

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2005**

—————  
A N A C T

RELATING TO LEAD HAZARD MITIGATION

Introduced By: Senators Perry, Goodwin, Cote, Bates, and Roberts

Date Introduced: June 16, 2005

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 23-24.6-4, 23-24.6-17 and 23-24.6-23 of the General Laws in  
2 Chapter 23-24.6 entitled "Lead Poisoning Prevention Act" are hereby amended to read as follows:

3           **23-24.6-4. Definitions. [Effective until July 1, 2008.]** -- For the purposes of this chapter:

4           (1) "Childhood lead poisoning" means a confirmed venous blood lead level, measured in  
5 micrograms of lead per deciliter of whole blood, established by rule by the Rhode Island  
6 department of health based on the best available information about the effects of elevated blood  
7 lead levels.

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

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

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

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

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

19           (7) "Environment intervention blood lead level" means a confirmed concentration, in a

1 person under six (6) years of age, of lead in whole blood of greater than or equal to twenty (20)  
2 micrograms per deciliter for a single test or for fifteen (15) to nineteen (19) micrograms per  
3 deciliter for two (2) tests taken at least three (3) months apart or as defined by the department  
4 consistent with regulations adopted by the U.S. Department of Housing and Urban Development.

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

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

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

14 (11) "Lead contractor" means any person or entity engaged in lead hazard reduction as a  
15 business and includes consultants who design, perform, oversee, or evaluate lead hazard  
16 reduction projects undertaken pursuant to the requirements of this chapter.

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

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

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

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

1 (16) "Occupant" means any person who legally resides in, or regularly uses, a dwelling,  
2 dwelling unit, or structure ;provided, however, that a guest of any age shall not be considered an  
3 occupant for the purposes of this chapter.

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

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

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

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

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

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

23 (20) "Program" means the comprehensive environmental lead program established by  
24 this chapter.

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

28 **23-24.6-17. Lead hazard reduction. [Effective until July 1, 2008.]** -- (a) The director  
29 shall promulgate lead hazard reduction regulations. These regulations shall:

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

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

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

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

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

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

17 (b) (1) Until ~~July 1, 2005~~ November 1, 2005, the owner of any dwelling, dwelling unit,  
18 or premises shall be considered as an "innocent owner", and liability as to lead poisoning is  
19 limited to the reduction of any lead hazard as determined by a comprehensive environmental lead  
20 inspection within the requirements of the Housing Maintenance and Occupancy Code, chapter  
21 24.3 of title 45. The "innocent owner" provision will cease upon the owner's unreasonable failure  
22 to correct any lead paint violation within ninety (90) days of notice as provided in that chapter.  
23 Provided, any owner who has received notices on three (3) or more properties shall be presumed  
24 to be an unreasonable failure to correct.

25 (2) "Innocent owner" status, and the limits on liability set forth in this subsection, shall  
26 not apply to any incident of childhood lead poisoning reported to the department on or after ~~July~~  
27 ~~1, 2005~~ November 1, 2005, and liability for lead poisonings after ~~July 1, 2005~~ November 1, 2005,  
28 but shall include such correction of lead hazards as may be required by this chapter.

29 (c) The owner of any dwelling, dwelling unit, or premises who fails to provide for lead  
30 hazard reduction as required by department regulations shall be issued a notice of violation by the  
31 director in the manner provided by the Housing Maintenance and Occupancy Code, chapter 24.3  
32 of title 45. In addition to any other enforcement authority granted under this chapter, the  
33 department shall have the authority to utilize pertinent provisions of that code in enforcing this  
34 section in the same manner as an enforcing officer under the code, including but not limited to the

1 provisions of sections 45-24.3-17 -- 45-24.3-21, except that the director or his or her designee  
2 may provide a reasonable time up to ninety (90) days for the correction of any violation alleged  
3 and, except where there exists a hardship as to financing the lead hazard reduction, or where  
4 material, personnel, or weather delays the reduction completion. Except as herein provided, if  
5 after ninety (90) days following the date of issuance of a notice of violation by the department,  
6 the owner has failed to correct the lead hazards, the department shall issue a second notice of  
7 violation.

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

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

14 **23-24.6-23. Compliance and enforcement. [Effective until July 1, 2008.]** -- (a) Except  
15 as provided in this chapter, the inspection, enforcement, and penalties for violations of the  
16 provisions of this chapter shall be in accordance with the provisions and procedures set forth in  
17 sections 23-1-19 -- 23-1-25. In addition to the provisions for enforcement of this section found  
18 elsewhere in this chapter, there shall be the following powers of enforcement, which shall be in  
19 addition to other provisions of the general laws pertaining to enforcement of the laws of this state  
20 and shall not be deemed to limit or replace such other provisions. The provisions of this section  
21 shall be liberally construed and shall be considered an essential responsibility of the state to  
22 protect public health and welfare.

