

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
1511 Pontiac Avenue, Bldg. 69-1
Cranston, Rhode Island 02920

**STATEMENT OF NEED FOR EMERGENCY ADOPTION AND REINSTATEMENT OF
PRE-AMENDMENT COMMERCIAL LICENSING REGULATION 3-
AUTOMOBILE BODY REPAIR SHOP STORAGE RATES**

Pursuant to R.I. Gen. Laws § 42-35-3(b), an agency may, if it finds adoption of a rule upon less than thirty (30) days' notice is necessary because of imminent peril to the public health, safety, or welfare, adopt an emergency rule without prior notice or hearing, or upon any abbreviated notice and hearing that it finds practicable. The rule so adopted may be effective for a period not exceeding one hundred and twenty (120) days. *Id.* Furthermore, R. I. Gen. Laws § 42-35-4(b)(2) provides that, subject to constitutional or statutory provisions, an emergency rule may become effective immediately upon filing with the Secretary of State if the agency finds that such an effective date is necessary because of imminent peril to the public health, safety, or welfare and necessary in light of present challenging economic conditions.

This regulation is to become effective immediately upon filing with the Secretary of State.

The Department of Business Regulation ("Department") has determined that conditions exist that necessitate the adoption of this Regulation on an emergency basis to be effective upon filing with the Secretary of State. The Department finds that there is imminent peril to the public health, safety, or welfare in that the amendments to Commercial Licensing Regulation 3 that are due to take effect on February 26, 2009, will result in the elimination of a category of long-standing storage fees collected by automobile body repair shop licensees, while at the same time substantially amending the categories of rates charged for storage. Therefore, this Emergency Regulation is required, *inter alia*, in order to: (i) protect the public from the unintended consequences of the amendments to Commercial Licensing Regulation 3; (ii) prevent confusion and business disruption to entities subject to the amendments in Commercial Licensing Regulation 3; and (iii) to ensure that regulatory amendments that are enacted are consistent with the recommendation of the Automobile Collision Repair Licensing Advisory Board ("ACRLAB") which is statutorily charged pursuant to R.I. Gen. Laws § 5-38-2(h) with adopting and publishing rules of procedure and other regulations (with the prior approval of the Director of the Department) and consistent with R.I. Gen. Laws § 42-35-1 *et seq.*

In accordance with the provisions of subsection R.I. Gen. Laws § 42-35-3(b), the Director of the Department hereby approves an emergency filing of the attached Commercial Licensing Regulation 3 that supersedes the amended Commercial Regulation 3 which was filed on February 6, 2009 (and is due to be effective February 26, 2009). The attached Regulation had previously been promulgated pursuant to the authority contained in R.I. Gen. Laws §§ 5-38-27 and 42-35-1 *et seq.* and was effective from October 27, 1994 until February 25, 2009. However,

the Department has been notified by the ACRLAB that the amendments to Commercial Licensing Regulation 3 filed on February 6, 2009 and effective on February 26, 2009 will have unintended consequences that are detrimental to the entities and individuals subject to said amendments, including automobile body repair shop licensees, which are comprised of small businesses.

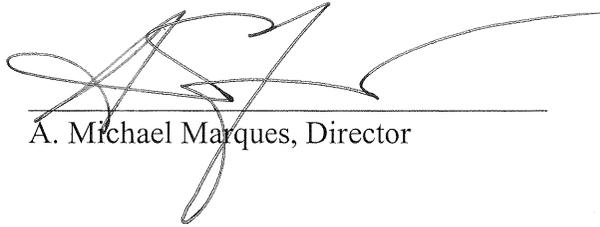
The proposed amendments to Commercial Licensing Regulation 3 were submitted by the ACRLAB to the Director of the Department on August 8, 2006. The Department conducted hearings on June 19, 2007 and on March 26, 2008 on proposed amendments to Commercial Licensing Regulation 3, and further amended it after hearing in response to comments, according to the requirements of R.I. Gen. Laws § 42-35-1 *et seq.* The amended Commercial Licensing Regulation 3 was filed with the Secretary of State on February 6, 2009.

After the amended Commercial Licensing Regulation 3 was filed, the Department received notice that the amendments in Section 6(A) of Commercial Licensing Regulation 3, will, if allowed to be effective on February 26, 2009, result in eliminating long-standing storage fees that have been charged by the automobile body repair shop licensees upon receipt of a totaled vehicle. Additionally, the ACRLAB has informed the Department that its proposed amendments were not intended to result in the elimination of storage fees for the first seven (7) days that a totaled vehicle is stored at an automobile body repair shop. The ACRLAB indicated that its intent was to apply the Proposed Section 6(F) and (G) (of the proposed amendments to Commercial Licensing Regulation 3 noticed for hearing on June 19, 2007 and March 26, 2008) to repaired vehicles that had not been picked up by the owner of the vehicle, not on all totaled vehicles as interpreted by the Department. Additionally, Commercial Licensing Regulation 3, as amended, and due to be effective on February 26, 2009, would also increase the storage fees that an automobile body repair shop may charge. The Department has been informed that the increased fees in the amended Commercial Licensing Regulation 3, combined with the amendment in Section 6(A) of the amended Commercial Licensing Regulation 3, will result in disruption to long-standing established procedures and fees, public confusion about the time constraints on said storage fees, and business uncertainty resulting in added costs to both the insurance industry and the automobile body repair shop industry. Therefore, in order to prevent said unintended consequences which result in imminent peril to the public health, safety and welfare to entities and individuals subject to the amendments in Commercial Licensing Regulation 3, it is necessary to file, on an emergency basis, Commercial Licensing Regulation 3 as it existed prior to the amendments filed on February 6, 2009. The preservation of the status quo has been requested by the ACRLAB to prevent these unintended consequences and to allow it consider any further and necessary amendments.

Pursuant to R.I. Gen. Laws § 42-35-3(b), this emergency regulation shall take effect upon filing with the R. I. Secretary of State and shall remain in effect as provided in said subsection. While the emergency Commercial Licensing Regulation is in effect, regulatory amendments will be promulgated pursuant to subsection R.I. Gen. Laws § 42-35-3(a). Additionally, due to the resources expended by the ACRLAB and the Department in amending Commercial Licensing Regulation 3 (as filed on February 6, 2009), the Department reserves its right to consider all comments previously submitted in the rule-making process in any further proposed amendments. Any future amendments will be proposed consistent with the requirements of R.I. Gen. Laws § 42-35-1 *et seq.* These prior comments will be available for review upon written request to the Department. This emergency Commercial Licensing Regulation 3 is available for inspection at

the Rhode Island Department of Business Regulation, 1511 Pontiac Avenue, Building 69-1, Cranston, RI 02920 or the Department's website: www.dbr.state.ri.us and will also be available on the Rhode Island Secretary of State's website www.sec.state.ri.us/rules/.

This emergency regulation has been adopted by me on this 25th day of February 2009.



A. Michael Marques, Director