shall obtain liability insurance in a minimum amount determined by the board of trustees of that~~
26 ~~hospital.~~

27 SECTION 13. Chapter 42-14.2 of the General Laws entitled "Department of Business
28 Regulation - Automobile Wrecking and Salvage Yards" is hereby repealed in its entirety.

29 ~~CHAPTER 42-14.2~~

30 ~~Department of Business Regulation—Automobile Wrecking and Salvage Yards~~

31 ~~**42-14.2-1. Definitions.** --- (a) "Auto wrecking processor" or "auto salvage processor", as~~
32 ~~used in this chapter, shall mean a person, firm, corporation, or association that destroys, junks,~~
33 ~~dismantles, processes, or stores for later dismantling or destruction motor vehicles or parts~~
34 ~~thereof.~~

1 ~~(b) "Auto wrecking yard" or "auto salvage yard", as used in this chapter, shall mean land~~
2 ~~upon which a person, firm, corporation, or association destroys, junks, dismantles, or stores for~~
3 ~~later dismantling or destruction motor vehicles or parts thereof, and may engage in the sale of~~
4 ~~used motor vehicle parts, or scrap therefrom.~~

5 ~~(c) "Department" or "licensor", as used in this chapter, shall mean the "department of~~
6 ~~business regulation".~~

7 ~~**42-14.2-2. Duties of the department of business regulation.** --- (a) The department is~~
8 ~~hereby authorized to establish rules and regulations as appropriate in the public interest. An~~
9 ~~annual report of its activities, meetings, programs, policies, findings, and recommendations shall~~
10 ~~be filed by the department of business regulation with the general assembly. The records of the~~
11 ~~department shall be open to inspection.~~

12 ~~(b) The department shall conduct a town by town verification of the number of salvage~~
13 ~~yards and shops operating within the state and otherwise compile an updated listing of the same.~~
14 ~~All owners and operators shall be provided new application forms for the completion of licensing~~
15 ~~data and given notice that the application must be completed and returned within ninety (90) days~~
16 ~~in order to receive consideration as a license holder. The application and licensing form shall~~
17 ~~contain sufficient data to enable the department to understand the scope of work and business at~~
18 ~~the location, reflect full ownership by all corporations and persons interested, indicate employees~~
19 ~~and provide other data on the business as may be indicated and in the public interest.~~

20 ~~**42-14.2-3. License required.** --- No person shall establish or operate an auto wrecking~~
21 ~~yard or auto salvage yard without a license therefor as provided in this chapter and in chapter 21~~
22 ~~of title 5. The license issued to a licensee for the operation of an auto wrecking yard or auto~~
23 ~~salvage yard shall be utilized solely at that location specified on the license, and said location~~
24 ~~shall be used substantially for that operation, and not as a subordinate of a related business. The~~
25 ~~subordinate or related business, if any, will be separate and apart from the auto wrecking yard and~~
26 ~~auto salvage yard operation.~~

27 ~~**42-14.2-4. Application for license.** --- Application for license shall be made to the~~
28 ~~department upon the form prescribed by it. The department may require in the application or~~
29 ~~otherwise information relating to the location at which the business is to be conducted, the nature~~
30 ~~of the business, the name and residence of the applicant; if the applicant is a partnership, the~~
31 ~~name and residence of each partner; and if the applicant is a corporation, the names and~~
32 ~~residences of its principal officers and directors. The department may further require information~~
33 ~~relating to the applicant's financial status, his or her business integrity, whether the applicant has~~
34 ~~complied with chapter 21 of title 5, and whether the applicant conforms to all local ordinances~~

1 ~~pertaining to and governing the operation of auto wrecking and salvage yards, and any other~~
2 ~~pertinent information, all of which may be considered by the department in determining whether~~
3 ~~the granting of the application is in the public interest. Every application shall be verified by the~~
4 ~~oath or affirmation of the applicant, if an individual, or by one of the partners if the applicant is a~~
5 ~~partnership, or by an officer of the corporation if the applicant is a corporation, and shall be~~
6 ~~accompanied by the required fee.~~

