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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

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A N A C T

RELATING TO AFFORDABLE ENERGY

Introduced By: Senators Walaska, Sosnowski, Paiva-Weed, Tassoni, and J Montalbano

Date Introduced: March 08, 2006

Referred To: Senate Financial, Technology, Regulatory

It is enacted by the General Assembly as follows:

1 SECTION 1. This act shall be known as and may be cited as the "Affordable Energy Act
2 of 2006." The general purposes of this act are to: (a) assist low income households to manage the
3 cost of energy by improving energy conservation and efficiency, by defraying the price of energy
4 reasonably used, and by providing a means to achieve forgiveness of prior back balances for
5 electricity and gas; and (b) provide for strategic plans to accomplish weatherization and energy
6 conservation objectives in low and moderate income neighborhoods and for coordinated use and
7 administration of programs for energy assistance to low income households. It is not a purpose of
8 this act to establish new or added taxes on energy or increased rates or fees paid by consumers for
9 energy.

10 SECTION 2. Chapter 39-1 of the General Laws entitled "Public Utilities Commission" is
11 hereby amended by adding thereto the following section:

12 **39-1-27.7. Electric and gas distribution companies required to file affordable energy**
13 **plans.** – (a) On or before July 1, 2007, each gas and electric distribution company shall submit to
14 the commission a plan for affordable energy for low income households, including very low
15 income households as defined in section 42-141-3. The plan shall provide for the implementation
16 of the affordable energy fund and shall include provisions for discounted distribution rates and
17 customer charges, payments on arrearages and unpaid balances by low income households, and
18 energy efficiency and weatherization.

19 (b) On or before September 1, 2007, the commission shall review the plan and issue an

1 order with regard to the plan within thirty (30) days. The order shall be effective no later than
2 November 1, 2007. The commission shall cause a review, and as appropriate an amendment, the
3 plan at least every three (3) years between July 1, 2007, and July 1, 2016.

4 (c) On or before November 1, 2007, each gas and electric distribution company shall
5 implement an affordable energy plan in accordance with the order of the commission.

6 SECTION 3. Sections 39-2-1 and 39-2-5 of the General Laws in Chapter 39-2 entitled
7 "Duties of Utilities and Carriers" are hereby amended to read as follows:

8 **39-2-1. Reasonable and adequate services -- Reasonable and just charges. --** (a)

9 Every public utility is required to furnish safe, reasonable, and adequate services and facilities.
10 The rate, toll, or charge, or any joint rate made, exacted, demanded, or collected by any public
11 utility for the conveyance or transportation of any persons or property, including sewage, between
12 points within the state, or for any heat, light, water, or power produced, transmitted, distributed,
13 delivered, or furnished, or for any telephone or telegraph message conveyed or for any service
14 rendered or to be rendered in connection therewith, shall be reasonable and just, and every unjust
15 or unreasonable charge for the service is prohibited and declared unlawful, and no public utility
16 providing heat, light, water, or power produced, transmitted, distributed, delivered, or furnished
17 shall terminate the service or deprive any home or building, or whatsoever, of service if the
18 reason therefor is nonpayment of the service without first notifying the user of the service, or the
19 owner or owners of the building as recorded with the utility of the impending service termination
20 by written notice at least ten (10) days prior to the effective date of the proposed termination of
21 service.

22 (b) Any existing rules and regulations dealing with the termination of utility service and
23 establishing reasonable methods of debt collection promulgated by the commission pursuant to
24 this chapter and the provisions of section 39-1.1-3, including but not limited to, any rules and
25 regulations dealing with deposit and deferred payment arrangements, winter moratorium and
26 medical emergency protections, and customer dispute resolution procedures, shall be applicable
27 to any public utility which distributes electricity.

28 (c) The commission shall promulgate such further rules and regulations as are necessary
29 to protect consumers following the introduction of competition in the electric industry and which
30 are consistent with this chapter and the provisions of section 39-1.1-3. In promulgating such rules
31 and regulations, the commission shall confer with the Retail Electric Licensing Commission and
32 shall give reasonable consideration to any and all recommendations of the Retail Electric
33 Licensing Commission.

34 (d) (Effective until April 15, 2006.) The commission shall promulgate and administer

1 such rules and regulations as may be necessary to implement the purpose of this subsection and to
2 provide for restoration of electric and/or gas service to Protected Status Customers who are
3 terminated from utility service prior to August 15, 2005.

