

2010 -- S 2572

LC01483

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT

Introduced By: Senators Miller, C Levesque, and Pichardo

Date Introduced: February 11, 2010

Referred To: Senate Corporations

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 141.1

4 THE HOME ENERGY RATE AFFORDABILITY ACT

5 **42-141.1-1. Short title.** -- This act shall be known and may be cited as "The Home
6 Energy Rate Affordability Act."

7 **42-141.1-2. Program creation.** -- As soon as practicable thereafter, the governor's office
8 of energy resources shall create a program to be known as the "Home Energy Rate Affordability
9 Program" for the purpose of insuring that utility rates are affordable for households of limited
10 means.

11 **42-141.1-3. Definitions.** -- For purposes of this section:

12 (1) "Commercial and industrial customers" include all establishments engaged in
13 commercial activity, either for-profit or non-profit, including, but not limited to, transportation,
14 manufacturing, mining, construction, agriculture, fishing, forestry, school dormitories, hospitals,
15 and military barracks and other non-residential customers.

16 (2) "Commission" means the public utilities commission.

17 (3) "Energy office" means the governor's office of energy resources.

18 (4) "Home energy" means retail electric and natural gas service provided for end use
19 consumption by residential consumers.

1 (5) “Home energy burden” means a consumer’s home energy bill divided by the
2 consumer’s household income, including any grant of LIHEAP assistance.

3 (6) “LIHEAP” means the federal Low Income Household Energy Assistance Program.

4 (7) “Participating agency” includes any community action program or other community-
5 based agency which determines eligibility for LIHEAP benefits.

6 (8) “Residential customer” includes all private residences, whether occupied or vacant,
7 owned or rented, including single-family homes, multi-family housing units and mobile homes,
8 but not including school dormitories, hospitals and military barracks.

9 **42-141.1-4. Eligibility.** – Customers with a household income at or below one hundred
10 fifty percent (150%) of the federal poverty level that are receiving assistance through LIHEAP
11 shall be eligible for the rate affordability program under this section.

12 **42-141.1-5. Program credits.** – (a) The energy office shall inform each utility and each
13 trustee of a rate affordability account under section 42-141.1-11 of the credit amount for which
14 each eligible household is qualified, and of the duration for which that credit must be provided
15 from the “rate affordability account” established pursuant to subsection 42-141.1-9(b), on a first-
16 come, first-served basis, as long as funds are available. All funds in any rate affordability
17 account established under section 42-141.1-11 shall be fully expended annually, including
18 accumulated interest.

19 (b) The amount of credit shall be that amount necessary to reduce the household’s home
20 energy burden to an affordable percentage of income.

21 (c) The affordable home energy burden for each eligible household that uses both gas and
22 electric service and each household that uses electric service for heating purposes shall be tiered
23 as follows:

24 (1) Six percent (6%) of gross annual income: households earning zero to fifty percent (0-
25 50%) of the federal poverty level;

26 (2) Seven percent (7%) of gross annual income: households earning fifty to one hundred
27 percent (50-100%) of the federal poverty level;

28 (3) Eight percent (8%) of gross annual income: households earning one hundred to one
29 hundred fifty percent (100-150%) of the federal poverty level.

30 (d) If a household uses electricity only for non-heating purposes, the affordable home
31 energy burden for each eligible household shall be tiered as follows:

32 (1) Two percent (2%) of gross annual income: households earning zero to fifty percent
33 (0-50%) of the federal poverty level;

34 (2) Three percent (3%) of gross annual income: households earning fifty to one hundred

1 percent (50-100%) of the federal poverty level;

2 (3) Four percent (4%) of gross annual income: households earning one hundred to one
3 hundred fifty percent (100-150%) of the federal poverty level.

4 (e) The energy office may allocate credits as it deems appropriate for crisis intervention.

5 (f) The energy office may also allocate credits to provide arrearage forgiveness when
6 needed to bring home energy burdens to an affordable level, as determined by the energy office.

7 (g) Each utility shall seek reimbursement from the trustee of a rate affordability account
8 established pursuant to section 42-141.1-11 for any credits it provides for its low-income
9 customers under this chapter.

10 **42-141.1-6. Obligations of participants.** -- Participating households shall agree to the
11 following obligations in order to participate in this program:

12 (1) The household shall report, within a time period prescribed by the energy office,
13 changes in income or financial condition that affect the household's eligibility or need for energy
14 assistance to a responsible administrator in the energy office or in a participating agency;

15 (2) Household participation in this program shall be terminated if the household fails to
16 make three (3) or more consecutive monthly payments gas and/or electric bills, unless the
17 household has reported a change in income or financial status in accordance with subdivision (1)
18 above and has been determined eligible on account of that change for additional assistance or for
19 emergency assistance. Upon termination from the program, all arrearages will become due and
20 payable, and the household, upon re-application, will be treated as a new applicant.

21 **42-141.1-7. Arrearage.** -- A household establishing three (3) years of regular monthly
22 payments under this chapter shall not be required to pay any arrearage incurred prior to entry into
23 the program. The energy office shall prescribe the mechanism for providing arrearage credits
24 pursuant to this section.

