

1 **ARTICLE 4**

2 RELATING TO GOVERNMENT REORGANIZATION

3 SECTION 1. Sections 5-65-1, 5-65-3, 5-65-7.1, 5-65-10, 5-65-15, 5-65-15.1 and 5-65-20  
4 of the General Laws in Chapter 5-65 entitled "Contractors' Registration and Licensing Board" are  
5 hereby amended to read as follows:

6 **5-65-1. Definitions.**

7 As used in this chapter:

8 (1) "Board" means the contractors' registration and licensing board established pursuant to  
9 the provisions of § 5-65-14 or its designees.

10 (2) "Claim for retainage" means an allegation that a person seeking payment of retainage  
11 breached the person's contract for the project; provided, however, that a "claim" related to a project  
12 with a contract value of not less than two hundred fifty thousand dollars (\$250,000) shall be subject  
13 to the applicable dispute resolution procedure, notice, and other requirements in the contract for  
14 construction.

15 ~~(3) "Commission" means the building code commission supportive of the contractors'~~  
16 ~~registration and licensing board.~~

17 ~~(4)~~(3)(i) "Contractor" means a person who, in the pursuit of an independent business,  
18 undertakes or offers to undertake or submits a bid, or for compensation and with or without the  
19 intent to sell the structure arranges to construct, alter, repair, improve, move over public highways,  
20 roads, or streets or demolish a structure or to perform any work in connection with the construction,  
21 alteration, repair, improvement, moving over public highways, roads, or streets or demolition of a  
22 structure, and the appurtenances thereto. For the purposes of this chapter, "appurtenances" includes  
23 the installation, alteration, or repair of wells connected to a structure consistent with chapter 13.2  
24 of title 46. "Contractor" includes, but is not limited to, any person who purchases or owns property  
25 and constructs, or for compensation arranges for the construction of, one or more structures.

26 (ii) A certificate of registration is necessary for each "business entity" regardless of the fact  
27 that each entity may be owned by the same individual.

28 ~~(5)~~(4) "Contract for construction" means a contract for which a lien may be established  
29 under chapter 28 of title 34 or for state or municipal public works projects as defined in title 37 on  
30 a project for which the person on whose contract with the project owner has an original contract

1 price of not less than two hundred fifty thousand dollars (\$250,000); provided, however, that  
2 "contract for construction" shall not include a project containing, or designed to contain, at least  
3 one, but not more than four (4), dwelling units.

4 ~~(6)~~(5) "Deliverable" means a project close-out document that shall be submitted by the  
5 person seeking payment of retainage under the person's contract for construction; provided,  
6 however, that a lien waiver or release, which is a deliverable, shall comply with chapter 28 of title  
7 34; provided, further, that "deliverable" shall not include any document affirming, certifying, or  
8 confirming completion or correction of labor, materials, or other items furnished or incomplete or  
9 defective work.

10 ~~(7)~~(6) "Dwelling unit" means a single unit providing complete independent living facilities  
11 for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and  
12 sanitation.

13 ~~(8)~~(7) "Hearing officer" means a person designated by the ~~executive director~~ director of  
14 the department of business regulation or the director's designee to hear contested claims or cases,  
15 contested enforcement proceedings, and contested administrative fines, in accordance with the  
16 "administrative procedures act", chapter 35 of title 42.

17 ~~(9)~~(8) "Incomplete or defective work" means labor, materials, or any other item required  
18 for full performance by a person seeking payment of retainage that remains to be furnished by the  
19 person under the person's contract for construction or that has been furnished by the person but  
20 requires correction, repair, further completion, revision, or replacement; provided, however, that  
21 "incomplete or defective work" shall not include deliverables or labor, materials, or any other item  
22 to be repaired or replaced after substantial or final completion pursuant to a warranty, guarantee,  
23 or other contractual obligation to correct defective work after substantial or final completion.

24 ~~(10)~~(9) "Monetary damages" means the dollar amount required in excess of the contract  
25 amount necessary to provide the claimant with what was agreed to be provided under the terms of  
26 the contract reduced by any amount due and unpaid to the respondent inclusive of any and all  
27 awards and restitution.

28 (10) "Office" means the state building office.

29 (11) "Person" means any natural person, joint venture, partnership, corporation, or other  
30 business or legal entity who or that enters into a contract for construction.

31 (12) "Prime contractor" means a person who or that enters into a contract for construction  
32 with the project owner.

33 (13) "Retainage" means a portion or percentage of a payment due pursuant to a contract  
34 for construction that is withheld to ensure full performance of the contract for construction.

1 (14) "Staff" means ~~the executive director for the contractors' registration and licensing~~  
2 ~~board, and~~ any ~~other~~ staff necessary to carry out the powers, functions, and duties of the board  
3 including inspectors, hearing officers, and other supportive staff.

4 (15) "State" means the state of Rhode Island.

5 (16) "Structure" means (i) Any commercial building; or (ii) Any building containing one  
6 or more residences and their appurtenances. The board's dispute resolution process shall apply only  
7 to residential structures containing dwelling units, as defined in the state building code, or  
8 residential portions of other types of buildings without regard to how many units any structure may  
9 contain. The board retains jurisdiction and may conduct hearings regarding violations against all  
10 contractors required to be registered or licensed by the board.

11 (17) "Substantially" means any violation that affects the health, safety, and welfare of the  
12 general public.

13 (18) "Substantial completion" means the stage in the progress of the project when the work  
14 required by the contract for construction with the project owner is sufficiently complete in  
15 accordance with the contract for construction so that the project owner may occupy or utilize the  
16 work for its intended use; provided, further, that "substantial completion" may apply to the entire  
17 project or a phase of the entire project if the contract for construction with the project owner  
18 expressly permits substantial completion to apply to defined phases of the project.

19 **5-65-3. Registration for work on a structure required of contractor -- Issuance of**  
20 **building permits to unregistered or unlicensed contractors prohibited -- Evidence of activity**  
21 **as a contractor -- Duties of contractors.**

22 (a) A person shall not undertake, offer to undertake, or submit a bid to do work as a  
23 contractor on a structure or arrange to have work done unless that person has a current, valid  
24 certificate of registration for all construction work issued by the board. A partnership, corporation,  
25 or joint venture may do the work; offer to undertake the work; or submit a bid to do the work only  
26 if that partnership, corporation, or joint venture is registered for the work. In the case of registration  
27 by a corporation or partnership, an individual shall be designated to be responsible for the  
28 corporation's or partnership's work. The corporation or partnership and its designee shall be jointly  
29 and severally liable for the payment of the registration fee, as required in this chapter, and for  
30 violations of any provisions of this chapter. Disciplinary action taken on a registration held by a  
31 corporation, partnership, or sole proprietor may affect other registrations held by the same  
32 corporation, partnership, or sole proprietorship, and may preclude future registration by the  
33 principal of that business entity.

34 (b) A registered partnership or corporation shall notify the board in writing immediately

1 upon any change in partners or corporate officers.

2 (c) A city, town, or the state shall not issue a building permit to anyone required to be  
3 registered under this chapter who does not have a current, valid certificate of registration  
4 identification card or valid license that shall be presented at the time of issuance of a permit and  
5 shall become a condition of a valid permit. Each city, town, or the state that requires the issuance  
6 of a permit as a condition precedent to construction, alteration, improvement, demolition,  
7 movement, or repair of any building or structure or the appurtenance to the structure shall also  
8 require that each applicant for the permit ~~file~~, as a condition to issuing the permit, ~~a written affidavit~~  
9 ~~subject to the penalties of perjury, subscribed by the applicant, that the applicant~~ is registered under  
10 the provisions of this chapter, giving the number of the registration and stating that the registration  
11 is in full force and effect, or, if the applicant is exempt from the provisions of this chapter, listing  
12 the basis for the exemption. The city, town, or the state shall list the contractor's registration number  
13 on the permit obtained by that contractor, and if a homeowner is issued a permit, the building  
14 inspector or official must ascertain registration numbers of each contractor on the premises and  
15 shall inform the registration board of any non-registered contractors performing work at the site.

16 (d) Every city and town that requires the issuance of a business license as a condition  
17 precedent to engaging, within the city or town, in a business that is subject to regulation under this  
18 chapter, shall require that each licensee and each applicant for issuance or renewal of the license  
19 file, or has on file, with the city or town a signed statement that the licensee or applicant is registered  
20 under the provisions of this chapter and stating that the registration is in full force and effect.

21 (e) It shall be prima facie evidence of doing business as a contractor when a person for that  
22 person's own use performs, employs others to perform, or for compensation and with the intent to  
23 sell the structure, arranges to have performed any work described in § 5-65-1(4) if within any one  
24 twelve-month (12) period that person offers for sale one or more structures on which that work was  
25 performed.

26 (f) Registration under this chapter shall be prima facie evidence that the registrant conducts  
27 a separate, independent business.

28 (g) The provisions of this chapter shall be exclusive and no city or town shall require or  
29 shall issue any registrations or licenses nor charge any fee for the regulatory registration of any  
30 contractor registered with the board. Nothing in this subsection shall limit or abridge the authority  
31 of any city or town to license and levy and collect a general and nondiscriminatory license fee  
32 levied upon all businesses, or to levy a tax based upon business conducted by any firm within the  
33 city or town's jurisdiction, if permitted under the laws of the state.

34 (h)(1) Every contractor shall maintain a list that shall include the following information

1 about all subcontractors or other contractors performing work on a structure for that contractor:

2 (i) Names and addresses; and

3 (ii) Registration numbers or other license numbers.

4 (2) The list referred to in subsection (h)(1) of this section shall be delivered to the board  
5 within twenty-four (24) hours after a request is made during reasonable working hours, or a fine of  
6 twenty-five dollars (\$25.00) may be imposed for each offense.

7 (i) The following subcontractors who are not employees of a registered contractor must  
8 obtain a registration certificate prior to conducting any work: (1) Carpenters, including finish  
9 carpenters and framers; (2) Siding installers; (3) Roofers; (4) Foundation installers, including  
10 concrete installers and form installers; (5) Drywall installers; (6) Plasterers; (7) Insulation installers;  
11 (8) Ceramic tile installers; (9) Floor covering installers; (10) Swimming pool installers, both above  
12 ground and in ground; (11) Masons, including chimney installers, fireplace installers, and general  
13 masonry erectors. This list is not all inclusive and shall not be limited to the above-referenced  
14 contractors. No subcontractor licensed by another in-state agency pursuant to § 5-65-2 shall be  
15 required to register, provided that said work is performed under the purview of that license.

16 (j) A contractor including, but not limited to, a general contractor, shall not hire any  
17 subcontractor or other contractor to work on a structure unless the contractor is registered under  
18 this chapter or exempt from registration under the provisions of § 5-65-2.

19 (k) A summary of this chapter, prepared by the board and provided at cost to all registered  
20 contractors, shall be delivered by the contractor to the owner when the contractor begins work on  
21 a structure; failure to comply may result in a fine.

22 (l) The registration number of each contractor shall appear in any advertising by that  
23 contractor. Advertising in any form by an unregistered contractor shall be prohibited, including  
24 alphabetical or classified directory listings, vehicles, business cards, and all other forms of  
25 advertisements. The violations could result in a penalty being assessed by the board per  
26 administrative procedures established.

27 (i) The board may publish, revoke, or suspend registrations and the date the registration  
28 was suspended or revoked on a quarterly basis.

29 (ii) Use of the word "license" in any form of advertising when only registered may subject  
30 the registrant or those required to be registered to a fine of one hundred dollars (\$100) for each  
31 offense at the discretion of the board.

32 (m) The contractor must see that permits required by the state building code are secured on  
33 behalf of the owner prior to commencing the work involved. The contractor's registration number  
34 must be affixed to the permit as required by the state building code.

1 (n) The board may assess an interest penalty of twelve percent (12%) annually when a  
2 monetary award is ordered by the board.

3 (o) All work performed, including labor and materials, in excess of one thousand dollars  
4 (\$1,000) shall be accompanied by a contract in writing. Contracts required pursuant to this  
5 subsection shall include a location on or near the signature line location on or in which the parties  
6 to the contract shall initial to evidence the receipt of certain consumer education materials or  
7 information approved and provided by the board to the contractor. The educational materials and/or  
8 information shall include, but not be limited to, the following notice and shall be provided by the  
9 contractor to the homeowner:

10 NOTICE OF POSSIBLE MECHANIC'S LIEN

11 To: Insert name of owner, lessee or tenant, or owner of less than the simple fee.

12 The undersigned is about to perform work and/or furnish materials for the construction,  
13 erection, alterations or repair upon the land at (INSERT ADDRESS) under contract with you. This  
14 is a notice that the undersigned and any other persons who provide labor and materials for the  
15 improvement under contract with the undersigned may file a mechanic's lien upon the land in the  
16 event of nonpayment to them. It is your responsibility to assure yourself that those other persons  
17 under contract with the undersigned receive payment for their work performed and materials  
18 furnished for the construction, erection, alteration or repair upon the land. Failure to adhere to the  
19 provisions of this subsection may result in a one-thousand-dollar (\$1,000) fine against the  
20 contractor and shall not affect the right of any other person performing work or furnishing materials  
21 of claiming a lien pursuant to chapter 28 of title 34. However, such person failing to provide such  
22 notice shall indemnify and hold harmless any owner, lessee or tenant, or owner of less than the fee  
23 simple from any payment or costs incurred on account of any liens claims by those not in privity  
24 with them, unless such owner, lessee or tenant, or owner of less than the fee simple shall not have  
25 paid such person.

26 (p) Contracts entered into must contain notice of right of rescission as stipulated in all  
27 pertinent Rhode Island consumer protection laws and/or § 5-65-27 if applicable.

28 (q) The contractor must stipulate whether or not all the proper insurances are in effect for  
29 each job contracted.

30 (r) Contractors who are in compliance with the provisions of this subsection shall be  
31 exempt from the requirements of § 34-28-4.1.

32 (s) In addition to the requirements of this chapter, contractors engaged in well drilling  
33 activities shall also be subject to regulations pertaining to licensing and registration promulgated  
34 by the contractors' registration and licensing board pursuant to chapter 65.2 of this title and § 46-

1 13.2-4.

2 **5-65-7.1. Notice of cancellation or failure to renew policies.**

3 Upon the cancellation or failure to renew, the insurance company having written a liability  
4 policy, as described in § 5-65-7, shall notify ~~the director of~~ the contractors' registration and  
5 licensing board of the cancellation or failure to renew. The policy shall continue in effect until ten  
6 (10) days after written notice of the cancellation is given to ~~the director of~~ the contractors'  
7 registration and licensing board of the cancellation or termination of the liability policy by the  
8 issuing insurance company or companies in addition to any other notices which may be required  
9 by law. Any insurance company that fails to notify the ~~director~~ contractors' registration and  
10 licensing board, as required in this section shall be subject to prosecution for a misdemeanor and  
11 upon conviction of that offense may be punished by a fine of not more than two hundred fifty  
12 dollars (\$250) for each offense and shall be responsible for any claims, fines or penalties from any  
13 parties resulting from lack of notice. All criminal actions for any violation of this section shall be  
14 prosecuted by the attorney general. The attorney general shall prosecute actions to enforce the  
15 payment penalties and fines at the request of the director of the department of business regulation  
16 or the director's designee.

17 **5-65-10. Grounds for discipline -- Injunctions.**

18 (a) The board or ~~commission~~ office may revoke, suspend, or refuse to issue, reinstate, or  
19 reissue a certificate of registration if the board or ~~commission~~ office determines after notice and  
20 opportunity for a hearing:

21 (1) That the registrant or applicant has violated § 5-65-3.

22 (2) That the insurance required by § 5-65-7 is not currently in effect.

23 (3) That the registrant, licensee or applicant has engaged in conduct as a contractor that is  
24 dishonest or fraudulent that the board finds injurious to the welfare of the public.

25 (4) Has violated a rule or order of the board.

26 (5) That the registrant has knowingly assisted an unregistered person to act in violation of  
27 this chapter.

28 (6) That a lien was filed on a structure under chapter 28 of title 34 because the registrant or  
29 applicant wrongfully failed to perform a contractual duty to pay money to the person claiming the  
30 lien.

31 (7) That the registrant has substantially violated state or local building codes.

32 (8) That the registrant has made false or fraudulent statements on his or her application.

33 (9) That a registrant has engaged in repeated acts in violation of this chapter and the board's  
34 rules and regulations inclusive of substandard workmanship and any misuse of registration.

1 (10) The board may take disciplinary action against a contractor who performed work or  
2 arranged to perform, while the registration was suspended, invalidated or revoked. Deposits  
3 received by a contractor and ordered returned are not considered a monetary award when no  
4 services or supplies have been received.

5 (11) That the registrant breached a contract.

6 (12) That the registrant performed negligent and/or improper work.

7 (13) That the registrant has advertised with a license number instead of using a registration  
8 number.

9 (14) That the registrant has failed to complete a project(s) for construction or a willful  
10 failure to comply with the terms of a contract or written warranty.

11 (15) That the registrant has misrepresented his registration status as valid when said  
12 registration is suspended, revoked, invalidated, inactive or unregistered as required by the board.

13 (16) That the registrant has failed to pay a fine or comply with any order issued by the  
14 board.

15 (17) That the registrant has failed to obtain or maintain the required continuing  
16 education/units required by the board, or failed to sign the [affidavit statement](#) required by the board  
17 for registration or renewal.