4 (1) Notwithstanding the provisions of part V section 4(E)(1)(B) and (C) of the Public
5 Utilities Commission Rules and Regulations Governing the Termination of Residential Electric,
6 Gas, and Water Utility Service, a protected status customer who is terminated from utility service
7 prior to August 15, 2005, shall be eligible to have electric and/or gas utility service restored
8 providing the following conditions are met: (i) the customer pays twenty percent (20%) of the
9 customer's unpaid balance; (ii) the customer agrees to pay one twenty-fourth (1/24) of the
10 customer's remaining balance per month for twenty-four (24) months, (iii) the customer agrees to
11 remain current with payments for current usage; and (iv) the customer has shown, to the
12 satisfaction of the division, that the customer is reasonably capable of meeting the payment
13 schedule provided for by provisions (i)-(iii) of this subsection 39-2-1(d)(1), and that the customer
14 shall agree to waive the right to a hearing for termination of service; provided that this waiver
15 provision shall apply exclusively to the provisions of this subsection and shall have no
16 precedential value for other proceedings before the commission or the division. Once service is
17 restored under the provisions of this subsection, such service may be terminated if payment is not
18 made within thirty (30) days after the billing date; provided, however, that termination of service
19 shall not take place during the moratorium on shut-offs.

20 (2) A customer terminated from service under the provisions of subsection 39-2-1(d)(1)
21 shall be eligible for restoration of service in accordance with the applicable provisions of part V
22 section 4(E)(1)(C) of the Public Utilities Commission Rules and Regulations Governing the
23 Termination of Residential Electric, Gas, and Water Service.

24 ~~(3) The provisions of subsection 39-2-1(d)(1) shall be available if the initial payment for~~
25 ~~restoration of service is made between April 15, 2005, and August 15, 2005, inclusive.~~

26 (e) On or before May 1, 2007, the commission shall administer such rules and regulations
27 as may be necessary to implement the purpose of this section and to provide for restoration of
28 electric and/or gas service to very low income households as defined by section 42-141-2.

29 (1) Effective July 1, 2007, notwithstanding the provisions of part V sections 4(E)(1)(B)
30 and (C) of the public utilities commission rules and regulations governing the termination of
31 residential electric, gas, and water utility service, a very low income customer who is terminated
32 from gas and/or electric service shall be eligible one time to have electric and/or gas utility
33 service restored providing the following conditions are met:

34 (i) the customer pays twenty-five percent (25%) of the customer's unpaid balance;

1 (ii) the customer agrees to pay one thirty-sixth (1/36th) of one half (1/2) of the customer's
2 remaining balance per month for thirty-six (36) months;

3 (iii) the customer agrees to remain current with payments for current usage; and

4 (iv) the customer has shown, to the satisfaction of the division, that the customer is
5 reasonably capable of meeting the payment schedule provided for by the provisions of
6 subdivision 39-2-1(e)(1)(i) and (ii) in this section. The restoration of service provided for by this
7 subsection shall be a one-time right; failure to comply with the payment provisions set forth in
8 this subsection shall be grounds for the customer to be dropped from the repayment program
9 established by this subsection, and the balance due on the unpaid balance shall be due in full and
10 shall be payable in accordance with the rules of the commission governing the termination of
11 residential electric, gas, and water utility service. A customer who completes the schedule of
12 payments pursuant to this subsection, shall have the balance of any arrearage forgiven, and the
13 customer's obligation to the gas and/or electric company for such balance shall be deemed to be
14 fully satisfied. The amount of the arrearage so forgiven shall be treated as bad debt for purposes
15 of cost recovery by the gas or the electric company.

16 (2) A customer terminated from service under the provisions of subdivision 39-2-1(e)(1)
17 shall be eligible for restoration of service in accordance with the applicable provisions of part V
18 section 4(E)(1)(C) of the public utilities commission rules and regulations governing the
19 termination of residential electric, gas, and water service.

20 **39-2-5. Exceptions to anti-discrimination provisions.** -- The provisions of sections 39-
21 2-2 -- 39-2-4 shall be subject to the following exceptions:

22 (1) A public utility may issue or give free transportation or service to its employees and
23 their families, its officers, agents, surgeons, physicians, and attorneys at law, and to the officers,
24 agents, and employees, and their families of any other public utility.

25 (2) With the approval of the division any public utility may give free transportation or
26 service, upon such conditions as the public utility may impose, or grant special rates therefor to
27 the state, to any town, or city, or to any water or fire district, and to the officers thereof, for public
28 purposes, and also to any special class or classes of persons, not otherwise referred to in this
29 section, in cases where the same shall seem to the division just and reasonable, or required in the
30 interests of the public, and not unjustly discriminatory.

