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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - DELIVERED FUELS ENERGY
EFFICIENCY PROGRAM

Introduced By: Senators Archambault, and Sosnowski

Date Introduced: May 26, 2016

Referred To: Senate Environment & Agriculture

(Administration)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 42-140.5

4 DELIVERED FUELS ENERGY EFFICIENCY PROGRAM

5 **42-140.5-1. Purpose.** -- The purpose of this chapter is to facilitate and promote energy
6 efficiency services for Rhode Island residents, businesses, and customers who rely on delivered
7 fuels.

8 **42-140.5-2. Delivered fuels energy efficiency program established.** -- A delivered
9 fuels energy efficiency program is hereby established with the intention of providing cost-
10 effective energy efficiency services for delivered fuels customers.

11 **42-140.5-3. Definitions.** -- When used in this chapter, the following terms shall have the
12 following meanings:

13 (1) "Advisory council" means the delivered fuels advisory council.

14 (2) "Commissioner" means the commissioner of the office of energy resources.

15 (3) "Delivered fuels" means heating oil and propane.

16 (4) "Delivered fuels energy efficiency measures" means energy efficiency measures, and
17 the services associated with their delivery, that reduce the use of delivered fuels and are cost-
18 effective and lower cost than the acquisition of additional supply. Such measures may include,

1 but are not limited to, efficient delivered fuels heating equipment, weatherization for buildings
2 that heat with delivered fuels, or other delivered fuels energy efficiency measures as
3 recommended by the advisory council.

4 (5) "Delivered fuels energy efficiency program" means a program supporting investment
5 in delivered fuels energy efficiency measures that are cost-effective and consistent with §39-1-
6 27.7.

7 (6) "Heating oil" means the product designated by ASTM International as "Standard
8 Specification for Fuel Oils – ASTM D396," or the appropriate successor standard, which includes
9 No. 1 distillate, No. 2 distillate, Grade No. 4, Grade No. 5, and Grade No. 6 fuel oil, provided
10 such heating and fuel oil is used for purposes other than the generation of electricity or for the
11 generation of power to propel motor vehicles.

12 (7) "Office" means the Rhode Island office of energy resources.

13 (8) "Plan" means the annual delivered fuels energy efficiency program plan.

14 (9) "Program fee" means the delivered fuels energy efficiency program fee.

15 (10) "Program year" means the period from October 1 to September 30 of the following
16 year.

17 (11) "Propane" means the product designated by ASTM International as "Standard
18 Specification for Liquefied Petroleum (LP) Gases – ASTM D1835," or the appropriate successor
19 standard, provided such propane is used for purposes other than the generation of electricity or for
20 the generation of power to propel motor vehicles.

21 **42-140.5-4. Advisory Council.** -- (a) The Rhode Island delivered fuels advisory council
22 is hereby established to advise the office on matters pertaining to the delivered fuels energy
23 efficiency program.

24 (b) The advisory council shall consist of seven (7) members to be appointed by the
25 governor. Council members shall represent the following constituencies:

26 (1) Residential delivered fuels users;

27 (2) Commercial and industrial delivered fuels users;

28 (3) Low-income delivered fuels users;

29 (4) American Petroleum Institute, or its successor organization;

30 (5) Oil Heat Institute of Rhode Island, or its successor organization;

31 (6) Propane gas association of New England, or its successor organization; and

32 (7) Members of the public with expertise in environmental policy and energy
33 conservation. The governor shall appoint the chairperson and vice-chairperson of the advisory
34 council from among its members. The commissioner of the office of energy resources shall be the

1 executive secretary and executive director of the advisory council from among its members.

2 (c) Of the initial appointments, three (3) members shall be appointed for a term of two (2)
3 years, two (2) members shall be appointed for a term of three (3) years, and two (2) members
4 shall be appointed for a term of four (4) years; thereafter members of the advisory council shall
5 be appointed for a term of three (3) years and may be reappointed at the discretion of the
6 governor.

7 (d) A simple majority of the total number of voting members shall constitute a quorum.

8 (e) A vacancy, other than by expiration, shall be filled in the manner of the original
9 appointment, but only for the unexpired portion of the term, provided the replacement is selected
10 in accordance with the requirements of §42-140.5-4(b). The governor shall have the power to
11 remove an appointee for just cause.

12 (f) The members of the advisory council shall not be compensated for their service.

13 **42-140.5-6. Duties of the Advisory Council. --** The advisory council shall have the
14 following duties:

15 (1) Advise the office with regard to the implementation of the delivered fuels energy
16 efficiency program;

17 (2) Develop and issue recommendations on the plan;

18 (3) Recommend a program administrator for the delivered fuels energy efficiency
19 program; and

20 (4) Monitor and evaluate the cost-effectiveness of the delivered fuels energy efficiency
21 program and plans.

22 **42-140.5-7. Delivered fuels energy efficiency program fee. --** (a) Effective October 1,
23 2016 and for a period of five (5) years thereafter, a delivered fuels energy efficiency program fee
24 is hereby established.

25 (1) For the first program year, the program fee shall be half a cent (\$0.0050) per gallon of
26 delivered fuels.

27 (2) For the second program year, the program fee shall be three-quarters of a cent
28 (\$0.0075) per gallon of delivered fuels.

29 (3) For the third program year, the program fee shall be three-quarters of a cent (\$0.0075)
30 per gallon of delivered fuels.

31 (4) For the fourth program year, the program fee shall be one cent (\$0.01) per gallon of
32 delivered fuels.

33 (5) For the fifth program year, the program fee shall be one cent (\$0.01) per gallon of
34 delivered fuels.