7 ~~**42-14.2-5. [Repealed.]**~~

8 ~~**42-14.2-5.1. Term of licenses.**~~ ~~--- The director of the department of business regulation~~
9 ~~shall promulgate rules mandating the term of license for each license issued pursuant to this~~
10 ~~chapter; however, no license shall remain in force for a period in excess of three (3) years.~~

11 ~~**42-14.2-5.2. License fees -- Renewal applications.**~~ ~~--- Any fee for the initial issuance or~~
12 ~~renewal of a license shall be determined by multiplying the per annum rate of the number of years~~
13 ~~in the term of license. The total fee for the entire term of license shall be paid prior to the issuance~~
14 ~~of the initial license or of the renewal. The application for renewal shall be made not less than~~
15 ~~thirty (30) days from date of expiration. Upon payment of the required fee, the license shall be~~
16 ~~renewed.~~

17 ~~**42-14.2-6. License fee.**~~ ~~--- Every application to the department for renewal of an existing~~
18 ~~license or the issuance of a new license shall be accompanied by a fee of one hundred and twenty~~
19 ~~dollars (\$120) per annum, payable to the state of Rhode Island. In the event the application is~~
20 ~~denied, the fee shall be returned to the applicant.~~

21 ~~**42-14.2-7. Display and transfer of license.**~~ ~~--- Every license hereunder issued shall~~
22 ~~specify the location of each wrecking yard or salvage yard and must be conspicuously displayed~~
23 ~~at that location, or if the licensee wishes to change his or her location, an application shall be filed~~
24 ~~with the department requesting the change, and the permission of the department shall be~~
25 ~~necessary for a change of location. The license shall not be transferable or assignable without the~~
26 ~~express written consent of the department which shall, if it approves the transfer or assignment,~~
27 ~~issue a new license to the transferee or assignee subject to the terms and conditions of this~~
28 ~~chapter; provided, however, that the full fee of sixty dollars (\$60.00) per annum for each year of~~
29 ~~the term of license shall be paid in full for the new license regardless of the unexpired term of the~~
30 ~~license to be transferred.~~

31 ~~**42-14.2-8. Requirements.**~~ ~~--- No new license shall be granted under the provisions of this~~
32 ~~chapter unless:~~

33 ~~-(A) The applicant shall have complied with and obtained a license under the licensing~~
34 ~~ordinances enacted pursuant to the provisions of section 5-21-1 entitled "second hand dealers."~~

1 ~~-(B) If the applicant proposes to establish an automobile wrecking yard in a municipality~~
2 ~~not issuing licenses under the provisions of chapter 21 of title 5, the location must be:~~

3 ~~-(1) More than one thousand feet (1,000') from the nearest edge of any highway on the~~
4 ~~interstate or primary system;~~

5 ~~-(2) More than six hundred feet (600') from any other state highway;~~

6 ~~-(3) More than three hundred feet (300') from any park, bathing beach, playground,~~
7 ~~school, church or cemetery and not within view therefrom;~~

8 ~~-(4) Screened from view and enclosed by a properly maintained fence at least six feet (6')~~
9 ~~high except where a natural barrier provides appropriate screening; and~~

10 ~~-(5) In size amounting to at least two (2) acres of land and shall be one contiguous lot.~~

11 ~~-(C) A description of the land upon which the location intended to be licensed in~~
12 ~~accordance with subdivision (B) shall be made available to the department by a surveyor's survey~~
13 ~~plan, a city or town assessor's map, or an aerial cartographic chart reflecting the area.~~

14 **42-14.2-9. Denial or revoking of licenses.** ~~—~~ The department may deny an application
15 ~~for a license, or suspend or revoke a license after it has been granted, or refuse to renew a license~~
16 ~~for any of the following reasons:~~

17 ~~-(A) Proof of unfitness of the applicant or licensee to engage in this business.~~

18 ~~-(B) A material misstatement by the applicant or licensee in his application for a license~~
19 ~~or renewal thereof.~~

20 ~~-(C) Wilful failure of the applicant or licensee to comply with the provisions of this~~
21 ~~chapter or with any rule or regulation promulgated by the board.~~

22 ~~-(D) Proof that the applicant or licensee has wilfully defrauded the owner of a motor~~
23 ~~vehicle.~~