31 (3) With the approval of the division any public utility operating a railroad or street
32 railway may furnish to the publishers of newspapers and magazines, and to their employees,
33 passenger transportation in return for advertising in the newspapers or magazines at full rates.

34 (4) With the approval of the division any public utility may exchange its service for the

1 service of any other public utility furnishing a different class of service.

2 (5) Nothing in this section nor any other provision of the law shall be construed to
3 prohibit the giving by any public utility, free or reduced rate service to an elderly person as
4 defined by the division.

5 (6) Any motor carrier of persons, as defined in chapter 13 of this title, may elect to file a
6 tariff providing for a rate reduction of twenty-five percent (25%) below its one-way fare tariff
7 applying to any person who is sixty-five (65) years of age or older and any person assisting and
8 traveling with a blind passenger who is not required to pay any fare pursuant to the provisions of
9 section 39-2-13 for bus rides between the hours of ten o'clock (10:00) a.m. and three o'clock
10 (3:00) p.m. of each day. In such event the reduced fare shall be paid in part by the passenger and
11 in part by the state. That part of the reduced fare payable by the state shall be one half (1/2) of the
12 reduced fare adjusted upward to end in the nearest zero (0) or five cents (.05), and that part
13 payable by the passenger shall be the balance of the reduced fare. Payments by the state under
14 this section shall be paid monthly under procedures agreed upon by the department of
15 transportation and the carrier.

16 (7) [Deleted by P.L. 2004, ch. 378, section 4, and by P.L. 2004, ch. 504, section 4.]

17 (8) Any person, firm, or corporation or any officer, agent, servant, or employee thereof
18 who shall violate the provisions of subsection (7) by fraudulently obtaining a telecommunications
19 device shall, upon conviction, be fined not exceeding five hundred dollars (\$500) or be
20 imprisoned for a term not exceeding one year.

21 (9) (i) Nothing in this section nor any other provision of the general laws shall be
22 construed to prohibit the commission from taking actions to enable the state to participate in a
23 federal communications commission telephone lifeline program. The commission may set a
24 subscriber funded monthly residence basic exchange lifeline telephone service credit in an
25 amount not to exceed the federal subscriber line access charge or the monthly basic service
26 charge, whichever is less, for those persons who receive supplemental social security income
27 (SSI), aid to families with dependent children (AFDC), general public assistance (GPA), aid from
28 the Rhode Island medical assistance program, or food stamps issued pursuant to the Food Stamp
29 Act of 1964 as amended (public law 88-525 and amendments made thereto, 7 U.S.C. section
30 2011 et seq.), assistance from the low-income home energy assistance program (LIHEAP) as
31 administered by the department of administration, division of planning, and effective April 1,
32 1993, assistance from the Rhode Island pharmaceutical assistance program administered by the
33 department of elderly affairs. The public utilities commission may promulgate regulations to
34 implement this section. The department of human services and the department of administration,

1 division of planning shall certify subscriber eligibility for the programs in accordance with public
2 utilities commission and federal communications commission guidelines.

3 (ii) The department of human services shall report monthly to the governor and to the
4 house of representatives fiscal advisor the number of persons newly eligible for the lifeline
5 telephone service credit hereunder solely by virtue of their eligibility to receive food stamp
6 assistance and the department of administration, division of planning shall, also, report monthly
7 to the governor and to the house of representatives fiscal advisor the number of persons newly
8 eligible for the lifeline telephone service credit hereunder solely by virtue of their participation in
9 the low-income home energy assistance program (LIHEAP).

10 (10) Nothing in this section nor any other provision of the general laws shall be
11 construed to prohibit any public utility with the approval of the commission, from forgiving
12 arrearages of any person in accordance with the ~~terms of a percentage of income payment plan~~
13 ~~administered by the governor's office of energy assistance for low income households who are~~
14 ~~eligible to receive funds under the federal low income home energy assistance program~~
15 [provisions of subdivision 3-9-2\(1\)\(e\)](#).

16 (11) Nothing in this section or any other provision of the law shall be construed to
17 prohibit any utility company from cutting, disconnecting, or removing mains, poles, wires,
18 conduits, or fixtures free of charge to nonprofit housing development corporations prior to
19 moving a building to be used as affordable housing for at least a ten (10) year period.

20 (12) Nothing in this section nor any other provision of the general laws shall be
21 construed to prohibit any telecommunications provider with the approval of the commission,
22 from offering any person, firm or corporation a reduced rate, provided such rate covers all costs.