23 (b) The department shall establish a comprehensive integrated enforcement program,  
24 which shall be designed: (1) to assure that enforcement is certain, predictable, and effective as a  
25 means of reducing the incidence of childhood lead poisoning; (2) to direct enforcement efforts to  
26 places, areas, and types of structures where there is a high incidence of childhood lead poisoning;  
27 and (3) to identify and give priority to addresses where there are multiple instances of childhood  
28 lead poisoning and to identify and as consistent with law to provide for the prosecution of persons  
29 at whose properties there have been multiple instances of childhood lead poisoning and lead  
30 hazards have not been corrected. In order to effectuate the provisions of this subsection, the  
31 department of health: (i) shall maintain a list as a public document of the addresses of properties  
32 that are not lead safe and in which more than three (3) children lived at the time their blood was  
33 tested for lead concentration and at least two (2) of these children were lead poisoned, (ii) shall  
34 maintain a database with the names and addresses of owners of rental housing at the time any

1 child residing in the rental housing was tested positive for lead poisoning for which a second  
2 notice of violation has been issued and lead hazards have not been corrected as required pursuant  
3 to the provisions of this chapter, which database shall be public and provided to government and  
4 nonprofit agencies that are attempting to prevent lead poisoning or to enforce lead poisoning  
5 regulations, and (iii) shall notify the attorney general of all second notices of violation, issued  
6 pursuant to the provisions of section 23-24.6-17, to which there has not been a response meeting  
7 the requirements of law within thirty (30) days after the notice.

8 (c) The attorney general shall maintain an office of lead advocate, which office shall  
9 have, in addition to any other powers that the attorney general may assign to it, the power:

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

13 (2) To bring any actions that may be necessary or appropriate to secure the performance  
14 by state agencies and political subdivisions the duties assigned to them by this section;

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

19 (4) To establish guidelines to prevent retaliatory actions by property owners against  
20 tenants on the basis of complaints or notices of violations arising from this chapter and chapter  
21 128.1 of title 42, or based on the presence of a pregnant woman or child under age six (6) who in  
22 any manner seeks to enforce their right to housing in which lead hazards have been corrected in  
23 accordance with this chapter or chapter 128.1 of title 42. These guidelines shall define retaliatory  
24 actions, including, but not limited to, arbitrary termination of tenancy or other form of  
25 constructive eviction, arbitrary refusal to renew a lease, or arbitrary and unreasonable increase in  
26 rent or decrease in services to which the tenant is entitled, for all tenants, whether or not they  
27 have leases or are tenants at will. It shall be unlawful to take retaliatory actions against tenants  
28 arising from enforcement of the provisions of this chapter or chapter 128.1 of title 42; this  
29 prohibition against retaliatory actions applies whether or not the tenant has a lease. Damages and  
30 remedies for retaliatory actions under this paragraph shall be as provided for in chapter 18 of title  
31 34.

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

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

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

21 (2) A property owner who receives notice that the premises are high risk: (i) shall have  
22 thirty (30) days in which to conduct a comprehensive lead inspection that shows that lead hazards  
23 have been corrected to the lead safe standard, or (ii) shall present a compliance schedule to the  
24 department of health to meet the lead safe standard, which compliance schedule shall be subject  
25 to approval by the department of health and shall provide for achieving the lead hazard reduction  
26 within ninety (90) days. The requirements of the compliance schedule shall be deemed to have  
27 been met if a comprehensive lead inspection shows that the lead safe standard has been met at the  
28 premises.

29 (3) A property owner who fails to meet the requirements of subdivision (2) of this  
30 subsection shall be notified that the premises are declared unsafe for habitation by children under  
31 six (6). A list of property owners so notified and of addresses of premises for which the notice has  
32 been given shall be a public record.

33 (4) A copy of this notice shall be sent to the town clerk or recorder of deeds in the city or  
34 town where the property is located, to be recorded pursuant to the provisions of chapter 13 of title

1 34. The property owner, so notified, shall post and maintain a warning at the primary entrance to  
2 the premises and to each dwelling unit therein declaring that the unit is unsafe for children under  
3 six (6) years of age. If the property owner shall fail to make or maintain the posting herein  
4 required, the department of health shall post the premises as provided for in section 23-24.6-  
5 12(2).

6 (5) Any property owner who receives notice that a dwelling unit is high risk and who  
7 fails to abate lead hazards in accordance with a compliance schedule as provided in subdivision  
8 (2) of this subsection and there is a subsequent instance of an at risk occupant with an  
9 environmental intervention blood lead level, which is attributable in whole or in part to conditions  
10 in the dwelling unit, shall be deemed to have committed a ~~felony~~ criminal offense and may be  
11 punished by imprisonment for ~~not less than one year, but~~ not more than five (5) years and/or by a  
12 fine of not ~~less than five thousand dollars (\$5,000) nor~~ more than twenty thousand dollars  
13 (\$20,000).

14 (6) Any property owner who receives notice that a dwelling unit is high risk and who has  
15 substantially completed the required remediation as determined by the department may become  
16 reclassified from "high risk" to "abatement in progress" contingent upon adherence to the  
17 approved compliance schedule for the remaining remediation efforts.

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

21 SECTION 2. Sections 42-128.1-4, 42-128.1-5, 42-128.1-6, 42-128.1-7, 42-128.1-8, 42-  
22 128.1-9, 42-128.1-10, 42-128.1-11, 42-128.1-12 and 42-128.1-13 of the General Laws in Chapter  
23 42-128.1 entitled "Lead Hazard Mitigation [Repealed effective July 1, 2008.]" are hereby  
24 amended to read as follows:

25 **42-128.1-4. Definitions. [Repealed effective July 1, 2008.]** -- The following definitions  
26 shall apply in the interpretation and enforcement of this chapter:

27 (1) "At-risk occupant" means a person under six (6) years of age, or a pregnant woman,  
28 who has been a legal inhabitant in a dwelling unit for at least thirty (30) days; provided, however,  
29 that a guest of any age shall not be considered an occupant for the purposes of this chapter.