24 **42-14.2-10. Procedure for suspension or revocation of license.** ~~—~~ No license shall be
25 ~~suspended or revoked nor shall any renewal be refused except after a hearing thereon in~~
26 ~~accordance with the provisions of the Administrative Procedures Act in chapter 35 of this title.~~

27 **42-14.2-11. Bond.** ~~—~~ No person shall establish or operate an auto wrecking yard or auto
28 ~~salvage yard, without the applicant thereof having executed and filed a bond to the state with such~~
29 ~~surety as the department requires.~~

30 **42-14.2-12. Power of department in hearings.** ~~—~~ The department shall have the power
31 ~~in hearings arising under this chapter to determine the place where the hearing shall be held, to~~
32 ~~administer oaths, to subpoena witnesses, to take depositions of witnesses residing without the~~
33 ~~state in the manner provided for in civil actions before courts of this state, and to pay witness fees~~
34 ~~and the mileage for attendance as is provided for witnesses in civil actions in the superior court.~~

1 ~~**42-14.2-13. Penalties.** -- Any person, firm, corporation, or association violating any of~~
2 ~~the provisions of this chapter shall upon conviction be guilty of a misdemeanor. Any person, firm,~~
3 ~~corporation, or association who is convicted for violation of any section of this chapter shall be~~
4 ~~punished by a fine not to exceed five hundred dollars (\$500) or by imprisonment for a term not to~~
5 ~~exceed one year, or both fine and imprisonment for each violation of the provisions of this~~
6 ~~chapter.~~

7 ~~**42-14.2-14. Records of transactions to be maintained.** -- Every license holder shall~~
8 ~~maintain a record in the form prescribed by the department to show:~~

9 ~~(A) The motor and serial number of every vehicle acquired to be wrecked or dismantled,~~
10 ~~the date of acquisition, and the name and residence of the person from whom the vehicle was~~
11 ~~acquired;~~

12 ~~(B) A description sufficient to identify every motor vehicle body, engine, or other major~~
13 ~~component which is sold, the vehicle identification number, the date of the sale, and the name and~~
14 ~~residence of the person to whom sold.~~

15 ~~(C) Any other records the department deems necessary.~~

16 ~~**42-14.2-15. Inspection of records.** -- All records kept in accordance with the provisions~~
17 ~~of this chapter shall be open to inspection by the department and its duly authorized~~
18 ~~representatives, by the division of motor vehicles and by any state or municipal official or police~~
19 ~~officer during reasonable business hours.~~

20 ~~**42-14.2-16. License limitation.** -- No license shall be issued which would permit~~
21 ~~operation on Sundays or holidays.~~

22 ~~**42-14.2-17. Severability.** -- If any clause, sentence, paragraph, or part of this chapter or~~
23 ~~the application thereof to any person or circumstance shall, for any reason, be judged by a court~~
24 ~~of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the~~
25 ~~remainder of this chapter or its application to other persons or circumstances.~~

26 ~~**42-14.2-18. Effect on Junkyard Control Act.** -- Nothing in this chapter contained shall~~
27 ~~be deemed to amend or repeal any provision of chapter 14 in title 24, or of chapter 21 in title 5.~~

28 ~~**42-14.2-19. [Repealed.]** --~~

29 ~~**42-14.2-20. Cease and desist orders.** -- If the department shall have reason to believe~~
30 ~~that any person, firm, corporation, or association is violating the provisions of this chapter, the~~
31 ~~department may issue its order to that person, firm, corporation, or association commanding them~~
32 ~~to appear before the department at a hearing to be held not sooner than ten (10) days nor later~~
33 ~~than twenty (20) days after issuance of the order to show cause why the commission should not~~
34 ~~issue an order to the person to cease and desist from the violation of the provisions of this~~