18 (18) When a violation for hiring a non-registered contractor, working as a non-registered  
19 contractor, or not maintaining the insurance required is issued, the registration may become  
20 invalidated until the violation is resolved or hearing is requested on this offense.

21 (19) That the registrant has violated any of the provisions of chapters 25-3, 28-3, 28-12,  
22 28-14, 28-36, 28-50, and/or 37-13. A finding that the registrant has violated any of those chapters  
23 shall not be grounds for imposition of a monetary penalty under subsection (c) below.

24 (b) In addition to all other remedies, when it appears to the board that a person has engaged  
25 in, or is engaging in, any act, practice or transaction which violates the provisions of this chapter,  
26 the board may direct the attorney general to apply to the court for an injunction restraining the  
27 person from violating the provisions of this chapter. An injunction shall not be issued for failure to  
28 maintain the list provided for in § 5-65-3(h) unless the court determines that the failure is  
29 intentional.

30 (c)(1) For each first violation of a particular section of this chapter or any rule or regulation  
31 promulgated by the board, a fine not to exceed five thousand dollars (\$5,000) may be imposed after  
32 a hearing by the board. Provided, further, that the board at its discretion may, after a hearing, impose  
33 an additional fine up to but not to exceed the face value of the contract or the actual damages caused  
34 by the contractor, whichever shall be greater. Where the claim is for actual damages the board shall



1 require proof satisfactory to the board indicating said damages. Where corrective work is completed  
2 as ordered by the board, the fine assessed may be reduced as determined by the board. Fines and  
3 decisions on claims or violations inclusive of monetary awards can be imposed against registered  
4 as well as contractors required to be registered by the board.

5 (2) For each subsequent violation of a particular subsection of this chapter or of a rule or  
6 regulation promulgated by the board, a fine not to exceed ten thousand dollars (\$10,000) may be  
7 imposed after a hearing by the board. All fines collected by the board shall be deposited as general  
8 revenues until June 30, 2008 to be used to enforce the provisions of this chapter. Beginning July 1,  
9 2008, all fines collected by the board shall be deposited into a restricted receipt account to be used  
10 to enforce the provisions of this chapter.

11 (3) For the first violation of § 5-65-3, only for non-registered contractors, a fine of up to  
12 five thousand dollars (\$5,000) for a first offense and up to ten thousand dollars (\$10,000) for each  
13 subsequent offense shall be imposed.

14 (d) The hearing officer, upon rendering a conclusion may require the registrant, in lieu of  
15 a fine, to attend continuing education courses as appropriate. Failure to adhere to the requirement  
16 could result in immediate revocation of registration.

17 (e) The expiration of a registration by operation of law or by order or decision of the board  
18 or a court, or the voluntary surrender of registration by the registrant, does not deprive the board of  
19 jurisdiction, an action or disciplinary proceeding against the registrant or to render a decision  
20 suspending or revoking a registration.

21 (f) In emergency situations, when a registrant is acting to the detriment of the health,  
22 welfare and safety of the general public, the ~~board's executive~~ director [of the department of business](#)  
23 [regulation or the director's designee](#) may revoke or suspend a registration without a hearing for just  
24 cause for a period of thirty (30) days.

25 (g) A registrant may petition the board to partially or completely expunge his or her record  
26 provided that notice of said expungement proceedings has been provided to the claimant who was  
27 the subject of the violation. For purposes of this subsection "notice" shall consist of a mailing to  
28 the last known address of the claimant and need not be actual notice.

29 (h) Any person or contractor, registered or not, who uses another contractor's registration,  
30 contractor's registration identification card, or allows another person to use their contractor's  
31 registration fraudulently in any way, will be subject to a fine not exceeding ten thousand dollars  
32 (\$10,000).

33 (i) When the use of fraudulent advertising entices an individual to hire an unregistered  
34 contractor, a fine of up to ten thousand dollars (\$10,000) may be imposed by the board.

1 (j) It shall be unlawful to retain a social security number or copy of the driver's license from  
2 a registrant by a building official as a condition of obtaining a permit.

3 (k) The board is further authorized upon certain findings or violations to:

4 (1) Put a lien on property held by a contractor.

5 (2) Take action on registrant when the continuing education requirements have failed to be  
6 attained as required in rules and regulations.

7 (3) When upon investigation a complaint reveals: serious code infractions; unsatisfied  
8 mechanic's liens; abandonment of a job for a substantial period of time without apparent cause; or  
9 any other conduct detrimental to the public, the board can double the fines.

10 (4) Suspend, revoke or refuse to issue, reinstate or reissue a certificate of registration to  
11 any registrant who has contracted, advertised, offered to contract or submitted a bid when the  
12 contractor's registration is suspended, revoked, invalidated or inactive or unregistered as required  
13 by the board.

14 (l) No person shall register as a contractor with the contractors' registration board for the  
15 purpose of deceiving or circumventing the registration process by enabling a person whose  
16 registration has been suspended or revoked to conduct business. Provided, further, that any person  
17 who, in good faith relies on the board or the contractor's registration website for information  
18 regarding registration status of another shall be exempt from violations pursuant to this section if  
19 the information is not correct. Violators of this section shall be jointly and individually liable for  
20 damages resulting from their activities as contractors pursuant to this chapter. Violations of this  
21 subsection may result in a revocation of registration and/or fines not to exceed ten thousand dollars  
22 (\$10,000) and/or up to one year in jail. Furthermore, the director [of the department of business](#)  
23 [regulation or the director's designee](#) shall require that all applicants for registration shall ~~swear by~~  
24 ~~way of affidavit~~ [sign a statement](#) that they are aware of this provision and its implications.

25 (m) Upon receipt of notice of a final determination, after the exhaustion of all appeals, by  
26 the department of labor and training, consent agreement, or court order that a registered contractor  
27 violated any of the provisions of chapters 25-3, 28-3, 28-12, 28-14, 28-36, 28-50, and/or 37-13 and  
28 owes any wages, benefits or other sums arising out of such violation, the board shall immediately  
29 suspend the contractor's registration of such contractor in accordance with this subsection. The  
30 suspension shall continue until all wages, benefits, or other sums owed have been paid or the  
31 contractor has entered into a written, binding agreement to pay the same acceptable to the  
32 department of labor and training and is not in default in payment under such agreement. If the  
33 contractor fails to remain current in payment under any such agreement, the department of labor  
34 and training shall notify the contractors' registration board and the suspension shall be imposed or

1 reinstated as the case may be. The foregoing sanction is mandatory, but shall not be grounds for  
2 imposition of a monetary penalty under subsection (c) above.

3 (n) When the registration of a contractor has been revoked or suspended, neither the  
4 contractor nor any successor entity or sole proprietorship that: (1) Has one or more of the same  
5 principals or officers as the partnership, limited partnership, limited liability partnership, joint  
6 venture, limited liability company, corporation, or sole proprietorship as the subject contractor; and  
7 (2) Is engaged in the same or equivalent trade or activity shall be qualified to register or retain a  
8 registration as a contractor under this chapter, unless and until the board shall determine that the  
9 basis of the revocation or suspension has been satisfied or removed and that the registrant or  
10 applicant otherwise satisfies the requirements for registration under this chapter. Notwithstanding  
11 the foregoing, a natural person may obtain relief from the application and enforcement of this  
12 subsection as to him or her, if he or she can establish that he or she was not responsible for, and did  
13 not acquiesce to the misconduct which is the basis of the revocation, suspension or denial of  
14 registration.

15 **5-65-15. Officers -- Quorum -- Compensation and expenses.**

16 (a) The board shall select from among its members a chairperson, a vice chairperson and  
17 any other officers for the terms and with the duties and powers necessary for the performance of  
18 their duties that the board determines.

19 (b) A majority of the members of the board shall constitute a quorum for the transaction of  
20 business.

21 (c) The board shall have ~~an executive director~~ a member of staff who shall attend all  
22 meetings and shall direct the conduct of any investigation which may be necessary in the  
23 preparation of any hearing. ~~The executive director shall be a member of the classified service on~~  
24 ~~the staff of the state building commissioner and shall be compensated as appropriate for the required~~  
25 ~~expertise.~~

26 **5-65-15.1. Staff.**

27 (a) The ~~state building code commission~~ office shall provide the board with appropriate  
28 staff, ~~including hearing officials and investigators,~~ who shall perform their duties under the  
29 administrative supervision of the ~~executive~~ director of the department of business regulation or the  
30 director's designee.

31 (b) The board may delegate the powers, functions and duties to the provided staff.

32 **5-65-20. Administrative hearings.**

33 (a) Contested claims or cases, contested enforcement proceedings, and contested  
34 administrative fines shall be heard, in accordance with the Administrative Procedures Act, chapter

1 35 of title 42, and the administrative regulations promulgated by the board, by the hearings  
2 officer(s) assigned by the ~~executive~~ director of the department of business regulation or the  
3 director's designee ~~of the board~~.

4 (b) The board has jurisdiction to hear appeals from decisions of the hearing officer(s), and  
5 may by regulation impose a filing fee, not to exceed twenty dollars (\$20.00), for any appeal.

6 (c) Notwithstanding the preceding, the ~~executive~~ director of the department of business  
7 regulation or the director's designee ~~for the board~~ is authorized to resolve contested enforcement  
8 or claim proceedings through informal disposition pursuant to regulations promulgated by the  
9 board.

10 SECTION 2. Effective January 1, 2020, Section 5-84-3 of the General Laws in Chapter 5-  
11 84 entitled "Division of Building, Design and Fire Professionals" is hereby amended to read as  
12 follows:

13 **5-84-3. Division membership.**

14 The division consists of the membership of the office of the state fire marshal, the fire  
15 safety code board of review and appeal, and the ~~office of the~~ state building office, ~~commissioner,~~  
16 ~~the board of registration for professional engineers, board of registration for professional land~~  
17 ~~surveyors, board of examination and registration of architects, the board of examiners of landscape~~  
18 ~~architects, and the contractors' registration and licensing board.~~

19 SECTION 3. Effective January 1, 2020, Section 5-84 of the General Laws entitled  
20 "Division of Building, Design and Fire Professionals" is hereby amended by adding thereto the  
21 following section:

22 **5-84-3. 1. Establishment of the state building office.**

23 (a) There shall be the state building office within the department of business regulation's  
24 division of building, design and fire professionals which shall consist of the office of the state  
25 building commissioner, the board of registration for professional engineers, the board of  
26 registration for professional land surveyors, the board of examination and registration of architects,  
27 the board of examiners of landscape architects, and the contractors' registration and licensing board.

28 (b) The department of business regulation is hereby designated as the administrative entity  
29 responsible for the operation of the state building office. In the discretion of the director of business  
30 regulation, the department shall provide appropriate staff support to the state building office, and  
31 any such staff may be shared within the state building office as necessary.

32 SECTION 4. Effective January 1, 2020, Sections 23-27.3-100.1.3, 23-27.3-100.1.4, 23-  
33 27.3-100.1.5.1, 23-27.3-107.2, 23-27.3-107.8, 23-27.3-107.9, 23-27.3-108.1.3.1, 23-27.3-108.2  
34 and 23-27.3-118.1 of the General Laws in Chapter 23-27.3 entitled "State Building Code" are

1 hereby amended to read as follows:

2 **23-27.3-100.1.3. Creation of the state building code standards committee.**

3 (a) There is created as an agency of state government a state building code standards  
4 committee that shall adopt, promulgate, and administer a state building code for the purpose of  
5 regulating the design, construction, and use of buildings or structures previously erected, in  
6 accordance with a rehabilitation building and fire code for existing buildings and structures  
7 developed pursuant to chapter 29.1 of this title, and to make any amendments to them as they, from  
8 time to time, deem necessary or desirable, the building code to include any code, rule, or regulation  
9 incorporated in the code by reference.

10 (b) A standing subcommittee is made part of the state building code standards committee  
11 to promulgate and administer a state housing and property maintenance code for the purpose of  
12 establishing minimum requirements and standards and to regulate the occupancy and use of existing  
13 premises, structures, buildings, equipment, and facilities, and to make amendments to them as  
14 deemed necessary.

15 (c) A joint committee, with membership as set forth in § 23-29.1-2(a) from the state  
16 building code standards committee, shall develop and recommend for adoption and promulgation,  
17 a rehabilitation building and fire code for existing buildings and structures, which code shall include  
18 building code elements to be administered by the state building code standards committee as the  
19 authority having jurisdiction over the elements.

20 (d) The state building code standards committee shall be housed within the ~~office of the~~  
21 state building ~~commissioner~~ [office](#).

22 **23-27.3-100.1.4. Appointment and qualifications of the committee.**

23 (a) The building code standards committee shall be composed of twenty-five (25)  
24 members, residents of the state who shall be appointed by the governor with the advice and consent  
25 of the senate. Eight (8) members are to be appointed for terms of one year each, seven (7) for a  
26 term of two (2) years each, and ten (10) for terms of three (3) years each. Annually, thereafter, the  
27 governor, with the advice and consent of the senate, shall appoint members to the committee to  
28 succeed those whose terms expired; the members to serve for terms of three (3) years each and until  
29 their successors are appointed and qualified. Two (2) members shall be architects registered in the  
30 state; three (3) shall be professional engineers registered in the state, one specializing in  
31 mechanical, one specializing in structural, and one specializing in electrical engineering; one  
32 landscape architect, registered in the state; one full-time certified electrical inspector; two (2) shall  
33 be builders or superintendents of building construction; one shall be a public health official; one  
34 shall be a qualified fire code official; two (2) shall be from the Rhode Island building trades council;

1 two (2) shall be from the Rhode Island Builders Association; one shall be a holder of Class "A"  
2 electrician's license; one shall be a master plumber; two (2) shall be from the general public; three  
3 (3) shall be building officials in office, one from a municipality with a population of sixty thousand  
4 (60,000) persons or more, one from a municipality with a population of over twenty thousand  
5 (20,000) persons but less than sixty thousand (60,000), and one from a municipality with a  
6 population of less than twenty thousand (20,000) persons; one shall be a minimum housing official  
7 in office from one of the local municipalities; and two (2) residents of the state who shall be persons  
8 with disabilities as defined in § 42-87-1.

9 (b) All members shall have no less than five (5) years practical experience in their  
10 profession or business. The committee shall elect its own chairperson and may elect from among  
11 its members such other officers as it deems necessary. Thirteen (13) members of the board shall  
12 constitute a quorum and the vote of a majority vote of those present shall be required for action.  
13 The committee shall adopt rules and regulations for procedure. The state building commissioner  
14 shall serve as the executive secretary to the committee. The committee shall have the power, within  
15 the limits of appropriations provided therefor, to employ such assistance as may be necessary to  
16 conduct business.

17 (c) Members of the ~~commission~~ committee shall be removable by the governor pursuant to  
18 § 36-1-7 and for cause only, and removal solely for partisan or personal reasons unrelated to  
19 capacity or fitness for the office shall be unlawful.

20 (d) The state housing and property maintenance code subcommittee shall be composed of  
21 nine (9) members, residents of the state. Five (5) of these members are to be current members of  
22 the state building code standards committee and are to be appointed by that committee. The four  
23 (4) remaining members are to be appointed by the governor, with the advice and consent of the  
24 senate. The four (4) appointed by the governor, with the advice and consent of the senate, shall  
25 initially be appointed on a staggered term basis, one for one year, one for two (2) years, and two  
26 (2) for three (3) years. Annually thereafter, the building code standards committee, and the  
27 governor, with the advice and consent of the senate, shall appoint the subcommittee members, for  
28 which they are respectively responsible, to succeed those whose terms have expired; the members  
29 to serve for terms of three (3) years each and until their successors are appointed and qualified. Of  
30 the members appointed by the committee, one shall be a full-time certified electrical inspector; one  
31 shall be a master plumber and mechanical equipment expert; one shall be a builder or  
32 superintendent of building construction; one member shall be a qualified state fire code official;  
33 one shall be a property manager; and one shall be a current minimum housing official from a local  
34 municipality. The four (4) members to be appointed by the governor, with the advice and consent

1 of the senate, shall all be current minimum housing officials from local municipalities. One shall  
2 be from a municipality with a population of sixty thousand (60,000) persons or more, two (2) from  
3 municipalities with a population of over twenty thousand (20,000) persons but less than sixty  
4 thousand (60,000), and one from a municipality with a population of less than twenty thousand  
5 (20,000) persons.

6 **23-27.3-100.1.5.1. Housing and maintenance code -- Powers and duties of the building**  
7 **code standards committee.**

8 (a) The committee shall have the authority to adopt and promulgate a housing and  
9 maintenance code which shall be reasonably consistent with recognized and accepted standards  
10 and codes promoted by national model code organizations. The code shall be submitted to the  
11 legislature for adoption and amendments as required. Once adopted by the legislature, the law shall  
12 not be amended by the cities and towns. The committee shall have the singular authority to submit  
13 further amendments to the legislature as required. These new provisions shall replace, and/or amend  
14 the existing provisions of the Minimum Housing Standards, chapter 24.2 of title 45, and the  
15 Housing, Maintenance and Occupancy Code, chapter 24.3 of title 45. Once adopted by the  
16 legislature, the laws shall not be amended by the cities and towns without prior approval of the  
17 committee and subsequently the legislature. The state housing and property maintenance code  
18 subcommittee shall carry out its responsibilities to the building code standards committee by acting  
19 as an entity of the committee in administering the code, by recommending needed code  
20 amendments, by promulgating the code, and by serving as the board of standards and appeals for  
21 the code.