23 SECTION 4. Section 44-13-4 of the General Laws in Chapter 44-13 entitled "Public
24 Service Corporation Tax" is hereby amended to read as follows:

25 **44-13-4. Rate of taxation.** -- The tax imposed will be at the following rates:

26 (1) In the case of every corporation whose principal business is a steamboat or ferryboat
27 business as a common carrier, every common carrier steam or electric railroad corporation, every
28 street railway corporation, every common carrier dining, sleeping, chair, or parlor car
29 corporation, every corporation whose principal business is selling and distributing water to the
30 public, and every toll bridge corporation, one and one-fourth percent (1.25%) of its gross
31 earnings;

32 (2) In the case of every corporation whose principal business is manufacturing, selling,
33 distributing and/or transmitting currents of electricity to be used for light, heat, or motive power,
34 four percent (4%) of its gross earnings, but deductions shall be made of gross earnings from the

1 transmission or sale of electricity to other public utility corporations, non-regulated power
2 producers, or municipal utilities for resale, whether within or outside of this state; provided, that
3 the tax measured by the portion of the utility's gross earnings as is derived from the manufacture
4 and sale of illuminating and heating gas and its by-products and the merchandising of gas
5 appliances shall be computed at the rate of three percent (3%); provided, however, that effective
6 July 1, 2007, the amount of the tax herein established shall be reduced by the fee due and paid to
7 the affordable energy fund established by section 42-141-5;

8 (3) In the case of every express corporation carrying on its business on steamboats,
9 steam or electric railroads, or street railways and of every public service corporation whose
10 principal business is that of a telegraph corporation, four percent (4%) of its gross earnings;

11 (4) In the case of every telecommunications corporation providing telecommunications
12 service, ten percent (10%) of its gross earnings; provided, that the rate shall be nine percent (9%)
13 effective July 1, 1985, eight percent (8%) effective July 1, 1986, seven percent (7%) effective
14 July 1, 1987, six percent (6%) effective July 1, 1988, and five percent (5%) effective July 1,
15 1997. For purposes of this chapter, "telecommunications service" means the transmission of any
16 interactive two-way electromagnetic communications including voice, image, data, and other
17 information, by means of wire, cable, including fiber optical cable, microwave, and radio wave,
18 or any combinations of these media. This definition does not include value added non-voice
19 services in which computer processing applications are used to act on the form, content, code, and
20 protocol of the information to be transmitted;

21 (5) In the case of every public service cable corporation, eight percent (8%) of its gross
22 earnings;

23 (6) In the case of every corporation whose principal business is manufacturing, selling
24 and/or distributing to the public illuminating or heating gas, three percent (3%) of its gross
25 earnings.

26 SECTION 5. Chapter 44-18 of the General Laws entitled "Sales and Use Taxes -
27 Liability and Computation" is hereby amended by adding thereto the following section:

28 **44-18-30D. Credit for fees to the affordable energy fund.** – Effective July 1, 2007,
29 there shall be a credit, of the amount of the fee due and paid to the affordable energy fund
30 established by section 42-141-5, against the gross receipts tax for the sales and use of heating fuel
31 not exempted from taxation pursuant to subsection 44-18-30 (20).

32 SECTION 6. Title 42 of the General Laws entitled "STATE AFFAIRS AND
33 GOVERNMENT" is hereby amended by adding thereto the following chapter:

34 CHAPTER 140

1 RHODE ISLAND ENERGY RESOURCES ACT

2 **42-140-1. Short title.** -- This chapter shall be known as the "Rhode Island Energy
3 Resources Act."

4 **42-140-2. Creation.** -- There is hereby authorized, created and established an office of
5 energy resources in the executive department of state government, which may be assigned by
6 executive order for administrative purposes to a department within state government. The office
7 of energy resources shall be the successor to the state energy office.