1 ~~chapter. An order to show cause may be served on any person, firm, corporation, or association~~
2 ~~named therein by any person in the same manner that a summons in a civil action may be served,~~
3 ~~or by mailing a copy of the order to the person at any address at which he or she has done~~
4 ~~business or at which he or she lives. If upon the hearing the department shall be satisfied that the~~
5 ~~person is in fact violating any provision of this chapter, then the department shall order that~~
6 ~~person, in writing, to cease and desist from the violation. At any hearing, any person subject to an~~
7 ~~order of the department to cease and desist may be represented by counsel. The department shall~~
8 ~~not be bound by common law rules of evidence, but may receive and consider any statements,~~
9 ~~documents, and things which shall be considered by them necessary or useful in arriving at their~~
10 ~~decision. If that person shall thereafter fail to comply with the order of the department, the~~
11 ~~superior court for Providence County shall have jurisdiction upon the complaint of the~~
12 ~~department to restrain and enjoin that person from violating this chapter. The complaint shall be~~
13 ~~in the form of a civil action. The findings and order of the department shall constitute prima facie~~
14 ~~evidence that the person ordered by the department to cease and desist has violated the provisions~~
15 ~~of this chapter. The attorney general shall afford the department any necessary assistance in~~
16 ~~obtaining relief in the superior court.~~

17 ~~**42-14.2-21. Storage of wrecked or junked vehicles.** --- The storage of wrecked or~~
18 ~~junked vehicles or parts thereof, outside the confines of the fenced area or natural barrier is~~
19 ~~strictly prohibited.~~

20 SECTION 14. Sections 42-14.3-1 and 42-14.3-2 of the General Laws in Chapter 42-14.3
21 entitled "Public Utilities Commission" are hereby amended to read as follows:

22 **42-14.3-1. Commission established -- Powers.** -- There shall be a ~~public utilities~~
23 ~~consumer protection advocacy~~ commission. The head of the commission shall be the chairman of
24 the public utilities commission, who shall carry out, except as otherwise provided by this title, the
25 provisions of chapters 1 -- 20, inclusive, of title 39, and of all other general laws and public laws
26 heretofore carried out by the former administrator of public utilities and carriers and division of
27 public utilities and carriers.

28 **42-14.3-2. Organization.** -- The commission shall be organized into such ~~departments,~~
29 divisions, subdivisions, and agencies as the chairman shall find necessary to carry out the
30 responsibilities of the commission.

31 SECTION 15. Any proceeding or other business or matter undertaken or commenced
32 prior to the effective date of this act, by a commission, department, division, or other
33 administrative agency, the functions, powers, and duties whereof are assigned and transferred to
34 the newly named consumer protection advocacy commission and pending the effective date of

1 this act, may be conducted and completed by the director of the department of business
2 regulation, or by a subordinate under his or her direction, in the same manner and under the same
3 terms and conditions and with the same effect as though it were undertaken or commenced or
4 completed by the department, division, or other administrative agency prior to said transfer to the
5 consumer protection advocacy commission.

6 SECTION 16. The omission in this act of a citation of any general law or public law now
7 in force which makes it mandatory upon or permissive for any department, division, or other
8 agency of the state to perform certain functions which by this act are assigned or transferred to
9 the consumer protection advocacy commission shall not (unless otherwise clearly intended)
10 suspend or annul the right of the department of business regulations to carry out such functions.

11 SECTION 17. In order that there be no interruption in the administrative business of the
12 state, the annual transfer of functions between any existing departments and agencies to the
13 consumer protection advocacy commission be postponed after the effective date of this act until
14 such time as, by executive order of the governor, the transfer herein provided can best be put into
15 force and effect. Except as otherwise provided in this act, all officers and heads of existing
16 departments, their subordinates and employees, whose functions and duties are preserved by this
17 act shall continue to perform the same from the time this act takes effect in like manner as though
18 they had been appointed or employed after the passage of this act.

19 SECTION 18. Upon the transfer of any function of any department or agency to the
20 consumer protection advocacy commission the governor is hereby authorized to transfer or
21 reallocate in whole or in part, by executive order, the appropriations affected thereby.

22 SECTION 19. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND BUSINESS REGULATION

1 This act would change the name of the public utilities commission to the consumer
2 protection advocacy commission. It would abolish as a separate department, the department of
3 business regulation. All the duties and responsibilities of the independent department of business
4 regulation are transferred to the jurisdiction of the newly named consumer protection advocacy
5 commission. The intent of this act is to transform the administration of the current department of
6 business regulation into the newly named consumer protection advocacy commission's
7 administrative and regulatory framework. The act is not intended to reduce in any way the
8 governmental regulation of the affected businesses and industries.

9 This act would take effect upon passage.

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