22 (b) The subcommittee shall also have a recording secretary who shall attend all meetings  
23 and direct the conduct of any investigation which may be necessary in the preparation of any  
24 hearing. The recording secretary shall be a member of the classified service on the staff of the state  
25 building ~~commissioner~~ [office](#) and shall be compensated as appropriate for the expertise required.  
26 The administration and appeals procedures pertaining to these laws shall remain in the prerogatives  
27 of the local municipalities and the legislature.

28 (c) Within ninety (90) days after the end of each fiscal year, the committee shall approve  
29 and submit an annual report to the governor, the speaker of the house of representatives, the  
30 president of the senate, and the secretary of state, of its activities during that fiscal year. The report  
31 shall provide: an operating statement summarizing meetings or hearings held, including meeting  
32 minutes, subjects addressed, decisions rendered, applications considered and their disposition, rules  
33 or regulations promulgated, studies conducted, policies and plans developed, approved, or  
34 modified, and programs administered or initiated; a consolidated financial statement of all funds

1 received and expended including the source of the funds, a listing of any staff supported by these  
2 funds, and a summary of any clerical, administrative or technical support received; a summary of  
3 performance during the previous fiscal year including accomplishments, shortcomings and  
4 remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the  
5 authority of the committee; a summary of any training courses held pursuant to this chapter; a  
6 briefing on anticipated activities in the upcoming fiscal year, and findings and recommendations  
7 for improvements. The report shall be posted electronically on the websites of the general assembly  
8 and the secretary of state pursuant to the provisions of § 42-20-8.2. The director of the department  
9 of administration shall be responsible for the enforcement of the provisions of this section.

10 (d) To conduct a training course for newly appointed and qualified members within six (6)  
11 months of their qualification or designation. The course shall be developed by the chair of the  
12 committee, be approved by the committee, and be conducted by the chair of the committee. The  
13 committee may approve the use of any committee and/or staff members and/or individuals to assist  
14 with training. The training course shall include instruction in the following areas: the provisions of  
15 chapters 42-46, 36-14 and 38-2; and the committee's rules and regulations. The director of the  
16 department of administration shall, within ninety (90) days of June 16, 2006, prepare and  
17 disseminate training materials relating to the provisions of chapters 42-46, 36-14, and 38-2.

18 **23-27.3-107.2. Alternate local building official.**

19 The appropriate local authority shall appoint an alternate building official to act on behalf  
20 of the building official during any period of disability caused by, but not limited to, illness, absence,  
21 or conflict of interest. The alternate building official shall meet the qualifications of § 23-27.3-  
22 107.5. The appropriate local authority shall appoint an alternate local building official within ten  
23 (10) calendar days or request the ~~commissioner's~~ [state building office's](#) services as allowed in § 23-  
24 27.3-107.3. When the ~~state building commissioner's~~ [office's](#) services are used due to the lack of a  
25 local building official, the salary and operating expenses of the commissioner or his or her designee  
26 shall be reimbursed to the ~~commissioner's account~~ [state](#) as allowed by § 23-27.3-108.2(c).

27 **23-27.3-107.8. Restriction on employees' activities.**

28 Neither the building commissioner, nor any full-time building officials, or full-time local  
29 inspectors, as defined in this code, shall be engaged in, or directly or indirectly connected with, the  
30 furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of any  
31 building or structure, or the preparation of plans or specifications therefor for the state, in the case  
32 of the building commissioner, or within the municipality in which he or she is respectively  
33 employed in the case of a building official or local inspector unless the individual is the owner of  
34 the building or structure; nor shall any officer or employee associated with the [state building office](#)



1 ~~department of the state~~ or municipality engage in any work which conflicts with his or her official  
2 duties or with the interests of the department [of business regulation](#).

3 **23-27.3-107.9. Relief from personal responsibility.**

4 The state building commissioner, the members and staff of the building code standards  
5 committee and the board of standards and appeals, the building official, officer, or employee  
6 charged with the enforcement, administration and/or review of this code, while acting for the state  
7 or a municipality, shall not thereby render himself or herself liable personally, and he or she is  
8 hereby relieved from all personal liability for any damages that may accrue to persons or property  
9 as a result of any act required or permitted in the discharge of his or her official duties. Any suit  
10 instituted against any of these officers or employees because of an act performed by him or her in  
11 the lawful discharge of his or her duties and under the provisions of this code shall be defended by  
12 the legal representative of the state in the case of the members and staff of the building code  
13 standards committee and the board of standards and appeals, and the building commissioner or his  
14 or her agents or by the legal representative of the municipality, in the case of the building official,  
15 officer, or employee, until the final determination of the proceedings. In no case shall members and  
16 staff of the building code standards committee and the board of standards and appeals, the state  
17 building commissioner, building official, or any of their subordinates be liable for costs or damages  
18 in any action, suit, or proceeding that may be instituted pursuant to the provisions of this code and  
19 the members and staff of the building code standards committee and the board of standards and  
20 appeals, the state building commissioner or his or her agents or an officer of the ~~department of state~~  
21 building ~~inspection~~ [office](#), acting in good faith and without malice and within the scope of their  
22 employment, is free from liability for acts performed under any of its provisions or by reason of  
23 any act or omission in the performance of his or her official duties in connection with this code.

24 **23-27.3-108.1.3.1. Test results.**

25 Copies of the results of all the tests shall be forwarded to the committee after completion  
26 of the tests within ten (10) days, and shall be kept on file in the permanent records of the [state](#)  
27 building ~~department~~ [office](#).

28 **23-27.3-108.2. State building commissioner's duties.**

29 (a) This code shall be enforced by the state building commissioner as to any structures or  
30 buildings or parts thereof that are owned or are temporarily or permanently under the jurisdiction  
31 of the state or any of its departments, commissions, agencies, or authorities established by an act  
32 of the general assembly, and as to any structures or buildings or parts thereof that are built upon  
33 any land owned by or under the jurisdiction of the state.

34 (b) Permit fees for the projects shall be established by the committee. The fees shall be

1 deposited as general revenues.

2 (c)(1) The local cities and towns shall charge each permit applicant an additional .1 (.001)  
3 percent levy of the total construction cost for each permit issued. The levy shall be limited to a  
4 maximum of fifty dollars (\$50.00) for each of the permits issued for one and two (2) family  
5 dwellings. This additional levy shall be transmitted monthly to the [state building ~~commission~~ office](#)  
6 at the department of business regulation, and shall be used to staff and support the purchase or lease  
7 and operation of a web-accessible service and/or system to be utilized by the state and  
8 municipalities for uniform, statewide electronic plan review, permit management and inspection  
9 system and other programs described in this chapter. The fee levy shall be deposited as general  
10 revenues.

11 (2) On or before July 1, 2013, the building commissioner shall develop a standard statewide  
12 process for electronic plan review, permit management and inspection.

13 (3) On or before December 1, 2013, the building commissioner, with the assistance of the  
14 office of regulatory reform, shall implement the standard statewide process for electronic plan  
15 review, permit management and inspection. In addition, the building commissioner shall develop  
16 a technology and implementation plan for a standard web-accessible service or system to be utilized  
17 by the state and municipalities for uniform, statewide electronic plan review, permit management  
18 and inspection.

19 (d) The building commissioner shall, upon request by any state contractor described in §  
20 37-2-38.1, review, and when all conditions for certification have been met, certify to the state  
21 controller that the payment conditions contained in § 37-2-38.1 have been met.

22 (e) The building commissioner shall coordinate the development and implementation of  
23 this section with the state fire marshal to assist with the implementation of § 23-28.2-6.

24 (f) The building commissioner shall submit, in coordination with the state fire marshal, a  
25 report to the governor and general assembly on or before April 1, 2013, and each April 1st  
26 thereafter, providing the status of the web-accessible service and/or system implementation and  
27 any recommendations for process or system improvement.

28 **23-27.3-118.1. Special fees.**

29 The payment of the fee for construction, alteration, removal, or demolition, and for all work  
30 done in connection with, or concurrently with, the work contemplated by a building permit, shall  
31 not relieve the applicant or holder of the permit from the payment of other fees that may be  
32 prescribed in accordance with § 23-27.3-119.0 for water taps, sewer connections, electrical and  
33 plumbing permits, erection of signs and display structures, marquees, or other appurtenant  
34 structures, or fees for inspections, certificates of use and occupancy for other privileges or

1 requirements, both within and without the jurisdiction of the [state](#) building ~~department~~ [office](#).

2 SECTION 5. Section 30-17.1-6 of the General Laws in Chapter 30-17.1 entitled "Veterans'  
3 Affairs" is hereby amended to read as follows:

4 **30-17.1-6. Establishment of the office of veterans' affairs; director.**

5 (a) There is hereby established within the executive branch of government an office of  
6 veterans' affairs. The director of the office of veterans' affairs shall be a person qualified through  
7 experience and training and shall be an honorably discharged war veteran of the United States  
8 armed forces. The director of the office of veterans' affairs shall be appointed by and report directly  
9 to the governor, but the office shall reside within the department of human services for  
10 administrative purposes.

11 (b) The director of veterans' affairs shall have all such powers, consistent with law, as are  
12 necessary and/or convenient to effectuate the purposes of this chapter and to administer its  
13 functions, including, but, not limited to, the power to promulgate and adopt regulations. The  
14 director shall have authority to apply for, receive, and administer grants and funds from the federal  
15 government and all other public and private entities to accomplish the purposes of the office.

16 (c) Effective July 1, 2019, the office of veterans' affairs, as established pursuant to  
17 subsection (a) of this section, shall be henceforth referred to and renamed as "the office of veterans  
18 services" and the director of veterans' affairs, established pursuant to subsection (a) of this section  
19 shall henceforth be referred to and renamed as the "director of veterans services."

20 (d) Effective July 1, 2019, all references in the general laws to the office of veterans' affairs  
21 established pursuant to subsection (a) of this section and to the director of veterans' affairs  
22 established pursuant to subsection (a) of this section shall be deemed to mean and refer,  
23 respectively, to the office of veterans services and the director of veterans services.

24 SECTION 6. Section 30-27-1 of the General Laws in Chapter 30-27 entitled "Veterans'  
25 Organizations" is hereby repealed as follows.

26 ~~**30-27-1. Appropriations for annual encampment of Spanish war veterans.**~~

27 ~~The general assembly shall annually appropriate such sum as it may deem necessary to~~  
28 ~~defray the expenses of the annual encampment of the united spanish war veterans, department of~~  
29 ~~Rhode Island, to be expended under the direction of the department of human services or of any~~  
30 ~~other department as the general assembly shall indicate and direct at any future time; and the~~  
31 ~~controller is hereby authorized and directed to draw orders upon the general treasurer for the~~  
32 ~~payment of that sum, or so much thereof as may be necessary from time to time, upon the receipt~~  
33 ~~by the controller of proper vouchers approved by the director of human services, or such other~~  
34 ~~approving authority as the general assembly may direct.~~

1 SECTION 7. Sections 31-38-7 and 31-38-18 of the General Laws in Chapter 31-38 entitled  
2 "Inspection of Motor Vehicles" are hereby amended to read as follows:

3 **31-38-7. Operation of official stations.**

4 (a) No permit for an official station shall be assigned or transferred or used at any location  
5 other than designated in it, and the permit shall be posted in a conspicuous place at the designated  
6 location.

7 (b) The state certified person operating an official inspection station shall issue a certificate  
8 of inspection and approval upon an official form to the owner of a vehicle upon inspection of the  
9 vehicle and determining that its equipment required under the provisions of this chapter is in good  
10 condition and proper adjustment, otherwise, no certificate shall be issued. A record and report shall  
11 be made of every inspection and every certificate issued. The records shall be kept available for  
12 review by ~~the motor vehicle inspection station commission or~~ those employees of the department  
13 of revenue that the director may designate.

14 (c) The following fees shall be charged for inspection and issuance of certificate of  
15 inspection and approval:

16 (1) For every vehicle with a registered gross weight of not more than eight thousand five  
17 hundred pounds (8,500 lbs.), the fee shall be included with the fee charged pursuant to § 31-47.1-  
18 11;

19 (2) For every vehicle of a registered gross weight of more than eight thousand five hundred  
20 pounds (8,500 lbs.) or more, except trailers, fifteen dollars (\$15.00);

21 (3) For every motorcycle and electrically powered vehicle, eleven dollars (\$11.00);

22 (4) For every trailer or semi-trailer with a registered gross weight of more than one  
23 thousand pounds (1,000 lbs.), eleven dollars (\$11.00); and

24 (5) Provided that for the inspection of vehicles used for the transportation of persons for  
25 hire, as provided in § 31-22-12, and subject to an inspection pursuant to chapter 47.1 of this title,  
26 the fee shall be included with the fee charged pursuant to § 31-47.1-11.

27 (d) The director of the department of revenue may establish a state inspection facility at  
28 which any motor vehicle may be reinspected at no cost to the owner. The state inspection facility  
29 may inspect all public conveyance vehicles or these inspections may be otherwise provided for by  
30 the director, or any other vehicles which in the opinion of the director of revenue, or his or her  
31 designee, require specific testing to ensure for the health and safety of the general public.

32 (e) Any other inspections or activities which may be required to be performed at a state  
33 inspection facility may be performed at any official inspection station if determined by the director.

34 **31-38-18. Conduct of hearings.**

1 The ~~director of the department of revenue~~~~commission~~ shall hold and conduct hearings in  
2 accordance with § 31-38-17. These hearings shall be governed by rules to be adopted by the ~~director~~  
3 ~~of the department of revenue~~~~commission~~, and the ~~director of the department of revenue~~~~commission~~  
4 shall not be bound by technical rules of evidence. The ~~director of the department of~~  
5 ~~revenue~~~~commission~~ may subpoena witnesses and require the producing of documental evidence,  
6 ~~and shall sit as an impartial independent body~~ in order to make decisions affecting the interest of  
7 the motor vehicle inspection owner and/or operator. ~~The concurrence of a majority of the members~~  
8 ~~present and voting of the commission is required for a decision.~~

9 SECTION 8. Sections 31-38-15 and 31-38-16 of the General Laws in Chapter 31-38  
10 entitled "Inspection of Motor Vehicles" are hereby repealed.

11 ~~**31-38-15. Motor vehicle inspection commission.**~~

12 ~~(a) Within the department of revenue there shall be a motor vehicle inspection commission,~~  
13 ~~referred to in this chapter as the "commission", which shall function as a unit in the department.~~  
14 ~~The commission shall consist of seven (7) members who shall be appointed by the governor, with~~  
15 ~~the advice and consent of the senate. In making said appointments, the governor shall give due~~  
16 ~~consideration to including in the commission's membership one or more garage keeper(s) and/or~~  
17 ~~inspection station owner(s).~~

18 ~~(b) The tenure of all members of the commission as of the effective date of this act [March~~  
19 ~~29, 2006] shall expire on the effective date of this act [March 29, 2006], and the governor shall~~  
20 ~~nominate seven (7) new members as follows:~~

21 ~~(1) The governor shall appoint seven (7) members of the commission; three (3) of whom~~  
22 ~~shall serve initial terms of three (3) years; two (2) of whom shall serve an initial term of two (2)~~  
23 ~~years; and two (2) of whom shall serve an initial term of one year.~~

24 ~~(2) Thereafter, all members of the commission shall be appointed to serve three (3) year~~  
25 ~~terms.~~

26 ~~(c) The governor shall designate one member of the commission to serve as chairperson.~~  
27 ~~The commission may elect from among its members such other officers as they deem necessary.~~

28 ~~(d) No person shall be eligible for appointment to the commission after the effective date~~  
29 ~~of this act [March 29, 2006] unless he or she is a resident of this state.~~

30 ~~(e) Four (4) members of the commission shall constitute a quorum.~~

31 ~~(f) Members of the commission shall be removable by the governor pursuant to the~~  
32 ~~provisions of § 36-1-7 of the general laws and for cause only, and removal solely for partisan or~~  
33 ~~personal reasons unrelated to capacity of fitness for the office shall be unlawful.~~

34 ~~(g) Within ninety (90) days after the end of each fiscal year, the commission shall approve~~

1 ~~and submit an annual report to the governor, the speaker of the house of representatives, the~~  
2 ~~president of the senate, and the secretary of state of its activities during that fiscal year. The report~~  
3 ~~shall provide: an operating statement summarizing meetings or hearings held, including meeting~~  
4 ~~minutes, subjects addressed, decisions rendered, licenses considered and their disposition, rules or~~  
5 ~~regulations promulgated, studies conducted, policies and plans developed, approved or modified~~  
6 ~~and programs administered or initiated; a consolidated financial statement of all funds received and~~  
7 ~~expended including the source of the funds, a listing of any staff supported by these funds and a~~  
8 ~~summary of any clerical, administrative or technical support received; a summary of performance~~  
9 ~~during the previous fiscal year including accomplishments, shortcomings and remedies; a synopsis~~  
10 ~~of hearings, complaints, suspensions or other legal matters related to the authority of the~~  
11 ~~commission; a summary of any training courses held pursuant to the provisions of this section; a~~  
12 ~~briefing on anticipated activities in the upcoming fiscal year; and findings and recommendations~~  
13 ~~for improvements. The report shall be posted electronically on the general assembly and secretary~~  
14 ~~of state's websites as prescribed in § 42-20-8.2. The director of the department of revenue shall be~~  
15 ~~responsible for the enforcement of the provisions of this subsection.~~

16 ~~(h) To conduct a training course for newly appointed and qualified members within six (6)~~  
17 ~~months of their qualification or designation. The course shall be developed by the chair of the~~  
18 ~~commission, approved by the commission, and conducted by the chair of the commission. The~~  
19 ~~commission may approve the use of any commission or staff members or other individuals to assist~~  
20 ~~with training. The training course shall include instruction in the following areas: the provisions of~~  
21 ~~chapters 42-46, 36-14, and 38-2; and the commission's rules and regulations. The director of the~~  
22 ~~department of revenue shall, within ninety (90) days of the effective date of this act [March 29,~~  
23 ~~2006], prepare and disseminate training material relating to the provisions of chapters 42-46, 36-~~  
24 ~~14, and 38-2.~~

25 ~~**31-38-16. Meetings -- Compensation.**~~

26 ~~The commission shall meet at least once a month to consider any matters that may be proper~~  
27 ~~before it. The members of the commission shall receive no compensation for their services, but~~  
28 ~~each member shall be reimbursed for traveling or other expenses that are actually incurred in the~~  
29 ~~discharge of the member's duties.~~

30 SECTION 9. Sections 35-1.1-1 through 35-1.1-5 of the General Laws in Chapter 35-1.1  
31 entitled "Office of Management and Budget" are hereby amended to read as follows:

32 ~~**35-1.1-1. Statement of intent.**~~

33 The purpose of this chapter is to establish a comprehensive public finance and management  
34 system for the State of Rhode Island that manages a data-driven budget process, monitors state

1 departments' and agencies' performance, ~~maximizes the application for and use of federal grants~~  
2 [improves the regulatory climate](#) and ensures accountability and transparency regarding the use of  
3 public funds [and regulatory impact](#).