8 **42-140-3. Purposes.** -- The purposes of the office shall be to:

9 (1) Develop and put into effect plans and programs to promote, encourage, and assist the
10 provision of energy resources for Rhode Island in a manner that enhances economic well-being,
11 social equity, and environmental quality;

12 (2) Monitor, forecast, and report on energy use, energy prices, and energy demand and
13 supply forecasts, and make findings and recommendations with regard to energy supply diversity,
14 reliability, and procurement, including least-cost procurement;

15 (3) Develop and to put into effect plans and programs to promote, encourage and assist
16 the efficient and productive use of energy resources in Rhode Island, and to coordinate energy
17 programs for natural gas, electricity, and heating oil to maximize the aggregate benefits of
18 conservation and efficiency of investments;

19 (4) Monitor and report technological developments that may result in new and /or
20 improved sources of energy supply, increased energy efficiency, and reduced environmental
21 impacts from energy supply, transmission and distribution;

22 (5) Administer the programs, duties, and responsibilities heretofore exercised by the state
23 energy office, except as these may be assigned by executive order to other departments and
24 agencies of state government;

25 (6) Develop, recommend and, as appropriate, implement integrated and/or comprehensive
26 strategies, including at regional and federal levels, to secure Rhode Island's interest in energy
27 resources, their supply and efficient use, and as necessary to interact with persons, private sector,
28 non-profit, regional, federal entities and departments and agencies of other states to effectuate this
29 purpose;

30 (7) Cooperate with agencies, departments, corporations, and entities of the state and of
31 political subdivisions of the state in achieving its purposes;

32 (8) Cooperate with and assist the state planning council and the division of state planning
33 in developing, maintaining, and implementing state guide plan elements pertaining to energy and
34 renewable energy;

1 (9) Administer, as appropriate, state and federally funded or authorized energy programs,
2 which may include, but not be limited to:

3 (1) the federal low-income home energy assistance program which provides heating
4 assistance to eligible low-income persons and any state funded or privately funded heating
5 assistance program of a similar nature assigned to it for administration;

6 (2) the weatherization assistance program which offers home weatherization grants and
7 heating system upgrades to eligible persons of low-income;

8 (3) the emergency fuel program which provides oil deliveries to families experiencing a
9 heating emergency;

10 (4) the energy conservation program, which offers service and programs to all sectors;
11 and

12 (5) the renewable energy program established under Rhode Island general laws chapter
13 39-2;

14 (10) Develop, recommend, and evaluate energy programs for state facilities and
15 operations in order to achieve and demonstrate the benefits of energy-efficiency, diversification
16 of energy supplies, energy conservation, and demand management; and

17 (11) Advise the governor and the general assembly with regard to energy resources and
18 all matters relevant to achieving the purposes of the office.

19 **42-140-4. Commissioner.** -- (a) There shall be a commissioner of energy resources, who
20 shall be appointed by the governor with the advice and consent of the senate. The commissioner
21 shall be the director of the office of energy resources and shall have all such powers, consistent
22 with law, as are necessary and/or convenient to effectuate the purposes of the office and
23 administer its functions. The commissioner shall have authority to exercise all of the powers and
24 duties heretofore exercised by the head of the state energy office. In the performance of the duties
25 set forth in this paragraph, the commissioner shall consult with the energy resources council,
26 established in section 42-140-5.

27 (b) The commissioner shall have authority to apply for, receive, and administer grants
28 and funds from the federal government and all other public and private entities to accomplish the
29 purposes of the office.

30 (c) The commissioner shall have authority to serve as executive secretary of the
31 governor's technical assistance committee, established by section 42-60-4, and shall provide such
32 staff and technical support to the technical assistance committee as the technical assistance
33 committee may require, and shall have authority to carry out any duties assigned to the office by
34 the governor in the event of a declaration of a state energy crisis as authorized under chapter 42-

1 60 relating to energy crisis management.

2 **42-140-5. Energy resources council.** – (a) There is hereby authorized and established an
3 energy resources council, which shall consist of seven (7) members to be appointed by the
4 governor, with advice and consent of the senate, as follows: one member shall be a representative
5 of large commercial and industrial energy users, one member shall be a representative of smaller
6 commercial and industrial users; two (2) members shall be representatives of residential users, at
7 least one of whom shall be a representative of low-income residential users; one member shall be
8 a representative of an environmental or energy policy advocacy group knowledgeable in energy
9 conservation programs; one member shall be knowledgeable in renewable energy development;
10 and one member shall be an architect or professional engineer or other person knowledgeable in
11 building codes and high performance buildings. Of the initial appointments, two (2) members
12 shall be appointed for a one year term, two (2) members shall be appointed for a two (2) year
13 term, and three (3) members shall be appointed for a three (3) year term. Subsequent terms shall
14 be for three (3) years. Each duly appointed member shall continue to serve until the member's
15 successor is duly qualified and appointed. Any member may be reappointed; provided, however,
16 no member shall be appointed to more than three (3) consecutive terms. In addition to the voting
17 members, each of the following entities shall be entitled to designate a representative to the
18 council who shall be an ex-officio nonvoting member: each electric distribution company
19 providing standard offer service, each gas distribution company, an association representing oil
20 heat dealers, and an association representing propane dealers. The members of the council shall
21 serve without compensation but may be paid for expenses incurred in the performance of their
22 duties.