30 ~~(2)~~ (2) "Designated person" means either: (i) a property owner, or the agent of the  
31 property owner, who has completed a housing resources commission approved awareness  
32 seminar on lead hazards and their control; or (ii) a person trained and certified as either a lead  
33 hazard mitigation inspector, an environmental lead inspector, or a lead hazard inspection  
34 technician.



1           ~~(2)~~(3) "Dwelling" or "dwelling unit" means an enclosed space used for living and  
2 sleeping by human occupants as a place of residence, including, but not limited to, a house, an  
3 apartment, or condominium, but for the purpose of this chapter shall not include, hotels or  
4 "temporary housing".

5           ~~(3)~~(4) "Lead abated" means a dwelling and premises which are lead free or lead safe, as  
6 those terms are defined in chapter 24.6 of title 23.

7           (5) "Lead Free" means that a dwelling, dwelling unit, or premises contains no lead or  
8 contains lead in amounts less than the maximum acceptable environmental lead levels established  
9 by regulation by the Rhode Island Department of Health.

10          ~~(4)~~(6) "Lead hazard mitigation standards" means standards adopted by the housing  
11 resources commission for a dwelling unit and associated common areas that provide for:

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

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

20           (iii) Maintenance of "lead hazard control." "Lead hazard control" means those portions  
21 of the lead hazard mitigation standard pertaining to repair of deteriorating paint, correction of  
22 dust generating conditions, provision of cleanable surfaces, and correction of soil lead hazards  
23 that can be identified by visual inspection as provided for in paragraph (5)(ii) of this section or  
24 through inspections conducted in accordance with chapter 24.2 of title 45, Minimum Housing,  
25 and chapter 24.3 of title 45, Housing Maintenance and Occupancy.

26          ~~(5)~~(7) "Lead hazard mitigation compliance" means an independent clearance inspection  
27 and certificate, as specified in this subdivision, undertaken to determine whether the lead hazard  
28 mitigation measures have been completed. ~~A clearance review shall be valid for two (2) years or~~  
29 ~~until the next turnover of the dwelling unit, whichever period is shorter, provided however that no~~  
30 ~~more than one clearance review shall be required in any twelve (12) month period~~ Said inspection  
31 shall be valid for two (2) years or until the next turnover of the dwelling unit, whichever period is  
32 longer. The requirements for a clearance review inspection shall be met either by an independent  
33 clearance inspection or a visual inspection as set forth in this subdivision:

34           (i) An "independent clearance inspection" means an inspection performed by a person

1 who is not the property owner or an employee of the property owner and who is authorized by the  
2 housing resources commission to conduct independent clearance inspections, which shall include:  
3 (A) a visual inspection to determine that the lead hazard controls have been met, and (B) dust  
4 testing in accordance with rules established by the department of health and consistent with  
5 federal standards. A certificate of conformance shall be issued by the person who conducted the  
6 inspection on the passage of the visual inspection and the required dust testing. An independent  
7 clearance inspection shall be required at unit turn over or once in a ~~twelve (12)~~ twenty-four (24)  
8 month period, whichever period is the longer. If the tenancy of an occupant is two (2) years or  
9 greater, the certificate of conformance shall be maintained by a visual inspection as set forth in  
10 paragraph (ii) of this subdivision.

11 (ii) A "visual inspection" means a visual inspection by a property owner or designated  
12 person to determine that the lead hazard controls have been met. If the designated person  
13 concluded that the lead hazard controls specified in this chapter have been met, the designated  
14 person may complete an Affidavit of Completion of Visual Inspection. The affidavit shall be  
15 valid upon its being notarized within thirty (30) days after the completion of the visual inspection  
16 and shall set forth:

17 (A) The date and location that the designated person took the lead hazard control  
18 awareness seminar;

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

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

21 (D) The date of the visual inspection; and

22 (E) The name and signature of the designated person and date of the Affidavit of  
23 Completion of Visual Inspection.

24 An Affidavit of Completion of Visual Inspection shall be valid for two (2) years after the  
25 date it was notarized or until unit turn over, whichever time period is the ~~shorter~~ longer, and shall  
26 be kept by the property owner for a minimum of five (5) years.

27 (iii) Presumptive Compliance. - A property owner of ten (10) or more dwelling units  
28 shall be eligible to obtain a certificate of presumptive compliance from the housing resources  
29 commission provided that the following conditions are met: (A) the dwelling units were  
30 constructed after 1960, (B) there are no major outstanding minimum housing violations on the  
31 premises, (C) the property owner has no history of repeated lead poisonings, and (D) independent  
32 clearance inspections have been conducted on at least five (5) percent of the dwelling units, ~~but~~  
33 not less than two (2) dwelling units and at least ninety (90) percent of the independent clearance  
34 inspections were passed. Repeated lead poisoning for purposes of this paragraph shall mean a

1 lead poisoning rate of less than one half (.5) percent per dwelling unit year, with dwelling unit  
2 years being calculated by multiplying the number of dwelling units owned by the property owner  
3 by the number of years of ownership since 1992. Major minimum housing violations shall be  
4 defined by rule by the housing resources commission. The housing resources commission shall  
5 not arbitrarily withhold its approval of applications for presumptive compliance. A certificate of  
6 presumptive compliance shall be deemed to be satisfactory for purposes of demonstrating  
7 compliance with the requirements of this chapter. If a unit qualifies for a presumptive compliance  
8 certificate, by itself having passed an independent clearance inspection at least once, that units'  
9 compliance may be maintained by a visual inspection as set forth in this chapter.