4 **35-1.1-2. Establishment of the office of management and budget.**

5 There is hereby established within the department of administration an office of  
6 management and budget. This office shall serve as the principal agency of the executive branch of  
7 state government for managing budgetary functions, [regulatory review](#), performance management,  
8 internal audit, and federal grants management. In this capacity, the office shall:

9 (1) Establish an in-depth form of data analysis within and between departments and  
10 agencies, creating a more informed process for resource allocation to best meet the needs of Rhode  
11 Island citizens;

12 ~~(2) Identify federal grant funding opportunities to support the governor's and general~~  
13 ~~assembly's major policy initiatives and provide technical assistance with the application process~~  
14 ~~and post-award grants management;~~

15 [\(2\) Analyze the impact of proposed regulations on the public and state as required by](#)  
16 [chapters 42-64.13 and 42-35;](#)

17 (3) Analyze federal budgetary issues and report on potential impacts to the state;

18 (4) Coordinate the budget functions of the state with performance management objectives;

19 (5) Maximize efficiencies in departments, agencies, advisory councils, and  
20 instrumentalities of the state by improving processes and prioritizing programs;

21 (6) Be responsible for the internal audit function of state government and conduct audits of  
22 any state department, state agency, or private entity that is a recipient of state funding or state  
23 grants; provide management advisory and consulting services; or conduct investigations relative to  
24 the financial affairs or the efficiency of management, or both, of any state department or agency.

25 **35-1.1-3. Director of management and budget -- Appointment and responsibilities.**

26 (a) Within the department of administration there shall be a director of management and  
27 budget who shall be appointed by the director of administration with the approval of the governor.  
28 The director shall be responsible to the governor and director of administration for supervising the  
29 office of management and budget and for managing and providing strategic leadership and direction  
30 to the budget officer, the performance management office, and the federal grants management  
31 office.

32 (b) The director of management and budget shall be responsible to:

33 (1) Oversee, coordinate, and manage the functions of the budget officer as set forth by  
34 chapter 3 of this title; program performance management as set forth by § 35-3-24.1; approval of

1 agreements with federal agencies defined by § 35-3-25; and budgeting, appropriation, and receipt  
2 of federal monies as set forth by chapter 41 of title 42;

3 [\(2\) Oversee the director of regulatory reform as set forth by § 42-64.13-6;](#)

4 ~~(2) Manage federal fiscal proposals and guidelines and serve as the state clearinghouse for~~  
5 ~~the application of federal grants;~~

6 (3) Maximize the indirect cost recoveries by state agencies set forth by § 35-4-23.1; and

7 (4) Undertake a comprehensive review and inventory of all reports filed by the executive  
8 office and agencies of the state with the general assembly. The inventory should include, but not  
9 be limited to: the type, title, and summary of reports; the author(s) of the reports; the specific  
10 audience of the reports; and a schedule of the reports' release. The inventory shall be presented to  
11 the general assembly as part of the budget submission on a yearly basis. The office of management  
12 and budget shall also make recommendations to consolidate, modernize the reports, and to make  
13 recommendations for elimination or expansion of each report.

14 **35-1.1-4. Offices and functions assigned to the office of management and budget --**

15 **Powers and duties.**

16 (a) The offices assigned to the office of management and budget include the budget office,  
17 [the office of regulatory reform](#), the performance management office, [and the](#) office of internal audit;  
18 ~~and the federal grants management office.~~

19 (b) The offices assigned to the office of management and budget shall:

20 (1) Exercise their respective powers and duties in accordance with their statutory authority  
21 and the general policy established by the governor or by the director acting on behalf of the  
22 governor or in accordance with the powers and authorities conferred upon the director by this  
23 chapter;

24 (2) Provide such assistance or resources as may be requested or required by the governor  
25 and/or the director;

26 (3) Provide such records and information as may be requested or required by the governor  
27 and/or the director, to the extent allowed under the provisions of any applicable general or public  
28 law, regulation, or agreement relating to the confidentiality, privacy, or disclosure of such records  
29 or information; and

30 (c) Except as provided herein, no provision of this chapter or application thereof shall be  
31 construed to limit or otherwise restrict the budget officer from fulfilling any statutory requirement  
32 or complying with any valid rule or regulation.

33 **35-1.1-5. Federal grants management.**

34 (a) The ~~office of management and budget~~ [controller](#) shall be responsible for managing



1 federal grant applications, providing administrative assistance to agencies regarding reporting  
2 requirements, providing technical assistance and approving agreements with federal agencies  
3 pursuant to § 35-1-1. The ~~director~~ controller shall:

4 (1) Establish state goals and objectives for maximizing the utilization of federal aid  
5 programs;

6 (2) Ensure that the state establishes and maintains statewide federally-mandated grants  
7 management processes and procedures as mandated by the federal Office of Management and  
8 Budget;

9 (3) Promulgate procedures and guidelines for all state departments, agencies, advisory  
10 councils, instrumentalities of the state and public higher education institutions covering  
11 applications for federal grants;

12 (4) Require, upon request, any state department, agency, advisory council, instrumentality  
13 of the state or public higher education institution receiving a grant of money from the federal  
14 government to submit a report to the ~~director~~ controller of expenditures and program measures for  
15 the fiscal period in question;

16 (5) Ensure state departments and agencies adhere to the requirements of § 42-41-5  
17 regarding Legislative appropriation authority and delegation thereof;

18 (6) ~~Assist the state controller in managing and overseeing~~ Manage and oversee  
19 the disbursements of federal funds in accordance with § 35-6-42;

20 (7) ~~Assist the state controller in the preparation of~~ Prepare the statewide cost allocation  
21 plan and serve as the monitoring agency to ensure that state departments and agencies are working  
22 within the guidelines contained in the plan; and,

23 (8) Provide technical assistance to agencies to ensure resolution and closure of all single  
24 state audit findings and recommendations made by the Auditor General related to Federal funding.

25 (b) ~~The office of management and budget~~ Accounts and control shall serve as the ~~S~~state  
26 ~~C~~clearinghouse for purposes of coordinating federal grants, aid and assistance applied for and/or  
27 received by any state department, agency, advisory council or instrumentality of the state. Any state  
28 department, agency, advisory council, or instrumentality of the state applying for federal funds,  
29 aids, loans, or grants shall file a summary notification of the intended application with the ~~director~~  
30 controller.

31 (1) When as a condition to receiving federal funds, the state is required to match the federal  
32 funds, a statement shall be filed with the notice of intent or summary of the application stating:

33 (i) The amount and source of state funds needed for matching purposes;

34 (ii) The length of time the matching funds shall be required;

- 1 (iii) The growth of the program;
- 2 (iv) How the program will be evaluated;
- 3 (v) What action will be necessary should the federal funds be canceled, curtailed, or
- 4 restricted; and,
- 5 (vi) Any other financial and program management data required by the office or by law.

6 (2) Except as otherwise required, any application submitted by an executive agency for

7 federal funds, aids, loans, or grants which will require state matching or replacement funds at the

8 time of application or at any time in the future, must be approved by the director [of the office of](#)

9 [management and budget](#) or their designated agents prior to its filing with the appropriate federal

10 agency. Any application submitted by an executive agency for federal funds, aids, loans, or grants

11 which will require state matching or replacement funds at the time of application or at any time in

12 the future, when funds have not been appropriated for that express purpose, must be approved by

13 the General Assembly in accordance with § 42-41-5. When the general assembly is not in session,

14 the application shall be reported to and reviewed by the Director pursuant to rules and regulations

15 promulgated by the Director.

16 (3) When any federal funds, aids, loans, or grants are received by any state department,

17 agency, advisory council or instrumentality of the state, a report of the amount of funds received

18 shall be filed with the office; and this report shall specify the amount of funds which would

19 reimburse an agency for indirect costs, as provided for under federal ~~OMB Circular A-~~

20 [87requirements](#).

21 (4) The ~~director~~ [controller](#) may refuse to issue approval for the disbursement of any state

22 or federal funds from the State Treasury as the result of any application which is not approved as

23 provided by this section, or in regard to which the statement or reports required by this section were

24 not filed.

25 (5) The ~~director~~ [controller](#) shall be responsible for the orderly administration of this section

26 and for issuing the appropriate guidelines and regulations from each source of funds used.

27 SECTION 10. Section 35-6-1 of the General Laws in Chapter 35-6 entitled "Accounts and

28 Control" is hereby amended to read as follows:

29 **35-6-1. Controller -- Duties in general.**

30 (a) Within the department of administration there shall be a controller who shall be

31 appointed by the director of administration pursuant to chapter 4 of title 36. The controller shall be

32 responsible for accounting and expenditure control and shall be required to:

- 33 (1) Administer a comprehensive accounting and recording system which will classify the
- 34 transactions of the state departments and agencies in accordance with the budget plan;

1 (2) Maintain control accounts for all supplies, materials, and equipment for all departments  
2 and agencies except as otherwise provided by law;

3 (3) Prescribe a financial, accounting, and cost accounting system for state departments and  
4 agencies;

5 (4) Identify federal grant funding opportunities to support the governor's and general  
6 assembly's major policy initiatives and provide technical assistance with the application process  
7 and post-award grants management;

8 (5) Manage federal fiscal proposals and guidelines and serve as the state clearinghouse for  
9 the application of federal grants;

10 ~~(4)~~(6) Preaudit all state receipts and expenditures;

11 ~~(5)~~(7) Prepare financial statements required by the several departments and agencies, by  
12 the governor, or by the general assembly;

13 ~~(6)~~ (8) Approve the orders drawn on the general treasurer; provided, that the preaudit of all  
14 expenditures under authority of the legislative department and the judicial department by the state  
15 controller shall be purely ministerial, concerned only with the legality of the expenditure and  
16 availability of the funds, and in no event shall the state controller interpose his or her judgment  
17 regarding the wisdom or expediency of any item or items of expenditure;

18 ~~(7)~~(9) Prepare and timely file, on behalf of the state, any and all reports required by the  
19 United States, including, but not limited to, the internal revenue service, or required by any  
20 department or agency of the state, with respect to the state payroll; and

21 ~~(8)~~(10) Prepare a preliminary closing statement for each fiscal year. The controller shall  
22 forward the statement to the chairpersons of the house finance committee and the senate finance  
23 committee, with copies to the house fiscal advisor and the senate fiscal and policy advisor, by  
24 September 1 following the fiscal year ending the prior June 30 or thirty (30) days after enactment  
25 of the appropriations act, whichever is later. The report shall include but is not limited to:

26 (i) A report of all revenues received by the state in the completed fiscal year, together with  
27 the estimates adopted for that year as contained in the final enacted budget, and together with all  
28 deviations between estimated revenues and actual collections. The report shall also include cash  
29 collections and accrual adjustments;

30 (ii) A comparison of actual expenditures with each of the actual appropriations, including  
31 supplemental appropriations and other adjustments provided for in the Rhode Island General Laws;

32 (iii) A statement of the opening and closing surplus in the general revenue account; and

33 (iv) A statement of the opening surplus, activity, and closing surplus in the state budget  
34 reserve and cash stabilization account and the state bond capital fund.

1 (b) The controller shall provide supporting information on revenues, expenditures, capital  
2 projects, and debt service upon request of the house finance committee chairperson, senate finance  
3 committee chairperson, house fiscal advisor, or senate fiscal and policy advisor.

4 (c) Upon issuance of the audited annual financial statement, the controller shall provide a  
5 report of the differences between the preliminary financial report and the final report as contained  
6 in the audited annual financial statement.

7 (d) The controller shall create a special fund not part of the general fund and shall deposit  
8 amounts equivalent to all deferred contributions under this act into that fund. Any amounts  
9 remaining in the fund on June 15, 2010, shall be transferred to the general treasurer who shall  
10 transfer such amounts into the retirement system as appropriate.

11 (e) The controller shall implement a direct deposit payroll system for state employees.

12 (i) There shall be no service charge of any type paid by the state employee at any time  
13 which shall decrease the net amount of the employee's salary deposited to the financial institution  
14 of the personal choice of the employee as a result of the use of direct deposit.

15 (ii) Employees hired after September 30, 2014, shall participate in the direct deposit  
16 system. At the time the employee is hired, the employee shall identify a financial institution that  
17 will serve as a personal depository agent for the employee.

18 (iii) No later than June 30, 2016, each employee hired before September 30, 2014, who is  
19 not a participant in the direct deposit system, shall identify a financial institution that will serve as  
20 a personal depository agent for the employee.

21 (iv) The controller shall promulgate rules and regulations as necessary for implementation  
22 and administration of the direct deposit system, which shall include limited exceptions to required  
23 participation.

24 SECTION 11. Section 36-4-34.1 of the General Laws in Chapter 36-4 entitled "Merit  
25 System" is hereby amended to read as follows:

26 **36-4-34.1. Transfer of state employees.**

27 (a) The director of the department of administration (the "director") is hereby authorized  
28 to transfer any employee within the executive branch who is not covered by a collective bargaining  
29 unit as provided in chapter 11 of this title. Any employee may be transferred to a comparable  
30 position upon the approval of the director of the department of administration and the personnel  
31 administrator. The transfers may be initially authorized for a period up to one year's duration and  
32 may be further extended with the approval of the personnel administrator (the "personnel  
33 administrator").

34 (b) Within seven (7) days of making a transfer of ~~an~~ any employee or further extending the

1 duration of a transfer ~~as provided by subsection (a)~~, the director making the transfer or the personnel  
2 administrator extending the transfer shall file a written report with the speaker of the house, the  
3 senate president, and the chairpersons of the house and senate finance committees, for each  
4 employee to be transferred. This report shall include:

- 5 (1) The identity of the employee;
- 6 (2) The employee's current work position and location, and the proposed new work position  
7 and location;
- 8 (3) The reason(s) for the employee transfer;
- 9 (4) The specific task(s) to be assigned to and completed by the transferred employee;
- 10 (5) An explanation of how the task(s) to be completed by the transferred employee relates  
11 to the mission of the transferee department, division or agency; and
- 12 (6) The anticipated duration of the employee's transfer.

13 SECTION 12. Sections 42-6-1, 42-6-2 and 42-6-3 of the General Laws in Chapter 42-6  
14 entitled "Departments of State Government" are hereby amended to read as follows:

15 **42-6-1. Enumeration of departments.**

16 All the administrative powers and duties heretofore vested by law in the several state  
17 departments, boards, divisions, bureaus, commissions, and other agencies shall be vested in the  
18 following departments and other agencies which are specified in this title:

- 19 (a) Executive department (chapter 7 of this title);
- 20 (b) Department of state (chapter 8 of this title);
- 21 (c) Department of the attorney general (chapter 9 of this title);
- 22 (d) Treasury department (chapter 10 of this title);
- 23 (e) Department of administration (chapter 11 of this title);
- 24 (f) Department of business regulation (chapter 14 of this title);
- 25 (g) Department of children, youth and families (chapter 72 of this title);
- 26 (h) Department of corrections (chapter 56 of this title);
- 27 ~~(i) Department of elderly affairs (chapter 66 of this title);~~
- 28 (j) Department of elementary and secondary education (chapter 60 of title 16);
- 29 ~~(k)~~ (j) Department of environmental management (chapter 17.1 of this title);
- 30 ~~(k)~~ (l) Department of health (chapter 18 of this title);
- 31 ~~(m)~~ (l) Board of governors for higher education (chapter 59 of title 16);
- 32 ~~(n)~~ (m) Department of labor and training (chapter 16.1 of this title);
- 33 ~~(o)~~ (n) Department of behavioral healthcare, developmental disabilities and hospitals (chapter  
34 12.1 of this title);

- 1           (~~p~~o) Department of human services (chapter 12 of this title);
- 2           (~~q~~p) Department of transportation (chapter 13 of this title);
- 3           (~~r~~q) Public utilities commission (chapter 14.3 of this title);
- 4           (~~s~~r) Department of revenue (chapter 142 of title 42);
- 5           (~~t~~s) Department of public safety (chapter 7.3 of this title).