25 **42-141.1-8. Usage limit.** -- The energy office shall establish maximum usage limits
26 based on such factors as household size, thermal integrity of the household dwelling unit, and
27 average household energy expenditure of a median income household. Energy usage exceeding
28 the limits shall be billed at the prevailing consumer rate. Conservation may be rewarded with a
29 reduction in the payment percentage required.

30 **42-141.1-9. Rates.** – (a) For the first three (3) years, utilities shall collect a non-
31 bypassable monthly charge from each gas and each electric account receiving energy not for
32 resale, including low-income households, in accordance with the following:

33 (1) Electric Service Accounts

34 (i) One dollar and forty cents (\$1.40) for residential service customers,

1 (ii) One dollar and forty cents (\$1.40) for commercial and industrial service customers
2 whose average usage is less than ten (10) kilowatts of demand,

3 (iii) Thirteen dollars (\$13.00) for commercial and industrial service customers whose
4 average usage is between ten (10) kilowatts and two hundred (200) kilowatts, and

5 (iv) Two hundred fifty dollars (\$250) for commercial and industrial service customers
6 whose average usage is greater than two hundred (200) kilowatts.

7 (2) Natural Gas Service Accounts

8 (i) One dollar and forty cents (\$1.40) for residential service customers,

9 (ii) One dollar and forty cents (\$1.40) for commercial and industrial service customers
10 whose usage is less than five hundred thousand (500,000) cubic feet per year,

11 (iii) Thirteen dollars (\$13.00) for commercial and industrial service customers whose
12 usage is between five hundred thousand (500,000) cubic feet and three million, five hundred
13 thousand (3,500,000) cubic feet per year, and

14 (iv) Two hundred fifty dollars (\$250) for commercial and industrial customers whose
15 usage is greater than three million, five hundred thousand (3,500,000) cubic feet per year.

16 (b) These charges shall be kept in trust in a separate “rate affordability account” which
17 shall be used for program expenditures under this chapter and shall be established and operated in
18 accordance with section 42-141.1-11 of this chapter.

19 (c) After the third (3rd) year of the program, the commission shall annually set a non-
20 bypassable monthly charge sufficient to fund the total program budget developed by the energy
21 office. When determining the charge, the commission shall not substantially deviate from the
22 customer class rate allocation proportion as set forth herein.

23 **42-141.1-10. Administration.** -- The energy office shall administer the program,
24 including informing utilities of applicable credits, answering consumer inquiries, referring
25 eligible customers for weatherization assistance, and keeping appropriate records. The energy
26 office may delegate to participating agencies the responsibility for determining program
27 eligibility and calculating the amount of credit due to each eligible household.

28 **42-141.1-11. Rate affordability accounts.** -- (a) Every utility shall place all charges
29 collected under section 42-141.1-9 in a rate affordability account, which shall be opened in the
30 name of, and held by, an independent existing nonprofit organization as trustee (hereinafter “rate
31 affordability account trustee”), and which shall be operated as a nonprofit program. This account
32 shall be eligible to receive charitable donations that qualify for tax deduction purposes as defined
33 in section 170 of the Internal Revenue Code.

34 (b) The rate affordability account trustee shall report to the energy office monthly the

1 total amount of funds available for low-income customers for each utility, including accumulated
2 interest, minus any administrative costs incurred as permitted under subsection 42-141.1-11(d)
3 below.

4 (c) Any utility customer who chooses to do so may make donation to the rate
5 affordability account in lieu of paying the non-bypassable monthly charge described in subsection
6 42-141.1-9(a) under the following conditions: (1) the donation must be in a lump sum paid
7 annually rather than monthly; and (2) the donation must be in an amount that is equal to, or
8 greater than, the customer's total annual non-bypassable charges under subsection 42-141.1-9(a).
9 If a utility customer chooses to make such a donation, that donation shall be treated as a
10 charitable donation for state and federal tax purposes. The utility may establish specific dates or
11 time frames for making such a donation.

12 (d) Any donation made pursuant to subsection 42-141.1-11(b) shall be used for program
13 expenditures in the same way that non-bypassable monthly charges kept in rate affordability
14 accounts are required to be used pursuant to subsection 42-141.1-9(b).

15 (e) The rate affordability account may be used to pay annual administrative costs
16 incurred by the utility, the energy office, the rate affordability account trustee, and participating
17 agencies, as long as those costs do not exceed ten percent (10%) of the total annual amount
18 allocated for program credits for eligible households. The utility, the energy office, the rate
19 affordability account trustee, and participating agencies shall submit their bills for administrative
20 costs annually to the energy office, which shall ensure that these bills do not together exceed this
21 limit, and shall then forward these bills to the rate affordability account trustee for payment.

22 (f) Utility companies shall report annually to the public utilities commission including,
23 but not limited to, the amount of funds collected in the rate affordability account, the distribution
24 of those funds, the amount of funding allocated to administrative costs, and the projected amount
25 of funds to be collected and distributed in the following year.

26 (g) The energy office shall annually evaluate the impact of the Rate Affordability Act,
27 including *inter alia* an assessment of the number of eligible low-income customers who
28 participated in the rate affordability program, the number of low-income customers who did not
29 participate in the rate affordability program, and any difference in payment history between these
30 two (2) groups of low-income utility customers.

31 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

1 This act would create the Home Energy Rate Affordability Program to ensure that utility
2 rates are affordable for households of limited means.

3 This act would take effect upon passage.

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