23 (b) The energy resources council shall meet not less than quarterly; a majority of voting
24 members of the council shall constitute a quorum. The council shall elect from its voting
25 members a chairperson and a vice-chairperson. The commissioner shall serve as secretary of the
26 council and shall provide such staff support to the council as may be needed.

27 (c) The energy resources council shall advise the commissioner on the development and
28 the implementation of plans, strategies and programs to:

29 (1) implement cost-effective energy conservation and energy efficiency programs;

30 (2) promote the development of eligible renewable energy resources for Rhode Island;

31 (3) foster distributed generation of electricity and demand response;

32 (4) assist low-income households in meeting energy needs;

33 (5) coordinate the use of funds, resources, and programs from diverse resources to
34 achieve the purposes of the office, and

1 (6) such other matters as the council may deem appropriate.

2 (d) The energy resources council shall adopt bylaws and, may establish, with the
3 concurrence of the commissioner, such committees, as it may deem appropriate.

4 (e) The energy resources council shall have authority to select and retain independent
5 experts and consultants, from resources from or available through the office, to perform analyses
6 and conduct studies as necessary and desirable in the performance of the responsibilities of the
7 council.

8 **42-140-6. Authority to enter into agreements. --** The commissioner shall have authority
9 to enter into agreements with the trustees of the renewable energy development fund to achieve
10 integrated and effective use of the renewable energy proper resources, subsections 39-2-1.2(b)
11 and (c), and renewable energy standard resources, section 39-26-7. By mutual agreement with the
12 trustees, the commissioner may serve as program manager for the renewable energy programs.

13 **42-140-7. Information and education programs. --** The commissioner, in consultation
14 with the council, shall develop, implement and maintain, a statewide public information and
15 education program with regard to energy supply, energy cost, energy efficiency and conservation,
16 and energy programs, including programs to help consumers select energy efficient products, to
17 evaluate retail and commercial energy resource choices, and to access available energy assistance
18 programs including tax credit and rebate programs.

19 **42-140-8. Conduct of activities. --** To the extent reasonable and practical, the conduct of
20 activities under the provisions of this chapter shall be open and inclusive; the commissioner and
21 the council shall seek in addressing the purposes of the office to involve the research and analytic
22 capacities of institutions of higher education within the state, industry, advocacy groups, and
23 regional entities, and shall seek input from stakeholders including, but not limited to, residential
24 and commercial energy users.

25 **42-140-9. Annual report. --** The commissioner shall report annually, on or before March
26 1st of each year, to the governor, the president of the senate, and the speaker of the house with
27 regard to the status of energy supplies, markets, and conditions, the effectiveness of energy
28 programs, the activities of the office, and such other matters related to energy as the
29 commissioner or the council may deem appropriate.

30 **42-140-10. Adoption of rules. --** The commissioner shall have the authority to adopt,
31 amend, and implement such rules as may be necessary to desirable to effectuate the purposes of
32 this chapter. In any rule making by the commissioner, the commissioner shall consider as a matter
33 of record the advise of the energy resources council.

34 SECTION 7. Title 42 of the General Laws entitled "STATE AFFAIRS AND

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

2 CHAPTER 141

3 AFFORDABLE ENERGY

4 **42-141-1. Purpose.** – The legislature finds and declares: (a) That energy costs have been
5 rising sharply while the incomes of low incomes households have been declining with the result
6 that energy costs are substantial and growing hardship;

7 (b) That the housing stock occupied by many low income households is old and energy
8 inefficient;

9 (c) That Rhode Island has lacked an overall state strategy and commitment to addressing
10 these conditions; and

11 (d) That it is necessary for public health and welfare to address the energy needs of low
12 income households in a manner that supports efficient use of energy resources.

13 **42-141-2. Definitions.** – For the purposes of this chapter the following terms have the
14 following meanings:

15 (a) "Commission" means the public utilities commission established by chapter 39-1.

16 (b) "Commissioner" means the commissioner of the office of energy resources
17 established pursuant to chapter 42-140.

18 (c) "Council" means the energy resources council established pursuant to chapter 42-140.

19 (d) "Department" means the department of administration.

20 (e) "LIHEAP" means the Federal Low Income Home Energy Assistance Program.