10 ~~(6)~~(8) "Lead hazard mitigation inspector" means either a person approved by housing  
11 resources commission to perform independent clearance inspections under this chapter or  
12 inspections required by 24 CFR 35 Subpart M, or approved by the department of health to  
13 conduct inspections pursuant to chapter 24.6 of title 23.

14 Lead hazard mitigation inspectors performing independent clearance inspections shall not  
15 have any interest, financial or otherwise, direct or indirect, or engage in any business or  
16 employment with regards to:

17 (a) The dwelling unit that is the subject of an independent clearance inspection; or

18 (b) The contractor performing lead hazard control work in the dwelling unit; or

19 (c) The laboratory that is used to analyze environmental lead samples for the independent  
20 clearance inspection unless the lead hazard mitigation inspector discloses his/her relationship  
21 with the laboratory to the person requesting the inspection and on the inspection report.

22 Employees of public agencies and quasi-public agencies that hold a financial interest in  
23 the property may perform independent clearance inspections.

24 ~~(7)~~(9) "Lead poisoned" means a confirmed venous blood lead level established by the  
25 department of health pursuant to section 23-24.6-4(1).

26 (10) "Lead Safe" means that a dwelling, dwelling unit, or premises has undergone  
27 sufficient lead hazard reduction to ensure that no significant environment lead hazard is present  
28 and includes, but is not limited to, covering and encapsulation and is evidenced by a lead safe  
29 certificate issued by the department of health.

30 ~~(8) "At risk occupant" means a person under six (6) years of age, or a pregnant woman,~~  
31 ~~who has been in habitancy in a dwelling unit at least thirty (30) days.~~

32 ~~(9)~~(11) "Property owner" means any person who, alone or jointly or severally with  
33 others:

34 (i) Shall have legal title to any dwelling, dwelling unit, or structure with or without

1 accompanying actual possession of it; or

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

7 (iii) Notwithstanding the foregoing, no holder of a mortgage or other lien holder who, in  
8 enforcing a security interest, acquires title by foreclosure or deed in lieu of foreclosure shall be  
9 considered a property owner for purposes of this chapter, if the holder transfers the title within  
10 one year after the date the title is acquired; provided, however, if the mortgagee or lien holder,  
11 subsequent to acquiring title, is notified of a lead hazard under chapter 24.6 of title 23 or section  
12 42-128.1-8(a)(5), then and in that event, the mortgagee or lien holder shall take any steps to  
13 reduce the lead hazard that shall be required under the provisions of chapter 24.6 of title 23 or this  
14 chapter, as applicable.

15 (12) "Temporary housing" means any seasonal place of residence that is rented for no  
16 more than one hundred (100) days per calendar year to the same tenant, where no lease renewal  
17 or extension can occur, and any emergency shelter intended for night to night accommodation.

18 (13) "Tenant turnover" means the time at which all existing occupants vacate a unit and  
19 all new occupants move into the unit.

20 (14) "Environmental lead poisoning level" means a confirmed venous blood lead level as  
21 defined pursuant to section 23-24.6-4.

22 (15) "Elderly housing" means a federal, state or local program that is specifically  
23 designed and operated to assist elderly persons, sixty-two (62) years of age, or older, as set forth  
24 in a regulatory agreement or zoning ordinance.

25 **42-128.1-5. Housing resources commission -- Powers and duties with respect to lead**  
26 **hazard mitigation. [Repealed effective July 1, 2008.] --** (a) General powers and duties. - The  
27 housing resources commission shall implement and to put into full force and effect the powers,  
28 duties, and responsibilities assigned to it by this chapter, and shall serve as the lead state agency  
29 for lead hazard mitigation, planning, education, technical assistance, and coordination of state  
30 projects and state financial assistance to property owners for lead hazard mitigation.

31 (b) Regulatory guidelines. - In developing and promulgating rules and regulations as  
32 provided for in this chapter, the housing resources commission shall consider, among other  
33 things: (1) the effect on efforts to reduce the incidence of lead poisoning, (2) the ease and cost of  
34 implementation, (3) the impact on the ability to conduct real estate transactions fairly and

1 expeditiously, (4) consistency with federal standards, such that the differences between basic  
2 federal standards and Rhode Island standards for lead hazard mitigation are, to the extent  
3 practicable, minimized, and (5) the direction of effort to locations and housing types, which due  
4 to age, condition, and prior history of lead poisoning are more likely to the location of lead  
5 poisoning. Said regulations shall include a definition of "turnover" of a dwelling unit and a  
6 means for tenants to voluntarily notify property owners of the legal tenancy of an "at-risk"  
7 occupant.

8 (c) Comprehensive strategic plan. - In order to establish clear goals for increasing the  
9 availability of housing in which lead hazards have been mitigated, to provide performance  
10 measures by which to assess progress toward achieving the purposes of this chapter, and to  
11 facilitate coordination among state agencies and political subdivisions with responsibilities for  
12 housing and housing quality for lead poisoning reduction and for the availability of insurance  
13 coverages described in this chapter, the housing resources commission established by chapter 128  
14 of this title shall adopt by April 1, 2003, a four (4) year, comprehensive strategic plan for  
15 reducing the incidence of childhood lead poisoning, for increasing the supply of lead-safe  
16 housing, and for assuring that pre-1978 in rental housing throughout the state lead hazards have  
17 been mitigated.