6           **42-6-2. Heads of departments.**

7           The governor, secretary of state, attorney general, and general treasurer, hereinafter called  
8 general officers, shall each be in charge of a department. There shall also be a director of  
9 administration, a director of revenue, a director of public safety, a director of human services, a  
10 director of behavioral healthcare, developmental disabilities and hospitals, a director of  
11 transportation, a director of business regulation, a director of labor and training, a director of  
12 environmental management, a director for children, youth and families, ~~a director of elderly affairs,~~  
13 and a director of corrections. Each director shall hold office at the pleasure of the governor and he  
14 or she shall serve until his or her successor is duly appointed and qualified unless the director is  
15 removed from office by special order of the governor.

16           **42-6-3. Appointment of directors.**

17           (a) At the January session following his or her election to office, the governor shall appoint  
18 a director of administration, a director of revenue, a director of public safety, a director of human  
19 services, a director of behavioral healthcare, developmental disabilities and hospitals, a director of  
20 transportation, a director of business regulation, a director of labor and training, a director of  
21 environmental management, a director for children, youth and families, ~~a director of elderly affairs,~~  
22 and a director of corrections. The governor shall, in all cases of appointment of a director while the  
23 senate is in session, notify the senate of his or her appointment and the senate shall, within sixty  
24 (60) legislative days after receipt of the notice, act upon the appointment. If the senate shall, within  
25 sixty (60) legislative days, vote to disapprove the appointment it shall so notify the governor, who  
26 shall forthwith appoint and notify the senate of the appointment of a different person as director  
27 and so on in like manner until the senate shall fail to so vote disapproval of the governor's  
28 appointment. If the senate shall fail, for sixty (60) legislative days next after notice, to act upon any  
29 appointment of which it has been notified by the governor, the person so appointed shall be the  
30 director. The governor may withdraw any appointment of which he or she has given notice to the  
31 senate, at any time within sixty (60) legislative days thereafter and before action has been taken  
32 thereon by the senate.

33           (b) Except as expressly provided in § 42-6-9, no director of any department shall be  
34 appointed or employed pursuant to any contract of employment for a period of time greater than

1 the remainder of the governor's current term of office. Any contract entered into in violation of this  
2 section after July 1, 1994 is hereby declared null and void.

3 SECTION 13. Section 42-11-10 of the General Laws in Chapter 42-11 entitled  
4 "Department of Administration" is hereby amended to read as follows:

5 **42-11-10. Statewide planning program.**

6 (a) Findings. The general assembly finds that the people of this state have a fundamental  
7 interest in the orderly development of the state; the state has a positive interest and demonstrated  
8 need for establishment of a comprehensive, strategic state planning process and the preparation,  
9 maintenance, and implementation of plans for the physical, economic, and social development of  
10 the state; the continued growth and development of the state presents problems that cannot be met  
11 by the cities and towns individually and that require effective planning by the state; and state and  
12 local plans and programs must be properly coordinated with the planning requirements and  
13 programs of the federal government.

14 (b) Establishment of statewide planning program.

15 (1) A statewide planning program is hereby established to prepare, adopt, and amend  
16 strategic plans for the physical, economic, and social development of the state and to recommend  
17 these to the governor, the general assembly, and all others concerned.

18 (2) All strategic planning, as defined in subsection ( c) of this section, undertaken by all  
19 departments and agencies of the executive branch unless specifically exempted, shall be conducted  
20 by or under the supervision of the statewide planning program. The statewide planning program  
21 shall consist of a state planning council, and the division of statewide planning, which shall be a  
22 division within the department of administration.

23 (c) Strategic planning. Strategic planning includes the following activities:

24 (1) Establishing or identifying general goals.

25 (2) Refining or detailing these goals and identifying relationships between them.

26 (3) Formulating, testing, and selecting policies and standards that will achieve desired  
27 objectives.

28 (4) Preparing long-range or system plans or comprehensive programs that carry out the  
29 policies and set time schedules, performance measures, and targets.

30 (5) Preparing functional, short-range plans or programs that are consistent with established  
31 or desired goals, objectives, and policies, and with long-range or system plans or comprehensive  
32 programs where applicable, and that establish measurable, intermediate steps toward their  
33 accomplishment of the goals, objectives, policies, and/or long-range system plans.

34 (6) Monitoring the planning of specific projects and designing of specific programs of short

1 duration by the operating departments, other agencies of the executive branch, and political  
2 subdivisions of the state to ensure that these are consistent with, and carry out the intent of,  
3 applicable strategic plans.

4 (7) Reviewing the execution of strategic plans, and the results obtained, and making  
5 revisions necessary to achieve established goals.

6 (d) *State guide plan.* Components of strategic plans prepared and adopted in accordance  
7 with this section may be designated as elements of the state guide plan. The state guide plan shall  
8 be comprised of functional elements or plans dealing with land use; physical development and  
9 environmental concerns; economic development; housing production; energy supply, including the  
10 development of renewable energy resources in Rhode Island, and energy access, use, and  
11 conservation; human services; [climate change and resiliency](#), and other factors necessary to  
12 accomplish the objective of this section. The state guide plan shall be a means for centralizing,  
13 integrating, and monitoring long-range goals, policies, plans, and implementation activities related  
14 thereto. State agencies concerned with specific subject areas, local governments, and the public  
15 shall participate in the state guide planning process, which shall be closely coordinated with the  
16 budgeting process.

17 (e) Membership of state planning council. The state planning council shall consist of the  
18 following members:

19 (1) The director of the department of administration as chairperson;

20 (2) The director, policy office, in the office of the governor, as vice-chairperson;

21 (3) The governor, or his or her designee;

22 ~~(4) The budget officer;~~

23 ~~(5)~~(4) The chairperson of the housing resources commission;

24 ~~(6)~~(5) The highest-ranking administrative officer of the division of statewide planning, as  
25 secretary;

26 ~~(7)~~(6) The president of the Rhode Island League of Cities and Towns or his or her designee  
27 ~~and one official of local government who shall be appointed by the governor from a list of not less~~  
28 ~~than three;~~

29 ~~(3) submitted by the Rhode Island League Cities and Towns;~~

30 ~~(8)~~(7) The executive director of the Rhode Island League of Cities and Towns;

31 (8) Three (3) chief elected officials of cities and towns appointed by the governor after  
32 consultation with the Rhode Island League of Cities and Towns, one of whom shall be from a  
33 community with a population greater than 40,000 persons; one of whom shall be from a community  
34 with a population of between 20,000 and 40,000 persons; and one of whom shall be from a



1 community with a population less than 20,000 persons:

2 (9) One representative of a nonprofit community development or housing organization  
3 appointed by the governor;

4 (10) ~~Six (6)~~ Four (4) public members, appointed by the governor, one of whom shall be an  
5 employer with fewer than fifty (50) employees; ~~and~~ one of whom shall be an employer with greater  
6 than fifty (50) employees; one of whom shall represent a professional planning or engineering  
7 organization in Rhode Island; and one of whom shall represent a chamber of commerce or  
8 economic development organization;

9 (11) Two (2) representatives of ~~a~~ private, nonprofit, environmental or environmental justice  
10 advocacy organizations, both to be appointed by the governor;

11 (12) The director of planning and development for the city of Providence;

12 (13) The director of the department of transportation;

13 (14) The director of the department of environmental management;

14 (15) The director of the department of health;

15 (16) The chief executive officer of the commerce corporation;

16 (17) The commissioner of the Rhode Island office of energy resources;

17 (18) The chief executive officer of the Rhode Island public transit authority;

18 (19) The executive director of Rhode Island housing; ~~and~~

19 (20) The executive director of the coastal resources management council; ~~and~~ and

20 (21) The director of the Rhode Island emergency management agency.

21 (t) *Powers and duties of state planning council.* The state planning council shall have the  
22 following powers and duties:

23 (1) To adopt strategic plans as defined in this section and the long-range state guide plan,  
24 and to modify and amend any of these, following the procedures for notification and public hearing  
25 set forth in § 42-35-3, and to recommend and encourage implementation of these goals to the  
26 general assembly, state and federal agencies, and other public and private bodies; approval of  
27 strategic plans by the governor; and to ensure that strategic plans and the long-range state guide  
28 plan are consistent with the findings, intent, and goals set forth in § 45-22.2-3, the "Rhode Island  
29 Comprehensive Planning and Land Use Regulation Act";

30 (2) To coordinate the planning and development activities of all state agencies, in  
31 accordance with strategic plans prepared and adopted as provided for by this section;

32 (3) To review and comment on the proposed annual work program of the statewide  
33 planning program;

34 (4) To adopt rules and standards and issue orders concerning any matters within its

1 jurisdiction as established by this section and amendments to it;

2 (5) To establish advisory committees and appoint members thereto representing diverse  
3 interests and viewpoints as required in the state planning process and in the preparation or  
4 implementation of strategic plans. At minimum, ~~t~~The state planning council shall appoint a ~~three~~  
5 ~~(3)~~ permanent committees comprised of:

6 (i) A technical committee, comprised of pPublic members from different geographic areas  
7 of the state representing diverse interests; ~~and~~ along with

8 ~~(ii)~~ ~~O~~fficials of state, local, and federal government, who shall review all proposed  
9 elements of the state guide plan, or amendment or repeal of any element of the plan, and shall  
10 advise the state planning council thereon before the council acts on any such proposal. This  
11 committee shall also advise the state planning council on any other matter referred to it by the  
12 council; and

13 ~~(6)(ii)~~ ~~To establish and appoint members to a~~ An executive committee consisting of major  
14 participants of a Rhode Island geographic information system with oversight responsibility for its  
15 activities; ~~and~~ and

16 (iii) A transportation advisory committee, made up of diverse representation, including but  
17 not limited to municipal elected and appointed officials; representatives of various transportation  
18 sectors, departments, and agencies; and other groups and agencies with an interest in transportation  
19 operations, maintenance, construction, and policy, who shall review transportation-related plans  
20 and amendments and recommend action to the state planning council.

21 ~~(7)(6)~~ To adopt, amend, and maintain, as an element of the state guide plan or as an  
22 amendment to an existing element of the state guide plan, standards and guidelines for the location  
23 of eligible, renewable energy resources and renewable energy facilities in Rhode Island with due  
24 consideration for the location of such resources and facilities in commercial and industrial areas,  
25 agricultural areas, areas occupied by public and private institutions, and property of the state and  
26 its agencies and corporations, provided such areas are of sufficient size, and in other areas of the  
27 state as appropriate.

28 ~~(8)(7)~~ To act as the single, statewide metropolitan planning organization for transportation  
29 planning, and to promulgate all rules and regulations that are necessary thereto.

30 (g) *Division of statewide planning.*

31 (1) The division of statewide planning shall be the principal staff agency of the state  
32 planning council for preparing and/or coordinating strategic plans for the comprehensive  
33 management of the state's human, economic, and physical resources. The division of statewide  
34 planning shall recommend to the state planning council specific guidelines, standards, and

1 programs to be adopted to implement strategic planning and the state guide plan and shall undertake  
2 any other duties established by this section and amendments thereto.

3 (2) The division of statewide planning shall maintain records (which shall consist of files  
4 of complete copies) of all plans, recommendations, rules, and modifications or amendments thereto  
5 adopted or issued by the state planning council under this section. The records shall be open to the  
6 public.

7 (3) The division of statewide planning shall manage and administer the Rhode Island  
8 geographic information system of land-related resources, and shall coordinate these efforts with  
9 other state departments and agencies, including the University of Rhode Island, which shall provide  
10 technical support and assistance in the development and maintenance of the system and its  
11 associated data base.

12 (4) The division of statewide planning shall coordinate and oversee the provision of  
13 technical assistance to political subdivisions of the state in preparing and implementing plans to  
14 accomplish the purposes, goals, objectives, policies, and/or standards of applicable elements of the  
15 state guide plan and shall make available to cities and towns data and guidelines that may be used  
16 in preparing comprehensive plans and elements thereof and in evaluating comprehensive plans and  
17 elements thereby.

18 (h) [Deleted by P.L. 2011, ch. 215, § 4, and by P.L. 2011, ch. 313, § 4].

19 (i) The division of planning shall be the principal staff agency of the water resources board  
20 established pursuant to chapter 15 of title 46 ("Water Resources Board") and the water resources  
21 board corporate established pursuant to chapter 15.1 of title 46 ("Water Supply Facilities").

22 SECTION 14. Sections 42-12-23 and 42-12-23.1 of the General Laws in Chapter 42-12  
23 entitled "Department of Human Services" are hereby amended to read as follows:

24 **42-12-23. Child care -- Planning and coordinating.**

25 (a) The department of human services shall be the principal agency of the state for the  
26 planning and coordination of state involvement in the area of child care. To accomplish this  
27 purpose, the department's duties shall include submitting an annual report to the governor and the  
28 general assembly on the status of child care in Rhode Island.

29 (b) The annual report of the department shall include, but not be limited to, the following  
30 information:

31 (1) The amount of state and federal funds spent on child care in each of the two (2)  
32 preceding years;

33 (2) The number of child care providers licensed; ~~pursuant to the provisions of chapter 72.1~~  
34 ~~of this title;~~

- 1 (3) The number of children served in state subsidized programs;
- 2 (4) The number of taxpayers who have claimed the child care assistance and development  
3 tax credit pursuant to chapter 47 of title 44;
- 4 (5) The average cost for both infant and preschool child care;
- 5 (6) An estimate of unmet needs for child care;
- 6 (7) Information on child care staff salaries and training and education programs, and
- 7 (8) Recommendations for any changes in child care public policy.

8 ~~(e) The department shall cooperate with the unit of the department of children, youth, and~~  
9 ~~families which licenses and monitors child care providers pursuant to the terms of chapter 72.1 of~~  
10 ~~this title.~~

11 ~~(d)~~(c) The department is hereby charged with the responsibility of assuring that a statewide  
12 child care resource and referral system exists in this state to provide services and consumer  
13 information to assist parents in locating and choosing licensed, approved and/or certified providers,  
14 and to maintain data necessary for such referrals.

15 **42-12-23.1. Quality of early care and education and school-age child care through**  
16 **voluntary quality rating system.**

17 (a) There is hereby established a voluntary quality rating system which will assess quality  
18 in early care and education programs and school-age child care. For purposes of this section, early  
19 care and education programs and school-age child care shall mean programs licensed under chapter  
20 ~~72.1, title 42~~ 12.5, title 42 and approved under chapter 48, title 16, including without limitation  
21 child care centers, family child care homes, group family child care homes, school-age child care  
22 programs and preschools, but excluding child placement agencies. The voluntary quality rating  
23 system is established to promote continuous quality improvement of programs and to further the  
24 goals of Rhode Island's "starting right" initiative.

25 (b) The department of human services, the department of children, youth and families, the  
26 department of health, the department of elementary and secondary education and other partners and  
27 agencies shall share information and work cooperatively with the Rhode Island quality rating  
28 system, a public-private partnership, to ensure that Rhode Island children have access to quality  
29 early care and education programs and school-age child care.

30 (c) The voluntary quality rating system shall also provide a mechanism to gather data about  
31 program quality, and shall report this information to parents, providers and other persons interested  
32 in the quality of early care and education programs and school-age child care services in Rhode  
33 Island.

34 SECTION 15. Title 42 of the General Laws entitled "STATE AFFAIRS AND

1 GOVERNMENT" is hereby amended by adding thereto the following chapter:

2 CHAPTER 42-12.5

3 LICENSING AND MONITORING OF CHILD DAY CARE PROVIDERS

4 **42-12.5-1. Statement of purpose.**

5 (a) The director of the department of human services shall establish within the department  
6 a unit to license and monitor child day care service providers to protect the health, safety and  
7 wellbeing of children while being cared for as a commercial service and are away from their homes.

8 (b) Services for children requiring licensure under this chapter shall include all child day  
9 care providers which offer services within the state, except as defined in § 42-12.5-5.

10 **42-12.5-2. Definitions.**

11 As used in this chapter:

12 (1) "Administrator of licensing" means the director of the licensing unit (or his/her  
13 designee) that carries out the provisions of this chapter, hereafter referred to as the "administrator".

14 (2) "Applicant" means a child day care provider that applies for a license to operate.

15 (3) "Child" means any person less than eighteen (18) years of age;

16 (4) "Child day care" means daily care and/or supervision offered commercially to the  
17 public for any part of a twenty-four (24) hour day to children away from their homes.

18 (5) "Child day care center" means any person, firm, corporation, association, or agency  
19 who, on a regular or irregular basis, receives any child under the age of sixteen (16) years, for the  
20 purpose of care and/or supervision, not in a home or residence, apart from the child's parent or  
21 guardian for any part of a twenty-four (24) hour day irrespective of compensation. It shall include  
22 child day care programs that are offered to employees at the worksite. It does not include preschool  
23 programs operating in schools approved by the commissioner of elementary and secondary  
24 education.