21 (f) "Low income household" means a household with a gross annual income equal to or
22 less than sixty percent (60%) of median family income and that is eligible for LIHEAP. A very
23 low income household means a LIHEAP eligible household with a gross annual income equal to
24 or less than one-hundred twenty-five percent (125%) of the Federal poverty guideline for the
25 household.

26 (g) "Person" means any individual, group of individuals, firm, corporation, association,
27 partnership, or public or private entity.

28 **42-141-3. Plan.** – On or March 1, 2007, and each March 1 thereafter until March 1, 2019,
29 before the commissioner in consultation with the council shall develop a state strategic plan for
30 energy affordability, which shall include strategies and actions to make energy affordable by low-
31 income and, especially, very low income households, through a combination of energy efficiency,
32 weatherization, and energy price mitigation measures, supported by resources from federal, state,
33 and other sources, including LIHEAP and contributions made in support of LIHEAP under the
34 provisions of state law, regulation, or order. The state strategic plan shall include:

1 (a) proposed activities to increase energy efficiency and weatherization in dwelling units
2 occupied by low income and very low income households;

3 (b) proposed reductions in electric and gas distribution rates and customers fees charged
4 to such households, which will be supported by the fund and shall be subject to the approval of
5 the commission as part of an affordable energy plan submitted by electric and gas distribution
6 companies;

7 (c) estimates of revenues to the fund and expenditures from the fund to support the
8 purposes of the fund during the next fiscal year;

9 (d) plans and standards for fair, effective and efficient administration of energy
10 affordability activities and assistance to low income and very low income households that make
11 use to the extent reasonable and practicable community organizations serving such households.

12 **42-141-4. Weatherization and energy conservation.** – (a) On or before January 1,
13 2008, the office of energy resources in cooperation with the housing resources commission shall
14 adopt a strategic plan to achieve energy efficiency in low and moderate income neighborhoods
15 through weatherization and energy conservation measures, which strategic or portions thereof
16 shall be incorporated into the state guide, as provided for in section 42-11-10, or before July 1,
17 2008.

18 (b) Energy efficient mortgages. On or before July 1, 2008, the Rhode Island Housing and
19 Mortgage Finance Corporation shall consider establishing and implementing a program to
20 support energy efficiency residential mortgages and/or loans for up to fifteen percent (15%) of the
21 appraised value of a dwelling for energy savings improvements and/or for weatherization and
22 energy efficiency measures as provided for in this chapter, for which the monthly mortgage or
23 loan payment does not exceed the likely reduction in utility and heating costs for the dwelling.

24 **42-141-5(a). Fund established.** – (1) A fund is hereby established in the state general
25 fund to be called the "affordable energy fund."

26 (2) Money remaining in the fund at the end of a fiscal year shall remain available for
27 expenditure in successive fiscal years.

28 (3) The fund shall be used for only those purposes enumerated in subsection 42-141-5(d).

29 (b) Financing of the fund. The fund shall consist of the following sources:

30 (1) Sums the legislature may appropriate;

31 (2) Moneys received from federal, state, private donor or other sources for the purpose of
32 energy affordability by low income households;

33 (3) Fees required pursuant to subsection 42-141-5(c); and

34 (4) Any interest earned on the moneys in the fund.

1 (c) Affordable energy fees. – (1) An affordable energy fee in an amount set forth in this
2 subsection shall be imposed on gross receipts of electricity and gas companies and gross receipts
3 on the sale of heating fuels not used for residential heating. The fee shall be remitted to the
4 division of taxation according to the applicable schedule for the remission of the gross receipts
5 tax as provided for in chapter 44-13 or the sales and use as provided for in chapter 44-18. The
6 fees shall be as follows:

7 (i) Gas. One percent (1%) of the gross receipts of gas companies subject to the provisions
8 of chapter 44-13, "Public Service Corporation Tax".

9 (ii) Electricity. One percent (1%) of the gross receipts of electric companies subject to the
10 provisions of chapter 44-13. "Public Service Corporation Tax".

11 (iii) Heating fuel. Two percent (2%) of gross receipts from the sales and use of heating
12 fuel subject to the provisions of chapter 44-18. "Sales and Use Taxes – Liability and
13 Computation".

14 (2) Every person from whom an affordable energy fee is due shall be liable for the fee
15 until it has been paid to the state.