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

19 (i) Educating people with regard to lead hazards and how they can be avoided, mitigated,  
20 and/or abated;

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

23 (iii) Coordination of the enforcement of laws pertaining to lead hazard control,  
24 mitigation and abatement including the Lead Poisoning Prevention Act, chapter 24.6 of title 23,  
25 and minimum housing codes and standards;

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

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

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

33 (2) Implementation program. - The comprehensive strategic plan shall include an  
34 implementation program, which shall include performance measurers and a program of specific

1 activities that are proposed to be undertaken to accomplish the purposes of this chapter and to  
2 achieve goals and elements set forth by the plan. The implementation program shall be updated  
3 annually according to a schedule set forth in the plan.

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

9 **42-128.1-6. Education. [Repealed effective July 1, 2008.] --** In order to achieve the  
10 purposes of this chapter, a statewide, multifaceted, ongoing educational program designed to  
11 meet the needs of tenants, property owners, realtors and real estate agents, insurers and insurance  
12 agents, local building officials, and health providers and caregivers is hereby established.

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

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

23 (i) Create culturally and linguistically appropriate material outlining the rights and  
24 responsibilities of parties affected by this chapter;

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

32 An electronic version of this awareness seminar shall be created and approved by the housing  
33 resources commission for computer Internet access. Said awareness seminar shall also be  
34 produced and made available in both VHS and DVD format for rental or purchase at a reasonable

1 cost not to exceed five dollars (\$5.00) for the rental version and fifteen dollars (\$15.00) for the  
2 purchased version. Said seminar shall be available to tenants, property owners and other  
3 interested parties.

4 (iii) Adopt rules for the dissemination of information about the requirements of this  
5 chapter to all prospective owners of pre-1978 dwellings during the real estate transaction,  
6 settlement, or closing;

7 (iv) Solicit requests, to the extent that these partnerships are not already established, to  
8 enter into ongoing, funded partnerships, to provide specific counseling information services to  
9 tenants and affected parties on their rights and responsibilities with regard to lead hazards and  
10 lead poisoning.

11 (3) The department of business regulation shall, with regard to its responsibilities for the  
12 profession of real estate brokers and salespersons, adopt rules, with the concurrence of the  
13 housing resources commission and the department of health which shall be effective not later than  
14 June 30, 2004; (i) requiring proof of reasonable familiarity with the knowledge of duties and  
15 responsibilities under the provisions of the Lead Poisoning Prevention Act, chapter 24.6 of title  
16 23, and this chapter, for the licensure or renewal of licenses of real estate brokers and  
17 salespersons in accordance with section 5-20.5-6 after July 1, 2004; and (ii) providing, pursuant  
18 to section 5-20.5-18, an educational program for real estate brokers and salespersons regarding  
19 such duties and responsibilities.

20 (4) The housing resources commission, in conjunction with the department of health, is  
21 hereby authorized to develop, offer, engage in, contract for and/or provide any other educational  
22 or informational programs that they may deem necessary to accomplish the purposes of this  
23 chapter, including, but not limited to: programs to assist families to find housing that is lead free,  
24 lead safe or lead hazard mitigated or abated; to train lead hazard mitigation inspectors and local  
25 building officials and persons engaged in renovating and/or improving housing about controlling  
26 or mitigating lead hazards in pre-1978 housing; ~~and to~~ Said programs shall provide information  
27 about lead hazard mitigation requirements at retail hardware and paint stores and home-  
28 improvement centers, ~~which informational materials shall~~ including, as a minimum, ~~included~~  
29 signs of sufficient size with large enough lettering to be easily seen and read, which contains the  
30 following language:

31 **WARNING**

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



1           **42-128.1-7. Lead hazard mitigation. [Repealed effective July 1, 2008.]** -- The housing  
2 resources commission, shall adopt no later than April 1, 2003, rules:

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

8           (2) For a lead hazard mitigation standard;

9           (3) For any training, certification or licensing necessary to carry out the provisions of  
10 this chapter; and

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

16           (5) For a process to grant a variance to subsections 42-128.1-8 (a)(3), (a)(5), and (b),  
17 where there exists a hardship as to financing lead hazard mitigation, or where materials,  
18 personnel, or weather delays the mitigation completion.

19           **42-128.1-8. Duties of property owners of pre-1978 rental dwellings. [Repealed**  
20 **effective July 1, 2008.]** -- (a) Property owners of pre-1978 rental dwellings, which have not been  
21 made lead safe or have not been lead hazard abated, ~~shall mitigate lead hazards and~~ shall comply  
22 with all the following requirements:

23           (1) Learn about lead hazards by taking a lead hazard awareness seminar, himself or  
24 herself or through a designated person;

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

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

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

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

34           (b) New property owners of a pre-1978 rental dwelling that is occupied by an at risk



1 occupant shall have up to sixty (60) days to meet requirements for lead hazard mitigation, if those  
2 requirements were not met by the previous owner at the time of transfer, provided that the new  
3 property owner has the property visually inspected within ~~ten (10)~~ thirty (30) business days after  
4 assuming ownership to determine conformity with the lead hazard control standard.