25 (6) "Child day care provider" means a person or agency, which offers daily care and/or  
26 supervision offered commercially to the public for any part of a twenty-four (24) hour day to  
27 children away from their homes.

28 (7) "Department" means the department of human services (DHS).

29 (8) "Director" means the director of the department of human services, or the director's  
30 designee.

31 (9) "Family day care home" means any home other than the child's home in which child  
32 day care in lieu of parental care and/or supervision is offered at the same time to four (4) or more  
33 children who are not relatives of the care giver.

34 (10) "Group family day care home" means a residence occupied by an individual of at least

1 twenty-one (21) years of age who provides care for not less than nine (9) and not more than twelve  
2 (12) children, with the assistance of one or more approved adults, for any part of a twenty-four (24)  
3 hour day. These programs shall be subject to yearly licensing as addressed in this chapter and shall  
4 comply with all applicable state and local fire, health, and zoning regulations.

5 (11) "Licensee" means any person, firm, corporation, association, or agency, which holds  
6 a valid license under this chapter.

7 (12) "Regulation" means any requirement for licensure, promulgated pursuant to this  
8 chapter having the force of law.

9 (13) "Related" means any of the following relationships, by marriage, blood or adoption,  
10 even following the death or divorce of a natural parent: parent, grandparent, brother, sister, aunt,  
11 uncle, and first cousin. In a prosecution under this chapter or of any law relating thereto, a defendant  
12 who relies for a defense upon the relationship of any child to him or herself, the defendant shall  
13 have the burden of proof as to the relationship.

14 **42-12.5-3. Powers and scope of activities.**

15 (a) The department shall issue, deny, suspend, and revoke licenses for, and monitor the  
16 operation of, facilities and programs by child day care providers, as defined in § 42-12.5-2.

17 (b) The department is hereby authorized and directed to adopt, amend, and rescind  
18 regulations in accordance with this chapter and implement its provisions. The regulations shall be  
19 promulgated and become effective in accordance with the provisions of the Administrative  
20 Procedures Act, chapter 35 of title 42 and shall address, but need not be limited to the following:

21 (1) Financial, administrative and organizational ability, and stability of the applicant;

22 (2) Compliance with specific fire and safety codes and health regulations;

23 (3) Character, health suitability, qualifications of child day care providers;

24 (4) Staff/child ratios and workload assignments of staff providing care or supervision to  
25 children;

26 (5) Type and content of records or documents that must be maintained to collect and retain  
27 information for the planning and caring for children;

28 (6) Procedures and practices regarding basic child day care to ensure protection to the child;

29 (7) Service to families of children in care;

30 (8) Program activities, including components related to physical growth, social, emotional,  
31 educational, and recreational activities;

32 (9) Investigation of previous employment, criminal record check and department records  
33 check; and

34 (10) Immunization and testing requirements for communicable diseases, including, but not

1 limited to, tuberculosis, of child day care providers and children at any child day-care center or  
2 family day-care home as is specified in regulations promulgated by the director of the department  
3 of health. Notwithstanding the foregoing, all licensing and monitoring authority shall remain with  
4 the department of human services.

5 (c) The department through its licensing unit shall administer and manage the regulations  
6 pertaining to the licensing and monitoring of child day care providers, and shall exercise all  
7 statutory and administrative powers necessary to carry out its functions.

8 (d) The administrator shall investigate complaints of noncompliance, and shall take  
9 licensing action as may be necessary pursuant to this chapter.

10 (e) The administrator may:

11 (1) Prescribe any forms for reports, statements, notices, and other documents deemed  
12 necessary;

13 (2) Prepare and publish manuals and guides explaining this chapter and the regulations to  
14 facilitate compliance with and enforcement of the regulations;

15 (3) Prepare reports and studies to advance the purpose of this chapter;

16 (4) Provide consultation and technical assistance, as requested, to assist licensees in  
17 maintaining compliance; and

18 (f) The department may promulgate rules and regulations for the establishment of child day  
19 care centers located on the second floor.

20 (g) When the department is otherwise unsuccessful in remedying noncompliance with the  
21 provisions of this chapter and the regulations promulgated thereunder it may petition the superior  
22 court for an order enjoining the noncompliance or for any order that equity and justice may require.

23 (h) The department shall collaborate with the departments of children, youth, and families,  
24 elementary and secondary education, and health to provide monitoring, mentoring, training,  
25 technical assistance, and other services which are necessary and appropriate to improving the  
26 quality of child day care offered by child day care providers who are certified, licensed, or approved  
27 by the department or the department of elementary and secondary education or who are seeking  
28 certification, licensure, or approval pursuant to § 42-12.5 or § 16-48-2, including non-English  
29 speaking providers.

30 (i) Notwithstanding the transfer of licensing to and the licensing and monitoring of day and  
31 child care facilities to the department of human services, pursuant to chapter 42-72.1, the  
32 department of children, youth and families will continue to be the agency responsible for  
33 investigating any complaint of abuse and neglect that is alleged to have occurred at a day care or  
34 child care facility. Any appeal of an investigative finding of abuse or neglect against a staff member,

1 paid or otherwise, including managerial or contract personnel, or visitor may be appealed to the  
2 Rhode Island Family Court.

3 **42-12.5-4. License required.**

4 (a) No person shall receive or place children in child day care services, including day care  
5 arrangements, without a license issued pursuant to this chapter. This requirement does not apply to  
6 a person related by blood, marriage, guardianship or adoption to the child, unless that arrangement  
7 is for the purposes of day care.

8 (b) The licensing requirement does not apply to shelter operations for parents with children,  
9 boarding schools, recreation camps, nursing homes, hospitals, maternity residences, and centers for  
10 developmentally disabled children.

11 (c) No person, firm, corporation, association, or agency shall operate a family day care  
12 home without a registration certificate issued by the department, unless they hold an unexpired  
13 registration certificate issued by the Department of Children, Youth, and Families prior to January  
14 1, 2020.

15 (d) No state, county, city, or political subdivision shall operate a child day care agency or  
16 center, program or facility without a license issued pursuant to this chapter.

17 (e) No person shall be exempt from a required license by reason of public or private,  
18 sectarian, non-sectarian, child day care program, for profit or non-profit status, or by any other  
19 reason of funding, sponsorship, or affiliation.

20 **42-12.5-5. General licensing provisions.**

21 The following general licensing provisions shall apply:

22 (1) A license issued under this chapter is not transferable and applies only to the licensee  
23 and the location stated in the application and remains the property of the department. A license  
24 shall be publicly displayed. A license shall be valid for one year from the date of issue and upon  
25 continuing compliance with the regulations, except that a certificate issued to a family day care  
26 home shall be valid for two (2) years from the date of issue.

27 (2) Every license application issued pursuant to § 42-12.5-4 shall be accompanied by a  
28 nonrefundable application fee paid to the State of Rhode Island as follows:

29 (a) Child day care center license- five hundred dollars (\$500);

30 (b) Group family day care home license – two hundred and fifty dollars (\$250);

31 (c) Family day care home license- one hundred dollars (\$100).

32 (3) All fees collected by the state pursuant to paragraph (2) of this section shall be deposited  
33 by the general treasurer as general revenues.

34 (4) A licensee shall comply with applicable state fire and health safety standards.



1           (5) The department may grant a provisional license to an applicant who is not able to  
2 demonstrate compliance with all of the regulations because the program or residence is not in full  
3 operation; however, the applicant must meet all regulations that can be met in the opinion of the  
4 administrator before the program is fully operational. The provisional license shall be granted for  
5 a limited period not to exceed six (6) months and shall be subject to review every three (3) months.

6           (6) The department may grant a probationary license to a licensee who is temporarily  
7 unable to comply with a rule or rules when the noncompliance does not present an immediate threat  
8 to the health and well-being of the children, and when the licensee has obtained a plan approved  
9 by the administrator to correct the areas of noncompliance within the probationary period. A  
10 probationary license shall be issued for up to twelve (12) months; it may be extended for an  
11 additional six (6) months at the discretion of the administrator. A probationary license that states  
12 the conditions of probation may be issued by the administrator at any time for due cause. Any prior  
13 existing license is invalidated when a probationary license is issued. When the probationary license  
14 expires, the administrator may reinstate the original license to the end of its term, issue a new  
15 license, suspend, or revoke the license.

16           (7) The administrator will establish criteria and procedure for granting variances as part of  
17 the regulations.

18           (8) The above exceptions (probationary and provisional licensing and variances) do not  
19 apply to and shall not be deemed to constitute any variance from state fire and health safety  
20 standards. However, if a request for a variance of fire inspection deficiencies has been submitted  
21 to the fire safety code board of appeal and review, DHS may grant a provisional license to terminate  
22 no later than thirty (30) days following the board's decision on said variance.

23           (9) A license under this chapter shall be granted to a child day care program without the  
24 necessity for a separate fire, building, or radon inspection, when said child day care program is  
25 conducted at a Rhode Island elementary or secondary school which has already been found in  
26 compliance with said inspections, provided that an applicant complies with all other provisions of  
27 DHS regulations, or has been granted appropriate variances by the department.

28           **42-12.5-6. Violations, suspensions and revocations of license.**

29           (a) When a licensee violates the terms of the license, the provisions of this chapter, or any  
30 regulation thereunder, the department may pursue the administrative remedies herein provided, in  
31 addition to other civil or criminal remedies according to the general laws.

32           (b) After notice and hearing, as provided by the Administrative Procedures Act, chapter 35  
33 of title 42, the administrator may revoke the license, or suspend the license for a period not  
34 exceeding six (6) months.

1 (c) During a suspension, the facility or program shall cease operation.

2 (d) To end a suspension, the licensee shall, within thirty (30) days of the notice of  
3 suspension, submit an acceptable plan of corrective action to the administrator. The plan shall  
4 outline the steps and timetables for immediate correction of the areas of noncompliance and is  
5 subject to the approval of the administrator.

6 (e) At the end of the suspension, the administrator may reinstate the license for the term of  
7 the original license, revoke the license, issue a new license, or deny a reapplication.

8 (f) Upon revocation, the licensed program or facility shall cease operation. The licensee  
9 whose license has been revoked may not apply for a similar license within a three (3) year period  
10 from the date of revocation.

11 (g) Except in those instances wherein there is a determination that there exists a danger to  
12 the public health, safety, or welfare or there is a determination that the childcare provider has  
13 committed a serious breach of state law, orders, or regulation, the director shall utilize progressive  
14 penalties for noncompliance of any rule, regulation or order relating to childcare providers.  
15 Progressive penalties could include written notice of noncompliance, education and training,  
16 suspending enrollment to the program, assessing fines, suspension of license, and revocation of  
17 license.

18 (h) Any child day care provider, as defined in this chapter, who has exhausted all  
19 administrative remedies within the department of human services and who aggrieved by a final  
20 order of the department of human services, may file for judicial review in the superior court of  
21 Providence county pursuant to § 42-35-15.

22 (i) The Rhode Island Family Court shall retain jurisdiction over those complaints  
23 investigated by the department of children, youth and families, pursuant to chapter 72.1, regardless  
24 of whether licensing and monitoring is performed under chapter 12.5 of this title or chapter 72.1 of  
25 this title.

26 **42-12.5-7. Penalties for violations.**

27 (a) Any person who violates any of the provisions of this chapter, or any regulations issued  
28 pursuant to this chapter, or who shall intentionally make any false statement or reports to the  
29 director with reference to the matters contained herein, shall, upon conviction for the first offense,  
30 be imprisoned for a term not exceeding six (6) months or be fined not exceeding five hundred  
31 dollars (\$500), or both, and for a second or subsequent offense, shall be imprisoned for a term not  
32 exceeding one year or be fined not exceeding one thousand dollars (\$1000), or both the fine and  
33 imprisonment.

34 (b) Anyone who maintains or conducts a program or facility without first having obtained

1 a license pursuant to this chapter, or who maintains or conducts a program or facility after a license  
2 has been revoked or suspended, or who shall refuse to permit a reasonable inspection and  
3 examination of a program or facility, shall be guilty of a misdemeanor and, upon conviction, shall  
4 be fined not more than five hundred dollars (\$500) for each week that the program or facility shall  
5 have been maintained without a license or for each refusal to permit inspection and examination by  
6 the director.

7 (c) Any individual, firm, corporation, or other entity who maintains or conducts a family  
8 day care home without first having obtained a registration certificate for the home pursuant to this  
9 chapter, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-  
10 five dollars (\$25.00) nor more than one hundred dollars (\$100) for each week that the home shall  
11 have been maintained without a valid registration certificate.

12 (d) The department shall refer any violations to the attorney general's office for  
13 prosecution.

14 **42-12.5-8. Open door policy.**

15 There shall be an open door policy permitting any custodial parent or legal guardian to  
16 have access to a day care facility for any program when their child is in attendance.

17 SECTION 16. Section 42-35.1-5 of the General Laws in Chapter 42-35.1 entitled "Small  
18 Business Regulatory Fairness in Administrative Procedures" are hereby amended to read as  
19 follows:

20 **42-35.1-5. Small business enforcement ombudsman.**

21 (a) The director of the ~~office of regulatory reform~~ department of business regulation shall  
22 designate an existing staff member as a "small business regulatory enforcement ombudsman," who  
23 shall report ~~directly~~ to the director of business regulation.

24 (b) The ombudsman shall:

25 (1) Work with each agency with regulatory authority over small businesses to ensure that  
26 small business concerns that receive or are subject to an audit, on-site inspection, compliance  
27 assistance effort, or other enforcement related communication or contact by agency personnel are  
28 provided with a means to comment on the enforcement activity conducted by such personnel;

29 (2) Establish means to receive comments from small business concerns regarding actions  
30 by agency employees conducting compliance or enforcement activities;

31 (3) Within six (6) months of appointment, work with each regulating entity to develop and  
32 publish reporting policies;

33 (4) Based on substantiated comments received from small business concerns the  
34 ombudsman shall annually report to the general assembly and affected agencies evaluating the

1 enforcement activities of agency personnel including a rating of the responsiveness of the  
2 regulatory agencies policies;

3 (5) Coordinate and report annually on the activities, findings and recommendations to the  
4 general assembly and the directors of affected agencies; and

5 (6) Provide the affected agency with an opportunity to comment on reports prepared  
6 pursuant to this chapter, and include a section of the final report in which the affected agency may  
7 make such comments as are not addressed by the ombudsman.

8 SECTION 17. Sections 42-66-2 of the General Laws in Chapter 42-66 entitled "Elderly  
9 Affairs Department" are hereby amended to read as follows:

10 **42-66-2. Establishment of department -- Director.**

11 There is established within the executive branch of state government a department of  
12 elderly affairs. The ~~head~~ director of the department shall be the director of elderly affairs, ~~who shall~~  
13 ~~be a person qualified by training and experience to perform the duties of the office~~ appointed by  
14 and reporting directly to the governor, with the advice and consent of the senate. ~~The director shall~~  
15 ~~be in the unclassified service, appointed by the governor with the advice and consent of the senate,~~  
16 ~~and shall serve at the pleasure of the governor and until the appointment and qualification of the~~  
17 ~~director's successor. The director shall receive a salary as provided by law.~~

18 SECTION 18. Section 42-64.13-8 of the General Laws in Chapter 42-64.13 entitled  
19 "Rhode Island Regulatory Reform Act" is hereby amended to read as follows:

20 **42-64.13-8. Regulatory analysis responsibilities.**

21 The office of regulatory reform shall have the following regulatory analysis and reporting  
22 responsibilities:

23 (1) The office of regulatory reform shall, upon the conclusion of each fiscal year, prepare  
24 and publish a report on the regulatory processes of state and municipal agencies and permitting  
25 authorities through a review and an analysis of proposed and existing rules and regulations to: (i)  
26 Encourage agencies to eliminate, consolidate, simplify, expedite or otherwise improve permits,  
27 permitting procedures and paperwork burdens affecting businesses, municipal government  
28 undertakings, industries and other matters of economic development impact in the state; (ii)  
29 Analyze the impact of proposed and existing rules and regulations on matters such as public health,  
30 safety and welfare, including job creation, and make recommendations for simplifying regulations  
31 and regulatory processes of state and municipal agencies and permitting authorities; (iii) Propose  
32 to any state or municipal agency consideration for amendment or repeal of any existing rules or  
33 procedures which may be obsolete, harmful to the economy or job growth in the state, or  
34 excessively burdensome with respect to any state or federal statutes or regulations; and (iv) Assist

1 and coordinate with all agencies during the periodic review of rules required by § 42-35-3.4 of the  
2 Administrative Procedures Act.

3 (2) The ombudsman of the ~~office~~ department of business regulation ~~regulatory reform~~ shall  
4 implement the provisions of § 42-35.1-1 of the general laws entitled Small Business Regulatory  
5 Fairness and Administrative Procedures, and shall be the small business regulatory enforcement  
6 office pursuant to § 42-35.1-5 of the general laws.