16 **42-141-5(d). Purposes of the fund.** – The commissioner may use money from the fund
17 to:

18 (1) Support weatherization and energy conservation educational programs and
19 weatherization and energy conservation services for low-income and very low income
20 households;

21 (2) Compensate electric and gas distribution companies for revenues lost due to the
22 reductions in distribution and customer charges, in accordance with a plan approved by the
23 commission, to very low income households, and if feasible to low income households, which
24 shall, as a first priority, be used to provide up to a fifty percent (50%) reduction in the distribution
25 and customer charges for a reasonable and prudent use by very low-income households of gas
26 and electricity that does not exceed average use for comparable dwelling units.

27 (3) Defray the cost of heating fuel delivered to very low income households by an
28 amount not to exceed twenty-five percent (25%) of the allowable cost of heating fuel and a total
29 usage by the household, supported assistance from all sources overseen by the commissioner, that
30 is reasonable and prudent and does not exceed average use for comparable dwelling units.

31 (4) It is not the purpose of the fund to reduce the amount of assistance a household would
32 otherwise receive from LIHEAP and other sources in the absence of the fund or to subsidize
33 utility rates in effect as of July 1, 2006, and provided for by law.

34 **42-141-5(e). Administration and records of the fund.** – (1) The commissioner shall

1 administer the fund in accordance with this chapter.

2 (2) The commissioner in consultation with the department shall adopt procedures
3 governing the expenditure of, and accounting for, money expended from the fund.

4 (3) The commissioner is responsible for insuring that there are adequate moneys available
5 in the fund to carry out the purposes of this section.

6 (4) The commissioner shall maintain accounting records showing the income and
7 expenses of the fund.

8 **42-141-5 (f). Expenditure of fund money. -- Disbursements may be made from the fund**
9 **for the following purposes:**

10 (1) Administrative expenses, personnel expenses and equipment costs of the office
11 related to this section;

12 (2) All costs to effectuate the purposes of the fund as set forth in subsection 42-141-5(d).

13 **42-141-5 (g). Report to the legislature. -- (1) The commissioner shall submit a report to**
14 **the legislature not later than the tenth (10th) day following the convening of each regular session**
15 **of the legislature. The report may include information considered significant by the commissioner**
16 **but must include:**

17 (i) The amount of money expended under section 42-141-5 during the preceding fiscal
18 year;

19 (ii) The amount and source of money received during the preceding fiscal year;

20 (iii) A detailed summary of activities funded by the fund during the preceding fiscal year;

21 (iv) The projected cost to the fund for affordable energy programs in the next fiscal year.

22 **42-141-6. Heating fuel procurement. -- The commissioner shall seek to secure the best**
23 **price over time for heating fuels delivered under agreements supported in whole or in part by**
24 **funds administered by the office of energy resources and is hereby authorized to use margin over**
25 **rack pricing to accomplish this purpose. The commissioner shall report publicly with regard to**
26 **heating fuel procurement experience in other jurisdictions and to a proposed least cost**
27 **procurement plan for heating fuel in Rhode Island, and shall provide a public comment period of**
28 **not less than twenty (20) days, prior to rendering decision on how to effectuate the requirements**
29 **of this section.**

30 **42-141-7. Regulations. -- The commissioner may adopt all rules and regulations**
31 **necessary for the administration and enforcement of this chapter.**

32 **42-141-8. Cooperation required. -- The commissioner may request from any**
33 **government agency, and the agency is authorized and directed to provide, any cooperation and**
34 **assistance, services, and data, within the jurisdiction of the agency, as will enable the office of**

1 energy resources to properly perform or exercise any of its functions, duties and powers under
2 this chapter.

3 **42-141-9 Construction.** -- This chapter, being necessary for the welfare of the state and
4 its inhabitants, shall be liberally construed so as to effectuate its purposes.

5 **42-141-10. Inconsistent provisions.** -- Insofar as the provisions of this chapter are
6 inconsistent with the provisions of any other law or ordinance, general, special or local, the
7 provisions of this chapter shall be controlling.

8 **42-141-11. Severability.** – If any clause, sentence, paragraph, section, or part of this
9 chapter shall be adjudged by any court of competent jurisdiction to be invalid, that judgment shall
10 not affect, impair, or invalidate the remainder of the chapter but shall be confined in its operation
11 to the clause, sentence, paragraph, section, or part directly involved in the controversy in which
12 that judgment shall have been rendered.

13 SECTION 7. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO AFFORDABLE ENERGY

1 This act would create an office of energy resources in the executive department of state
2 government and would be known as the Rhode Island Energy Resources Act. It would further be
3 known as the affordable energy act and would provide that the office of energy resources
4 implement the provisions of the affordable energy act.

5 This act would take effect upon passage.

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