5 (c) The requirements for lead hazard mitigation shall apply to the first change in  
6 ownership or tenancy after ~~July~~ November 1, 2005; provided, further, that unless requested and  
7 agreed to by an at-risk occupant, meeting the lead hazard mitigation standard shall not be  
8 construed to authorize a property owner to compel or cause a person, who is in tenancy on  
9 January 1, 2004, and remains in tenancy continuously thereafter, to vacate a rental unit  
10 temporarily or otherwise.

11 (d) If the tenant receives no response to the notification to the property owner of  
12 deteriorating conditions affecting lead hazards, if the response is in the tenant's opinion  
13 unsatisfactory, or if the remedy performed is in the tenant's opinion unsatisfactory, the tenant may  
14 request a review of the matter by the housing resources commission. After its review of the  
15 matter, the housing resources commission shall either send notice to the property owner in which  
16 notice shall be issued in a manner substantially similar to a notice of violation issued by the  
17 director pursuant to the Housing Maintenance Code, chapter 24.3 of title 45, or promptly inform  
18 the tenant of the reasons why the notice is not being issued.

19 (e) Notwithstanding the foregoing, the provisions of this chapter shall not apply to  
20 common areas in condominium complexes that are owned and operated by condominium  
21 associations, or to pre-1978 rental dwelling units that are:

22 (1) lead-safe or lead free; or

23 (2) temporary housing; or

24 (3) elderly housing; or

25 (4) comprised of two (2) or three (3) units, one of which is occupied by the property  
26 owner; or

27 The department of health shall report to the legislature annually on the number of  
28 children who are lead poisoned in any of the exempted dwelling units as referred to in subsection  
29 (e)(4) of this section.

30 Nothing contained herein shall be construed to prevent an owner who is seeking to obtain  
31 lead liability insurance coverage in the policy from complying with the provisions of this chapter,  
32 by securing and maintaining a valid and in force letter of compliance or conformance in force.

33 **42-128.1-9. Insurance coverage. [Repealed effective July 1, 2008.]** -- (a) The  
34 department of business regulation shall by January 1, 2003, establish a uniform policy with regard

1 to exclusion for lead poisoning and shall adopt any rules and requirements that may be necessary  
2 to assure the availability of insurance coverage for losses and damages caused by lead poisoning,  
3 in accordance with the provisions of this chapter, which policy and rules shall apply to liability  
4 coverage available to property owners. The department of business regulation shall have the  
5 authority and is empowered, consistent with the requirements of chapter 35 of this title, to  
6 promulgate rules and regulations which shall enable it to compile and analyze data and to make  
7 determinations with regard to the availability of and rates for lead liability coverage.

8 (b) Except as otherwise provided by this chapter, no insurance company licensed or  
9 permitted by the department of business regulation to provide liability coverage to rental property  
10 owners shall exclude, after ~~June~~ [October 31 30](#), 2005, coverage for losses or damages caused by  
11 lead poisoning. The department of business regulation shall not permit, authorize or approve any  
12 exclusion for lead poisoning, except as specifically provided for by this chapter, that was not in  
13 effect as of January 1, 2000, and all previously approved exclusions shall terminate ~~June~~ [October](#)  
14 [31 30](#), 2005. As of ~~July~~ [November](#) 1, 2005, coverage for lead poisoning shall be included in the  
15 policy or offered by endorsement, as set forth in this section.

16 (c) All insurers issuing commercial lines insurance policies and personal lines insurance  
17 policies covering pre-1978 rental housing in compliance with: [\(i\)](#) the requirements of this chapter  
18 for lead hazard mitigation; ~~or~~ [\(ii\)](#) with the requirements of chapter 24.6 of title 23 for lead safe  
19 housing, within the state of Rhode Island; [or \(iii\) relying on a valid certificate of compliance or](#)  
20 [conformance](#) shall, effective ~~July~~ [November](#) 1, 2005, include in the policy coverage for liability  
21 for injury, damage, or death resulting from occurrences of lead poisoning in an amount equal to  
22 and no less than the underlying policy limits for personal injury/bodily injury coverage provided  
23 under the policy so issued to a residential rental property owner. The property owner shall, if  
24 requested by the insurer, present to the insurance company, either: (1) proof of certificate of  
25 compliance of an independent clearance inspection and of any affidavit of visual inspection  
26 required to maintain the validity of the independent clearance inspection; (2) proof of meeting the  
27 mitigation standard in the form of a clearance exam showing that lead hazards are mitigated; or  
28 (3) proof of abatement. This proof shall be prima facie evidence of compliance with the  
29 requirements of this chapter. In any subsequent renewal, the insurer may require any continuing  
30 proof whenever the certificate is expiring, has expired, or is otherwise invalidated.