7 SECTION 19. Section 42-72-5 of the General Laws in Chapter 42-72 entitled "Department  
8 of Children, Youth and Families" is hereby amended to read as follows:

9 **42-72-5. Powers and scope of activities.**

10 (a) The department is the principal agency of the state to mobilize the human, physical, and  
11 financial resources available to plan, develop, and evaluate a comprehensive and integrated  
12 statewide program of services designed to ensure the opportunity for children to reach their full  
13 potential. The services include prevention, early intervention, outreach, placement, care and  
14 treatment, and after-care programs; provided, however, that the department notifies the state police  
15 and cooperates with local police departments when it receives and/or investigates a complaint of  
16 sexual assault on a minor and concludes that probable cause exists to support the allegations(s).  
17 The department also serves as an advocate for the needs of children.

18 (b) To accomplish the purposes and duties, as set forth in this chapter, the director is  
19 authorized and empowered:

20 (1) To establish those administrative and operational divisions of the department that the  
21 director determines is in the best interests of fulfilling the purposes and duties of this chapter;

22 (2) To assign different tasks to staff members that the director determines best suit the  
23 purposes of this chapter;

24 (3) To establish plans and facilities for emergency treatment, relocation, and physical  
25 custody of abused or neglected children that may include, but are not limited to,  
26 homemaker/educator child-case aides, specialized foster-family programs, day-care facilities, crisis  
27 teams, emergency parents, group homes for teenage parents, family centers within existing  
28 community agencies, and counseling services;

29 (4) To establish, monitor, and evaluate protective services for children including, but not  
30 limited to, purchase of services from private agencies and establishment of a policy and procedure  
31 manual to standardize protective services;

32 (5) To plan and initiate primary- and secondary-treatment programs for abused and  
33 neglected children;

34 (6) To evaluate the services of the department and to conduct periodic, comprehensive-

1 needs assessment;

2 (7) To license, approve, monitor, and evaluate all residential and non-residential ~~child-care~~  
3 ~~institutions~~, group homes, foster homes, and programs;

4 (8) To recruit and coordinate community resources, public and private;

5 (9) To promulgate rules and regulations concerning the confidentiality, disclosure, and  
6 expungement of case records pertaining to matters under the jurisdiction of the department;

7 (10) To establish a minimum mandatory level of twenty (20) hours of training per year and  
8 provide ongoing staff development for all staff; provided, however, all social workers hired after  
9 June 15, 1991, within the department shall have a minimum of a bachelor's degree in social work  
10 or a closely related field, and must be appointed from a valid, civil-service list;

11 (11) To establish procedures for reporting suspected child abuse and neglect pursuant to  
12 chapter 11 of title 40;

13 (12) To promulgate all rules and regulations necessary for the execution of departmental  
14 powers pursuant to the Administrative Procedures Act, chapter 35 of title 42;

15 (13) To provide and act as a clearinghouse for information, data, and other materials  
16 relative to children;

17 (14) To initiate and carry out studies and analysis that will aid in solving local, regional,  
18 and statewide problems concerning children;

19 (15) To represent and act on behalf of the state in connection with federal-grant programs  
20 applicable to programs for children in the functional areas described in this chapter;

21 (16) To seek, accept, and otherwise take advantage of all federal aid available to the  
22 department, and to assist other agencies of the state, local agencies, and community groups in taking  
23 advantage of all federal grants and subventions available for children;

24 (17) To review and coordinate those activities of agencies of the state, and of any political  
25 subdivision of the state, that affect the full and fair utilization of community resources for programs  
26 for children, and initiate programs that will help ensure utilization;

27 (18) To administer the pilot, juvenile-restitution program, including the overseeing and  
28 coordinating of all local, community-based restitution programs, and the establishment of  
29 procedures for the processing of payments to children performing community service;

30 (19) To adopt rules and regulations that:

31 (i) For the twelve-month (12) period beginning on October 1, 1983, and for each  
32 subsequent twelve-month (12) period, establish specific goals as to the maximum number of  
33 children who will remain in foster care for a period in excess of two (2) years; and

34 (ii) Are reasonably necessary to implement the child-welfare services and foster-care

1 programs;

2 (20) May establish and conduct seminars for the purpose of educating children regarding  
3 sexual abuse;

4 (21) To establish fee schedules by regulations for the processing of requests from adoption  
5 placement agencies for adoption studies, adoption study updates, and supervision related to  
6 interstate and international adoptions. The fee shall equal the actual cost of the service(s) rendered,  
7 but in no event shall the fee exceed two thousand dollars (\$2,000);

8 (22) To be responsible for the education of all children who are placed, assigned, or  
9 otherwise accommodated for residence by the department in a state-operated or -supported  
10 community residence licensed by a Rhode Island state agency. In fulfilling this responsibility, the  
11 department is authorized to enroll and pay for the education of students in the public schools or,  
12 when necessary and appropriate, to itself provide education in accordance with the regulations of  
13 the board of regents for elementary and secondary education either directly or through contract;

14 (23) To develop multidisciplinary service plans, in conjunction with the department of  
15 health, at hospitals prior to the discharge of any drug-exposed babies. The plan requires the  
16 development of a plan using all health-care professionals;

17 (24) To be responsible for the delivery of appropriate mental health services to seriously  
18 emotionally disturbed children and children with functional developmental disabilities.  
19 Appropriate mental health services may include hospitalization, placement in a residential  
20 treatment facility, or treatment in a community-based setting. The department is charged with the  
21 responsibility for developing the public policy and programs related to the needs of seriously  
22 emotionally disturbed children and children with functional developmental disabilities;

23 In fulfilling its responsibilities the department shall:

24 (i) Plan a diversified and comprehensive network of programs and services to meet the  
25 needs of seriously emotionally disturbed children and children with functional developmental  
26 disabilities;

27 (ii) Provide the overall management and supervision of the state program for seriously  
28 emotionally disturbed children and children with functional developmental disabilities;

29 (iii) Promote the development of programs for preventing and controlling emotional or  
30 behavioral disorders in children;

31 (iv) Coordinate the efforts of several state departments and agencies to meet the needs of  
32 seriously emotionally disturbed children and children with functional developmental disabilities  
33 and to work with private agencies serving those children;

34 (v) Promote the development of new resources for program implementation in providing

1 services to seriously emotionally disturbed children and children with functional developmental  
2 disabilities.

3 The department shall adopt rules and regulations that are reasonably necessary to  
4 implement a program of mental health services for seriously emotionally disturbed children.

5 Each community, as defined in chapter 7 of title 16, shall contribute to the department, at  
6 least in accordance with rules and regulations to be adopted by the department, at least its average  
7 per-pupil cost for special education for the year in which placement commences, as its share of the  
8 cost of educational services furnished to a seriously emotionally disturbed child pursuant to this  
9 section in a residential treatment program that includes the delivery of educational services.

10 "Seriously emotionally disturbed child" means any person under the age of eighteen (18)  
11 years, or any person under the age of twenty-one (21) years, who began to receive services from  
12 the department prior to attaining eighteen (18) years of age and has continuously received those  
13 services thereafter; who has been diagnosed as having an emotional, behavioral, or mental disorder  
14 under the current edition of the Diagnostic and Statistical Manual and that disability has been  
15 ongoing for one year or more or has the potential of being ongoing for one year or more; and the  
16 child is in need of multi-agency intervention; and the child is in an out-of-home placement or is at  
17 risk of placement because of the disability.

18 A child with a "functional developmental disability" means any person under the age of  
19 eighteen (18) years or any person under the age of twenty-one (21) years who began to receive  
20 services from the department prior to attaining eighteen (18) years of age and has continuously  
21 received those services thereafter.

22 The term "functional developmental disability" includes autism spectrum disorders and  
23 means a severe, chronic disability of a person that:

24 (A) Is attributable to a mental or physical impairment or combination of mental physical  
25 impairments;

26 (B) Is manifested before the person attains age eighteen (18);

27 (C) Is likely to continue indefinitely;

28 (D) Results in age-appropriate, substantial, functional limitations in three (3) or more of  
29 the following areas of major life activity:

30 (I) Self-care;

31 (II) Receptive and expressive language;

32 (III) Learning;

33 (IV) Mobility;

34 (V) Self direction;



1 (VI) Capacity for independent living; and

2 (VII) Economic self-sufficiency; and

3 (E) Reflects the person's need for a combination and sequence of special, interdisciplinary,  
4 or generic care, treatment, or other services that are of life-long or extended duration and are  
5 individually planned and coordinated.

6 Funding for these clients shall include funds that are transferred to the department of human  
7 services as part of the managed health-care-program transfer. However, the expenditures relating  
8 to these clients shall not be part of the department of human services' caseload estimated for the  
9 semi-annual, caseload-estimating conference. The expenditures shall be accounted for separately;

10 (25) To provide access to services to any person under the age of eighteen (18) years, or  
11 any person under the age of twenty-one (21) years who began to receive child-welfare services  
12 from the department prior to attaining eighteen (18) years of age, has continuously received those  
13 services thereafter, and elects to continue to receive such services after attaining the age of eighteen  
14 (18) years. The general assembly has included funding in the FY 2008 DCYF budget in the amount  
15 of \$10.5 million from all sources of funds and \$6.0 million from general revenues to provide a  
16 managed system to care for children serviced between 18 to 21 years of age. The department shall  
17 manage this caseload to this level of funding;

18 (26) To initiate transition planning in cooperation with the department of behavioral  
19 healthcare, developmental disabilities and hospitals and local school departments for any child who  
20 receives services through DCYF; is seriously emotionally disturbed or developmentally delayed  
21 pursuant to paragraph (b)(24)(v); and whose care may or shall be administered by the department  
22 of behavioral healthcare, developmental disabilities and hospitals after the age of twenty-one (21)  
23 years; the transition planning shall commence at least twelve (12) months prior to the person's  
24 twenty-first birthday and shall result in a collaborative plan submitted to the family court by both  
25 the department of behavioral healthcare, developmental disabilities and hospitals and the  
26 department of children, youth and families and shall require the approval of the court prior to the  
27 dismissal of the abuse, neglect, dependency, or miscellaneous petition before the child's twenty-  
28 first birthday;

29 (27) To develop and maintain, in collaboration with other state and private agencies, a  
30 comprehensive continuum of care in this state for children in the care and custody of the department  
31 or at risk of being in state care. This continuum of care should be family centered and community  
32 based with the focus of maintaining children safely within their families or, when a child cannot  
33 live at home, within as close proximity to home as possible based on the needs of the child and  
34 resource availability. The continuum should include community-based prevention, family support,

1 and crisis-intervention services, as well as a full array of foster care and residential services,  
2 including residential services designed to meet the needs of children who are seriously emotionally  
3 disturbed, children who have a functional developmental disability, and youth who have juvenile  
4 justice issues. The director shall make reasonable efforts to provide a comprehensive continuum of  
5 care for children in the care and custody of DCYF, taking into account the availability of public  
6 and private resources and financial appropriations and the director shall submit an annual report to  
7 the general assembly as to the status of his or her efforts in accordance with the provisions of § 42-  
8 72-4(b)(13);

9 (28) To administer funds under the John H. Chafee Foster Care Independence and  
10 Educational and Training Voucher (ETV) Programs of Title IV-E of the Social Security Act [42  
11 U.S.C. § 677] and the DCYF higher education opportunity grant program as outlined in chapter  
12 72.8 of title 42, in accordance with rules and regulations as promulgated by the director of the  
13 department; and

14 (29) To process nationwide, criminal-record checks on prospective foster parents and any  
15 household member age 18 or older, prospective adoptive parents and any household member age  
16 18 and older, operators of child-care facilities, persons seeking to act as volunteer court-appointed  
17 special advocates, persons seeking employment in a child-care facility or at the training school for  
18 youth or on behalf of any person seeking employment at DCYF, who are required to submit to  
19 nationwide, criminal-background checks as a matter of law.

20 (c) In order to assist in the discharge of his or her duties, the director may request from any  
21 agency of the state information pertinent to the affairs and problems of children.

22 SECTION 20. The title of Chapter 42-72.1 of the General Laws entitled "Licensing and  
23 Monitoring of Childcare Providers and Child-Placing Agencies" is hereby amended to read as  
24 follows:

25 ~~CHAPTER 42-72.1~~  
26 ~~LICENSING AND MONITORING OF CHILDCARE PROVIDERS AND CHILD-PLACING~~  
27 ~~AGENCIES~~  
28 CHAPTER 42-72.1  
29 LICENSING AND MONITORING OF CHILD PLACING AGENCIES, CHILD CARING  
30 AGENCIES, FOSTER AND ADOPTIVE HOMES, AND CHILDREN'S BEHAVIORAL  
31 HEALTH PROGRAMS

32 SECTION 21. Sections 42-72.1-1, 42-72.1-2, 42-72.1-3, 42-72.1-4, 42-72.1-5, 42-72.1-6  
33 and 42-72.1-7 of the General Laws in Chapter 42-72.1 entitled "Licensing and Monitoring of  
34 Childcare Providers and Child-Placing Agencies" are hereby amended to read as follows:

1           **42-72.1-1. Statement of purpose.**

2           (a) The director of the department of children, youth, and families, pursuant to § 42-72-  
3 5(b)(7) and § 42-72-5(b)(24), shall establish within the department a unit to license and monitor  
4 ~~child care providers and~~ child-placing agencies, child caring agencies, foster and adoptive homes,  
5 and children's behavioral health programs to protect the health, safety and well being of children  
6 temporarily separated from or being cared for away from their natural families.

7           (b) Services for children requiring licensure under this chapter shall include all ~~child care~~  
8 ~~providers and~~ child placing agencies, child caring agencies, foster and adoptive homes, and  
9 children's behavioral health programs which offer services within the state, except as defined in §  
10 42-72.1-5.

11           **42-72.1-2. Definitions.**

12           As used in this chapter:

13           (1) "Administrator of licensing" means the director of the licensing unit (or his/her  
14 designee) that carries out the provisions of this chapter, hereafter referred to as the "administrator".

15           (2) "Applicant" means a child-placing agency, child caring agencies, foster and adoptive  
16 homes, and children's behavioral health programs ~~or childcare provider~~ that applies for a license to  
17 operate.

18           (3) "Child" means any person less than eighteen (18) years of age; provided, that a child  
19 over eighteen (18) years of age who is nevertheless subject to continuing jurisdiction of the family  
20 court, pursuant to chapter 1 of title 14, or defined as emotionally disturbed according to chapter 7  
21 of title 40.1, shall be considered a child for the purposes of this chapter.

22           ~~(4) "Childcare provider" means a person or agency, which offers residential or~~  
23 ~~nonresidential care and/or treatment for a child outside of his/her natural home.~~

24           ~~(5) "Child day care or childcare" means daily care and/or supervision offered commercially~~  
25 ~~to the public for any part of a twenty four (24) hour day to children away from their homes.~~

26           ~~(6) "Child day care center or childcare center" means any person, firm, corporation,~~  
27 ~~association, or agency who, on a regular or irregular basis, receives any child under the age of~~  
28 ~~sixteen (16) years, for the purpose of care and/or supervision, not in a home or residence, apart~~  
29 ~~from the child's parent or guardian for any part of a twenty four (24) hour day irrespective of~~  
30 ~~compensation or reward. It shall include childcare programs that are offered to employees at the~~  
31 ~~worksite. It does not include nursery schools or other programs of educational services subject to~~  
32 ~~approval by the commissioner of elementary and secondary education.~~

33           (4) "Child Caring Agency" means any facility that provides residential treatment,  
34 residential group home care or semi-independent living, or residential assessment and stabilization.

1 ~~(7)~~(5) "Child-placing agency" means any private or public agency, which receives children  
2 for placement into independent living arrangements, supervised apartment living, residential group  
3 care facilities, family foster homes, or adoptive homes.

4 (6) "Children's Behavioral Health Program" means any private or public agency which  
5 provides behavioral health services to children.

6 ~~(8)~~(7) "Department" means the department of children, youth and families (DCYF).

7 ~~(9)~~(8) "Director" means the director of the department of children, youth and families, or  
8 the director's designee.

9 (9) "Foster and Adoptive Homes" means one or more adults who are licensed to provide  
10 foster or adoptive caregiving in a family-based home setting.

11 ~~(10) "Family day care home" means any home other than the child's home in which child~~  
12 ~~day care in lieu of parental care and/or supervision is offered at the same time to four (4) or more~~  
13 ~~children who are not relatives of the care giver.~~

14 ~~(11) "Group family day care home" means a residence occupied by an individual of at least~~  
15 ~~twenty one (21) years of age who provides care for not less than nine (9) and not more than twelve~~  
16 ~~(12) children, with the assistance of one or more approved adults, for any part of a twenty four (24)~~  
17 ~~hour day. The maximum of twelve (12) children shall include children under six (6) years of age~~  
18 ~~who are living in the home, school age children under the age of twelve (12) years whether they~~  
19 ~~are living in the home or are received for care, and children related to the provider who are received~~  
20 ~~for care. These programs shall be subject to yearly licensing as addressed in this chapter and shall~~  
21 ~~comply with all applicable state and local fire, health, and zoning regulations.~~

22 ~~(12)~~(10) "Licensee" means any person, firm, corporation, association, or agency, which  
23 holds a valid license under this chapter.

24 ~~(13)~~(11) "Regulation" means any requirement for licensure, promulgated pursuant to this  
25 chapter having the force of law.

26 ~~(14)~~(12) "Related" means any of the following relationships, by marriage, blood or  
27 adoption, even following the death or divorce of a natural parent: parent, grandparent, brother,  
28 sister, aunt, uncle, and first cousin. In a prosecution under this chapter or of any law relating thereto,  
29 a defendant who relies for a defense upon the relationship of any child to him or herself, the  
30 defendant shall have the burden of proof as to the relationship.