1 (b) For heating oil, the program fee for the program year shall be imposed upon the
2 owner of heating oil received at a Rhode Island marine terminal within this state by means of a
3 vessel from a point outside this state. Such fuel shall be the product metered on the seaside
4 portion of the flange of said marine terminal. The fee shall be remitted to the division of taxation
5 on the thirtieth day of each month based upon the number of gallons of heating oil received
6 during the preceding month and transferred to the office. The funds deposited to the office shall
7 be exempt from the indirect cost recovery provisions of §35-4-27. Any funds not expended in any
8 program year shall remain with the office to be used for purposes consistent with the plan for
9 subsequent program years of the delivered fuels energy efficiency program.

10 (c) The program fee for the program year shall be imposed on every retail transaction of
11 propane sold within the state. The fee collected shall be remitted to the division of taxation on the
12 thirtieth day of each month based upon the number of gallons of retail propane sold during the
13 preceding month and transferred to the office. The funds deposited to the office shall be exempt
14 from the indirect cost recovery provisions of §35-4-27. Any funds not expended in any program
15 year shall remain with the office to be used for purposes consistent with the plan for subsequent
16 program years of the delivered fuels energy efficiency program.

17 (d) Whenever the commissioner, in consultation with the advisory council and the
18 division of taxation, estimates that the total amount of funds deposited to the office during a
19 single calendar year will reach the designated amount specified in subsection (e) of this section,
20 and the money is not required for the purposes specified in §42-140.5-8, the commissioner shall
21 instruct the division of taxation to cease collecting the fee.

22 (e) For the purposes of this chapter, "designated amount" means an amount equal to two
23 million dollars (\$2,000,000), adjusted for inflation after January 1, 2017, according to an index
24 which the commissioner may reasonably choose.

25 **42-140.5-8. Annual delivered fuels energy efficiency program.** -- (a) The advisory
26 council shall develop and issue recommendations for an annual delivered fuels energy efficiency
27 program plan that determines how the funds collected under §42-140.5-7 shall be delivered to
28 facilitate and promote energy efficiency services for delivered fuels customers during the
29 upcoming program year. The plan shall include suggested program designs, cost and energy
30 savings, target benefit-cost ratios, delivery mechanisms, and a budget. Notwithstanding the
31 provisions of §42-140.5-3(5), the advisory council may recommend a reasonable portion of
32 program funds to be used for offsetting the incremental costs of the program fee as borne
33 specifically by low-income delivered fuels customers. The advisory council shall consult with the
34 office and the energy efficiency and resource management council during development of the

1 plan. The use of the funds shall be solely for supporting investment in delivered fuels energy
2 efficiency measures and shall not be used for any other purposes or fuel types. The commissioner
3 shall have final approval of the annual delivered fuels energy efficiency program plan.

4 (b) On or before March 1, 2017, the office, after consultation with the advisory council,
5 shall select a qualified third-party entity to support plan development and administer the
6 implementation of the delivered fuels energy efficiency program pursuant to a competitive
7 solicitation process administered, in accordance with state purchasing guidelines. The office shall
8 enter into a contract not to exceed three (3) years with the third-party entity recommended by the
9 advisory council. The competitive bid and contract award for administration of the delivered fuels
10 energy efficiency program shall include as a condition that the account for the delivered fuels
11 energy efficiency program shall be maintained and administered by the office. After three (3)
12 years, the office, in consultation with the advisory council, shall issue a new request for
13 proposals. The office, in consultation with the advisory council, shall have the option to propose
14 an alternative implementation model for the delivered fuels energy efficiency program in lieu of
15 the third-party solicitation.

16 (c) On or before October 1, 2017, and annually thereafter through October 1, 2021, the
17 advisory council shall recommend the annual delivered fuels energy efficiency program plan to
18 the office. The annual plans shall include a review of program cost-effectiveness. The annual plan
19 for the final program year shall include recommendations for the disbursement of any funds
20 remaining with the office after the end of that program year consistent with the purposes of this
21 chapter. The commissioner shall approve the plan if the commissioner determines that the plan is
22 consistent with the provisions of this section and §39-1-27.7. The commissioner shall issue an
23 order on the plan no later than thirty (30) days after it is submitted to the office. The plan shall be
24 made public and be posted electronically on the website of the office.

25 (d) Effective October 1, 2016, the office shall allocate from the funds authorized pursuant
26 to this chapter, an amount not to exceed five percent (5%) of such funds on an annual basis for
27 reasonable administration costs of the advisory council associated with planning, management,
28 and evaluation of the delivered fuels energy efficiency program, and for the retention of expert
29 consultants by the advisory council, provided that the consultants are not the program
30 administrator or a contractor to the program, and shall not have any contractual relationship with
31 members of the council or the program administrator.

32 (e) Effective October 1, 2016, the office shall allocate an amount for reasonable
33 administrative costs of the office for this program, which shall be five percent (5%) of the funds
34 authorized pursuant to this chapter each program year.

1 **42-140.5-9. Reporting.** -- On April 15 of each year the office and the advisory council
2 shall submit to the governor, the speaker of the house of representatives and the president of the
3 senate, a financial and performance report regarding the delivered fuels energy efficiency
4 program, including, but not limited to, the number of participants in the program, jobs associated
5 with the program, and the businesses and vendors that received funding from the delivered fuels
6 energy efficiency program. These reports shall also be posted electronically on the website of the
7 office.

8 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - DELIVERED FUELS ENERGY
EFFICIENCY PROGRAM

1 This act would create the delivered fuels energy efficiency program, the purpose of which
2 would be to facilitate and promote energy efficiency services for Rhode Island residents,
3 businesses, and customers who rely on delivered fuels.

4 This act would take effect upon passage.

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