31 (d) For residential rental properties that have not been brought into compliance with the  
32 requirements for lead hazard mitigation pursuant to this chapter or for lead hazard reduction  
33 pursuant to chapter 24.6 of title 23 [or which do not have a valid certificate of compliance or](#)  
34 [conformance](#), effective ~~July~~ [November](#) 1, 2005, for residential rental property owners who own or

1 owned a substantial legal or equitable interest in one property and have had no more than one  
2 unremediated dwelling unit at which a child was poisoned prior to ~~July~~ November 1, 2005, and  
3 for residential property owners who own or owned more than one property and have had no more  
4 than two unremediated dwelling units at which a child was poisoned prior to ~~July~~ November 1,  
5 2005, an insurance company, which provides liability insurance to a residential rental property  
6 owner, shall either offer lead liability coverage for bodily injury, which shall be equal to the  
7 underlying limits of liability coverage for the property, by endorsement, or shall assist the insured  
8 in placing lead liability coverage through the program commonly known as the Rhode Island  
9 FAIR Plan either directly or through one of the insurance company's agents or brokers, and the  
10 Rhode Island FAIR Plan shall make available liability coverage for damages caused by lead  
11 poisoning to the class of property owners described in this subsection. If the insured seeks lead  
12 liability coverage with the FAIR Plan, the FAIR Plan may use reasonable underwriting  
13 guidelines, as approved by the department of business regulation to underwrite the property. Any  
14 property owner, who fails to remediate a property, after a notice of violation subsequent to ~~June~~  
15 October 31 ~~30~~, 2005, and any property which is not remediated after notice of a violation  
16 subsequent to ~~June~~ October 31 ~~30~~, 2005, shall not be eligible to receive an offer of coverage and  
17 shall be subject to cancellation and non-renewal of that coverage if the property is not found to be  
18 in compliance with the lead law within ninety (90) days of the date of issuance of the notice by  
19 the director, or the housing resources commission, as applicable.

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

- 24 (1) That they are not excessive, inadequate, or unfairly discriminatory;
- 25 (2) That consideration is given to:
  - 26 (i) Past and prospective loss experience within the state of Rhode Island;
  - 27 (ii) A reasonable margin for profits and contingencies;
  - 28 (iii) Past and prospective expenses specifically applicable to the state of Rhode Island;
  - 29 (iv) Any other data, including data compiled in other states, especially regarding  
30 experience data for lead liability coverages, that the department may deem necessary; and
  - 31 (v) Past history of the owner with regard to lead poisoning or any associated violations.

32 (f) The department of business regulation shall have the authority and is empowered,  
33 consistent with the requirements of chapter 35 of this title, to promulgate rules and regulations to  
34 enable it to compile and analyze data and to make determinations with regard to the availability

1 of and rates for lead liability coverage. In order to effect the purposes of this section insurers shall  
2 file, on or before October 1, 2004, the proposed language of endorsements for lead liability  
3 coverage and the proposed rates for that coverage with the department.

4 (g) All endorsements, rates, forms and rules for lead liability coverage approved by the  
5 department of business regulation to be effective on or after July 1, 2004 are hereby extended to  
6 be effective ~~July~~ November 1, 2005. Prior to ~~July~~ November 1, 2005, insurers and advisory  
7 organizations shall continue to utilize all endorsements, rates, forms and rules in effect on June  
8 30, 2004 for lead liability coverage. The department shall not approve any new endorsements,  
9 rates, forms or rules for lead liability coverage in pre-1978 residential rental properties unless the  
10 filings are submitted in accordance with the provisions of this act. The department is hereby  
11 authorized to promulgate reasonable rules and regulations to carry out the provisions of this  
12 section.

13 **42-128.1-10. Right to housing where lead hazards are corrected. [Repealed effective**  
14 **July 1, 2008.]** -- (a) Pregnant women and families with children under six (6) years of age shall  
15 be deemed to have a right, to housing in which lead hazards have been mitigated or abated.

16 (b) Injunctive Relief. - Effective ~~July~~ November 1, 2005, if the property owner of a  
17 rental dwelling fails to comply with such standards for lead hazard mitigation, or abatement, as  
18 applicable, a right of private action shall exist that allows households that include an at risk  
19 occupant to seek injunctive relief from a court with jurisdiction against the property owner in the  
20 form of a court order to compel compliance with requirements for lead hazard control or  
21 mitigation. A person who prevails is entitled to an award of the costs of the litigation and  
22 reasonable attorneys' fees in an amount to be fixed by the court. Cases brought before the court  
23 under this section shall be granted an accelerated hearing.

24 **42-128.1-11. Enforcement. [Repealed effective July 1, 2008.]** -- (a) The standards for  
25 lead hazard control and for lead hazard mitigation in pre-1978 housing shall be considered basic  
26 housing standards and shall be enforceable through the provisions of this chapter and through  
27 procedures established in chapter 24.2 of title 45 and chapter 24.3 of title 45.

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

34 (1) The ordinances, rules, and regulations for "Minimum Housing Standards" adopted

1 pursuant to section 45-24.2-3 shall on or before ~~July~~ November 1, 2005, include provisions for  
2 lead hazard control.

3 (2) The Housing Maintenance and Occupancy Code, established by chapter 24.3 of title  
4 23, shall, effective ~~July~~ November 1, 2005, include provisions consistent with a continuing and  
5 ongoing responsibility for lead hazard mitigation as required by the department of health  
6 standards.

7 **42-128.1-12. Independent evaluation. [Repealed effective July 1, 2008.]** -- In order to  
8 assure the effectiveness of the lead hazard awareness mitigation program established by this  
9 chapter and to recommend any changes, which may be necessary to appropriate, the auditor  
10 general shall:

11 (1) (i) Conduct a performance audit for the period ending December 31, 2003, of the  
12 duties and responsibilities assigned to the state agencies and to political subdivisions by this  
13 chapter and by the Lead Poisoning Prevention Act, chapter 24.6 of title 23, and of the  
14 effectiveness of this chapter in meeting its purposes. The auditor general may contract with  
15 independent firms and organizations with expertise in lead poisoning prevention and lead hazard  
16 mitigation to assist with the evaluation of matters set forth in this subsection.