31 **42-72.1-3. Powers and scope of activities.**

32 (a) The department shall issue, deny, and revoke licenses for, and monitor the operation of,  
33 facilities and programs by child placing agencies, child caring agencies, foster and adoptive homes,  
34 and children's behavioral health programs ~~and child care providers~~, as defined in § 42-72.1-2.

1 (b) The department shall adopt, amend, and rescind regulations in accordance with this  
2 chapter and implement its provisions. The regulations shall be promulgated and become effective  
3 in accordance with the provisions of the Administrative Procedures Act, chapter 35 of this title.

4 (c) The department through its licensing unit shall administer and manage the regulations  
5 pertaining to the licensing and monitoring of those agencies, and shall exercise all statutory and  
6 administrative powers necessary to carry out its functions.

7 (d) The administrator shall investigate complaints of noncompliance, and shall take  
8 licensing action as required.

9 (e) Regulations formulated pursuant to the foregoing authority shall include, but need not  
10 be limited to, the following:

11 (1) Financial, administrative and organizational ability, and stability of the applicant;

12 (2) Compliance with specific fire and safety codes and health regulations;

13 (3) Character, health suitability, qualifications of child-placing agencies, child caring  
14 agencies, foster and adoptive homes, and children's behavioral health programs ~~childcare~~  
15 ~~providers~~;

16 (4) Staff/child ratios and workload assignments of staff providing care or supervision to  
17 children;

18 (5) Type and content of records or documents that must be maintained to collect and retain  
19 information for the planning and caring for children;

20 (6) Procedures and practices regarding ~~basic childcare and~~ placing services to ensure  
21 protection to the child regarding the manner and appropriateness of placement;

22 (7) Service to families of children in care;

23 (8) Program activities, including components related to physical growth, social, emotional,  
24 educational, and recreational activities, social services and habilitative or rehabilitative treatment;  
25 and

26 (9) Investigation of previous employment, criminal record check and department records  
27 check, ~~and~~

28 ~~(10) Immunization and testing requirements for communicable diseases, including, but not~~  
29 ~~limited to, tuberculosis, of childcare providers and children at any child day care center or family~~  
30 ~~day care home as is specified in regulations promulgated by the director of the department of health.~~  
31 ~~Notwithstanding the foregoing, all licensing and monitoring authority shall remain with the~~  
32 ~~department of children, youth and families.~~

33 (f) The administrator may:

34 (1) Prescribe any forms for reports, statements, notices, and other documents deemed

1 necessary;

2 (2) Prepare and publish manuals and guides explaining this chapter and the regulations to  
3 facilitate compliance with and enforcement of the regulations;

4 (3) Prepare reports and studies to advance the purpose of this chapter;

5 (4) Provide consultation and technical assistance, as requested, to assist licensees in  
6 maintaining compliance; and

7 (5) Refer to the advisory council for children and families for advice and consultation on  
8 licensing matters.

9 ~~(g) The department may promulgate rules and regulations for the establishment of child  
10 day care centers located on the second floor.~~

11 ~~(h)~~(g) When the department is otherwise unsuccessful in remedying noncompliance with  
12 the provisions of this chapter and the regulations promulgated under it, it may petition the family  
13 court for an order enjoining the noncompliance or for any order that equity and justice may require.

14 ~~(i) The department shall collaborate with the departments of human services, elementary  
15 and secondary education, and health to provide monitoring, mentoring, training, technical  
16 assistance, and other services which are necessary and appropriate to improving the quality of  
17 childcare offered by childcare providers who are certified, licensed, or approved by the department  
18 or the department of elementary and secondary education or who are seeking certification,  
19 licensure, or approval pursuant to this chapter or § 16-48-2, including non-English speaking  
20 providers.~~

21 ~~(j)~~(h) The department shall adopt, amend, and rescind regulations in the same manner as  
22 set forth above in order to permit the placement of a pregnant minor in a group residential facility  
23 which provides a shelter for pregnant adults as its sole purpose.

24 (i) Notwithstanding the transfer of licensing to and the licensing and monitoring of day and  
25 child care facilities to the department of human services, pursuant to chapter 42-12.5, the  
26 department of children, youth and families will continue to be the agency responsible for  
27 investigating any complaint of abuse and neglect that is alleged to have occurred at a day care or  
28 child care facility. Any appeal of an investigative finding of abuse or neglect against a staff member,  
29 paid or otherwise, including managerial or contract personnel, or visitor may be appealed to the  
30 Rhode Island Family Court.

31 (j) The Rhode Island Family Court shall retain jurisdiction over those complaints  
32 investigated by the department of children, youth and families, pursuant to this chapter, regardless  
33 of whether licensing and monitoring is performed under chapter 12.5 of this title or chapter 72.1 of  
34 this title.

1           **42-72.1-4. License required.**

2           (a) No person shall provide continuing full-time care for a child apart from the child's  
3 parents, ~~or receive or place children in child care services, including day care arrangements,~~ without  
4 a license issued pursuant to this chapter. This requirement does not apply to a person related by  
5 blood, marriage, guardianship or adoption to the child. Licensing requirements for child day care  
6 services are governed by §42-12.5-4 et seq. ~~, unless that arrangement is for the purposes of day~~  
7 ~~care.~~

8           (b) The licensing requirement does not apply to shelter operations for parents with children,  
9 boarding schools, recreation camps, nursing homes, hospitals, maternity residences, and centers for  
10 developmentally disabled children.

11           (c) No person, firm, corporation, association, or agency, other than a parent shall place,  
12 offer to place, or assist in the placement of a child in Rhode Island, for the purpose of adoption,  
13 unless the person, firm, corporation, or agency shall have been licensed for those purposes by the  
14 department or is a governmental child-placing agency, and that license shall not have been  
15 rescinded at the time of placement of a child for the purpose of adoption. The above does not apply  
16 when a person, firm, corporation, association, or agency places, offers to place, or assists in the  
17 placement of a child in Rhode Island, for the purpose of adoption through a child-placement agency  
18 duly licensed for child-placement in the state or through the department of children, youth, and  
19 families, nor when the child is placed with a father, sister, brother, aunt, uncle, grandparent, or  
20 stepparent of the child.

21           (d) No parent shall assign or otherwise transfer to another not related to him or her by blood  
22 or marriage, his or her rights or duties with respect to the permanent care and custody of his or her  
23 child under eighteen (18) years of age unless duly authorized so to do by an order or decree of  
24 court.

25           (e) No person shall bring or send into the state any child for the purpose of placing him or  
26 her out, or procuring his or her adoption, or placing him or her in a foster home without first  
27 obtaining the written consent of the director, and that person shall conform to the rules of the  
28 director and comply with the provisions of the Interstate Compact on the Placement of Children,  
29 chapter 15 of title 40.

30           ~~(f) No person, firm, corporation, association, or agency shall operate a family day care~~  
31 ~~home without a registration certificate issued by the department.~~

32           (fg) No state, county, city, or political subdivision shall operate a child placing ~~or child~~  
33 ~~care~~ agency, child caring agency, foster and adoptive home, or children's behavioral health  
34 program or facility without a license issued pursuant to this chapter.

1           (e) No person shall be exempt from a required license by reason of public or private,  
2 sectarian, non-sectarian, court-operated child placement ~~program~~ ~~child care program~~, child caring  
3 agency, foster and adoptive home, or children's behavioral health program for profit or non-profit  
4 status, or by any other reason of funding, sponsorship, or affiliation.

5           **42-72.1-5. General licensing provisions.**

6           The following general licensing provisions shall apply:

7           (1) A license issued under this chapter is not transferable and applies only to the licensee  
8 and the location stated in the application and remains the property of the department. A license  
9 shall be publicly displayed. A license shall be valid for one year from the date of issue and upon  
10 continuing compliance with the regulations, ~~except that a certificate issued to a family day care~~  
11 ~~home~~, a license issued to a foster parent, and/or a license issued to a program for mental health  
12 services for "seriously emotionally disturbed children" as defined in § 42-72-5(b)(24) shall be valid  
13 for two (2) years from the date of issue.

14           (2) Every license application issued pursuant to § 42-72.1-4 shall be accompanied by a  
15 nonrefundable application fee paid to the State of Rhode Island as follows:

16           (a) Adoption and foster care child placing agency license- one thousand dollars (\$1000);

17           ~~(b) Child day care center license five hundred dollars (\$500);~~

18           ~~(c) Group family day care home license — two hundred and fifty dollars (\$250);~~

19           ~~(d) Family day care home license one hundred dollars (\$100).~~

20           (3) All fees collected by the State pursuant to paragraph (2) of this section shall be  
21 deposited by the general treasurer as general revenues.

22           (4) A licensee shall comply with applicable state fire and health safety standards.

23           (5) The department may grant a provisional license to an applicant, excluding any foster  
24 parent applicant, who is not able to demonstrate compliance with all of the regulations because the  
25 program or residence is not in full operation; however, the applicant must meet all regulations that  
26 can be met in the opinion of the administrator before the program is fully operational. The  
27 provisional license shall be granted for a limited period not to exceed six (6) months and shall be  
28 subject to review every three (3) months.

29           (6) The department may grant a probationary license to a licensee who is temporarily  
30 unable to comply with a rule or rules when the noncompliance does not present an immediate threat  
31 to the health and well-being of the children, and when the licensee has obtained a plan approved  
32 by the administrator to correct the areas of noncompliance within the probationary period. A  
33 probationary license shall be issued for up to twelve (12) months; it may be extended for an  
34 additional six (6) months at the discretion of the administrator. A probationary license that states



1 the conditions of probation may be issued by the administrator at any time for due cause. Any prior  
2 existing license is invalidated when a probationary license is issued. When the probationary license  
3 expires, the administrator may reinstate the original license to the end of its term, issue a new  
4 license or revoke the license.

5 (7) The administrator will establish criteria and procedure for granting variances as part of  
6 the regulations.

7 (8) The above exceptions (probationary and provisional licensing and variances) do not  
8 apply to and shall not be deemed to constitute any variance from state fire and health safety  
9 standards. However, if a request for a variance of fire inspection deficiencies has been submitted  
10 to the fire safety code board of appeal and review, DCYF may grant a provisional license to  
11 terminate no later than thirty (30) days following the board's decision on said variance.

12 ~~(9) A license under this chapter shall be granted to a school age child day care program~~  
13 ~~without the necessity for a separate fire, building, or radon inspection, when said child day care~~  
14 ~~program is conducted at a Rhode Island elementary or secondary school which has already been~~  
15 ~~found in compliance with said inspections, provided that an applicant complies with all other~~  
16 ~~provisions of DCYF regulations, or has been granted appropriate variances by the department.~~

17 **42-72.1-6. Violations, suspensions and revocations of license.**

18 (a) When a licensee violates the terms of the license, the provisions of this chapter, or any  
19 regulation thereunder, the department may pursue the administrative remedies herein provided, in  
20 addition to other civil or criminal remedies according to the general laws.

21 (b) After notice and hearing, as provided by the Administrative Procedures Act, chapter 35  
22 of this title, the administrator may revoke the license, or suspend the license for a period not  
23 exceeding six (6) months.

24 (c) During a suspension, the agency, facility or program shall cease operation.

25 (d) To end a suspension, the licensee shall, within thirty (30) days of the notice of  
26 suspension, submit a plan of corrective action to the administrator. The plan shall outline the steps  
27 and timetables for immediate correction of the areas of noncompliance and is subject to the  
28 approval of the administrator.

29 (e) At the end of the suspension, the administrator may reinstate the license for the term of  
30 the original license, revoke the license, issue a new license, or deny a reapplication.

31 (f) Upon revocation, the licensed agency, program or facility shall cease operation. The  
32 licensee whose license has been revoked may not apply for a similar license within a three (3) year  
33 period from the date of revocation.

34 ~~(g) Except in those instances wherein there is a determination that there exists a danger to~~

1 ~~the public health, safety, or welfare or there is a determination that the childcare provider has~~  
2 ~~committed a serious breach of State law, orders, or regulation, the director shall utilize progressive~~  
3 ~~penalties for noncompliance of any rule, regulation or order relating to childcare providers.~~  
4 ~~Progressive penalties could include written notice of noncompliance, education and training,~~  
5 ~~suspending enrollment to the program, assessing fines, suspension of license, and revocation of~~  
6 ~~license.~~

7 **42-72.1-7. Penalties for violations.**

8 (a) Any person who violates any of the provisions of this chapter, or any regulations issued  
9 pursuant to this chapter, or who shall intentionally make any false statement or reports to the  
10 director with reference to the matters contained herein, shall, upon conviction for the first offense,  
11 be imprisoned for a term not exceeding six (6) months or be fined not exceeding five hundred  
12 dollars (\$500), or both, and for a second or subsequent offense, shall be imprisoned for a term not  
13 exceeding one year or be fined not exceeding one thousand dollars (\$1000), or both the fine and  
14 imprisonment.

15 (b) Anyone who maintains or conducts a program, agency, or facility without first having  
16 obtained a license, or who maintains or conducts a program, agency, or facility after a license has  
17 been revoked or suspended, or who shall refuse to permit a reasonable inspection and examination  
18 of a program, agency, or facility, shall be guilty of a misdemeanor and, upon conviction, shall be  
19 fined not more than five hundred dollars (\$500) for each week that the program, agency, or facility  
20 shall have been maintained without a license or for each refusal to permit inspection and  
21 examination by the director.

22 ~~(c) Any individual, firm, corporation, or other entity who maintains or conducts a family~~  
23 ~~day care home without first having obtained a registration certificate for the home, shall be guilty~~  
24 ~~of a misdemeanor and, upon conviction, shall be fined not less than twenty five dollars (\$25.00)~~  
25 ~~nor more than one hundred dollars (\$100) for each week that the home shall have been maintained~~  
26 ~~without a valid registration certificate.~~

27 ~~(d)~~ (c) The department shall refer any violations to the attorney general's office for  
28 prosecution.

29 SECTION 22. Section 42-72.1-8 of the General Laws in Chapter 42-72.1 entitled  
30 "Licensing and Monitoring of Childcare Providers and Child-Placing Agencies" is hereby repealed.

31 **~~42-72.1-8. Open door policy.~~**

32 ~~There shall be an open door policy permitting any custodial parent or legal guardian to~~  
33 ~~have access to a day care facility for any program when their child is in attendance.~~

34 SECTION 23. Section 42-72.11-1 of the General Laws in Chapter 42-72.11 entitled

1 "Administrative Penalties for Childcare Licensing Violations" is hereby amended to read as  
2 follows:

3 **42-72.11-1. Definitions.**

4 As used in this chapter, the following words, unless the context clearly requires otherwise,  
5 shall have the following meanings:

6 (1) "Administrative penalty" means a monetary penalty not to exceed the civil penalty  
7 specified by statute or, where not specified by statute, an amount not to exceed five hundred dollars  
8 (\$500).

9 (2) "Director" means the director of the department of ~~children, youth and families~~ [human](#)  
10 [services](#) or his or her duly authorized agent.

11 (3) "Person" means any public or private corporation, individual, partnership, association,  
12 or other entity that is licensed as a child [day](#) care center, family child [day](#) care home, group family  
13 child [day](#) care home or any officer, employee or agent thereof.

14 (4) "Citation" means a notice of an assessment of an administrative penalty issued by the  
15 director or his or her duly authorized agent.

16 [\(5\) "Department" means the department of human services.](#)

17 SECTION 24. Sections 42-154-1 and 42-154-3 of the General Laws in Chapter 42-154  
18 entitled "Division of Elderly Affairs" are hereby amended to read as follows:

19 **42-154-1. Establishment of division -- Director.**

20 [\(a\)](#) There is hereby established within the executive branch of state government and the  
21 department of human services a division of elderly affairs, effective July 1, 2011. [The division shall](#)  
22 [reside within the department of human services for administrative purposes only.](#) The head of the  
23 division shall be the director of the division of elderly affairs, [appointed by and reporting directly](#)  
24 [to the governor, with the advice and consent of the senate.](#) ~~who shall be a person qualified through~~  
25 ~~and by training and experience to perform the duties of the division. The director shall be in the~~  
26 ~~unclassified service.~~

27 [\(b\)](#) [Effective July 1, 2019, the division of elderly affairs, as established pursuant to](#)  
28 [subsection \(a\) of this section, shall be henceforth referred to and renamed as the "office of healthy](#)  
29 [aging."](#)

30 **42-154-3. Construction of references.**

31 Effective July 1, 2011, all references in the general laws to the department of elderly affairs  
32 established pursuant to chapter 42-66 ("Elderly Affairs Department") shall be deemed to mean and  
33 refer to the division of elderly affairs within the department of human services as set forth in this  
34 chapter. [Effective July 1, 2019, all references in the general laws to either the department of elderly](#)

1 [affairs established pursuant to chapter 42-66 \("Elderly Affairs Department"\) or the division of](#)  
2 [elderly affairs established pursuant to § 42-154-1\(a\) shall be deemed to mean and refer to the office](#)  
3 [of healthy aging within the department of human services.](#)

4           SECTION 25. Sections 1 through 4 shall take effect on January 1, 2020. The remaining  
5 sections of this article shall take effect upon passage.

6