17 (ii) The auditor general's report shall be submitted to the governor, the speaker of the  
18 house, the president of the senate, the chairperson of the housing resources commission and the  
19 director of health, on or before March 31, 2005, and shall contain, as appropriate,  
20 recommendations: (A) to make the programs established by this chapter and by the Lead  
21 Poisoning Prevention Act more effective in achieving their respective purposes; and (B) to  
22 address any unreasonable hardships caused by this chapter or likely to be caused by this chapter  
23 with its full implementation July 1, 2005.

24 (iii) The performance audit required by this subdivision shall, in addition to the  
25 examination of effectiveness of administration and the efficiency and adequacy of state agencies  
26 and political subdivisions in the performance of their duties under this chapter and the Lead  
27 Poisoning Prevention Act, include consideration of the following matters:

28 (A) The number and type and date of public service announcements required by section  
29 42-128.1-6(1);

30 (B) The availability and distribution of education materials specified by section 42-  
31 128.1-6(2)(i);

32 (C) The number, date and location of lead hazard awareness seminars and the number of  
33 persons who have participated in those seminars;

34 (D) The number of "mitigation inspectors," average length of time necessary to conduct

1 the inspections, the cost of meeting standards per inspection, and the availability of inspectors to  
2 conduct the inspections, at a reasonable cost needed in the various geographic areas of the state;

3 (E) The availability of programs to assist property owners, especially low and moderate  
4 income property owners.

5 (2) Conduct a performance audit for the period ending June 30, ~~2006~~ 2007, of the duties  
6 and responsibilities, as assigned by this chapter, to state agencies and political subdivisions and of  
7 the effectiveness of this chapter in meeting its purposes, especially with regard to increasing the  
8 supply of housing in which lead hazards have been mitigated and in reducing the incidence and  
9 severity of lead poisoning in Rhode Island. The auditor general may contract with independent  
10 firms and organizations with expertise in lead poisoning prevention and lead hazard mitigation to  
11 assist with the evaluation of matters set forth in this chapter. The auditor general's report shall be  
12 submitted to the governor, the speaker of the house, the president of the senate, the chairperson of  
13 the housing resources commission and the director of health, on or before January 1, ~~2007~~ 2008,  
14 and shall contain, as appropriate, recommendations: (i) to make the programs established by this  
15 chapter more effective in achieving the respective purposes; and (ii) to redress any unreasonable  
16 hardships caused by this chapter or likely to be caused by this chapter.

17 **42-128.1-13. Rhode Island lead hazard technical assistance service. [Repealed**  
18 **effective July 1, 2008.]** -- (a) Establishment and purposes. - (1) The Rhode Island housing  
19 resources commission shall establish a "Rhode Island lead hazard technical assistance service"  
20 program for the purposes of providing technical assistance to property owners to achieve  
21 compliance with this chapter and the Lead Poisoning Prevention Act, chapter 24.6 of title 23.

22 (2) The services of the program ~~may~~ shall subject to appropriation, include, but shall not  
23 be limited to: evaluation of the need for lead hazard mitigation in a dwelling; review of  
24 independent inspection results; identification of and arranging funding for conduction lead hazard  
25 abatement and mitigation, and supplying any materials, assistance, and services that may be  
26 needed by property owners to achieve compliance with this chapter and the Lead Poisoning  
27 Prevention Act in an affordable manner.

28 (b) Historic properties. On or before November 1, 2005, the housing resources  
29 commission, in conjunction with the Historic Preservation and Heritage Commission shall initiate  
30 the following activities to assist owners of historic properties to comply with the provisions of  
31 this chapter: (i) provide technical assistance; (ii) identify financial resources available for  
32 compliance; and (iii) seek additional resources for this purpose.

33 ~~(b)~~(c) Cooperation with Rhode Island Housing and Mortgage Finance Corporation. - The  
34 housing resources commission is hereby authorized to cooperate with the Rhode Island Housing

1 and Mortgage Finance Corporation in putting the provisions of this section into effect, and the  
2 Rhode Island Housing and Mortgage Finance Corporation is hereby authorized to exercise its  
3 powers under section 42-55-5.1 to provide for the implementation of this section.

4 ~~(e)~~(d) Exercise of powers. - The housing resources commission is hereby expressly  
5 authorized to exercise any or all of its general powers set forth in section 42-128-7 to accomplish  
6 the purpose of this section.

7 SECTION 3. Section 6 of Chapter 187 of the 2002 Public Laws as amended by Section 4  
8 of Chapter 221 of the 2004 Public Laws and Section 6 of Chapter 188 of the 2002 Public Laws,  
9 as amended by Section 4 Chapter 223 of the 2004 Public Laws entitled "An Act Relating to  
10 Health – Lead Hazard Mitigation" are hereby repealed.

11 ~~SECTION 6. Sunset provision.—This act shall be and is hereby repealed effective July 1,~~  
12 ~~2008.~~

13 SECTION 4. This act shall take effect on July 1, 2005.

14

=====  
LC03520/SUB B  
=====

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

\*\*\*

- 1           This act would make amendments to the Lead Hazard Mitigation Act and would also
- 2 repeal the sunset provision of the act.
- 3           This act would take effect on July 1, 2005.

=====  
LC03520/SUB  
=====