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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO TOWNS AND CITIES

Introduced By: Representative John J. McCauley

Date Introduced: March 31, 2011

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-38.1-3 of the General Laws in Chapter 45-38.1 entitled "Health
2 And Educational Building Corporation" is hereby amended to read as follows:

3 **45-38.1-3. Definitions.** -- As used in this chapter, the following words and terms have the
4 following meaning unless the context indicates another or different meaning or intent:

5 (1) "Bonds" means bonds of the corporation issued under the provisions of this chapter,
6 including refunding bonds, notwithstanding that the bonds may be secured by mortgage or the
7 full faith and credit of the corporation or the full faith and credit of a participating institution for
8 higher education or of a participating health care provider or any other lawfully pledged security
9 of a participating educational institution or child day care center or of a participating health care
10 provider;

11 (2) "Borrower" means a student or a parent who has received or agreed to pay an
12 education loan;

13 (3) "Capital note(s)" means a note or notes of the corporation not exceeding twelve (12)
14 months in duration to maturity issued for the benefit of a health care provider or educational
15 institution to purchase capital assets to be used in the operations of the health care provider or
16 educational institution;

17 (4) "Child day care center" means a child day care center as defined in section 23-28.1-5,
18 which is a not-for-profit organization;

19 (5) "Cooperative hospital service organization" means a corporation created pursuant to

1 chapter 6 of title 7, which meets the requirements of Section 501(e) of the Internal Revenue Code
2 of 1954, 26 U.S.C. section 501(e), and is exempt from federal taxation of income in accordance
3 with Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. section 501(c)(3);

4 (6) "Corporation" means the Rhode Island health and educational building corporation
5 created and established as a nonbusiness corporation, under and pursuant to chapter 6 of title 7, as
6 amended, and constituted and established as a public body corporate and agency of the state
7 under section 45-38.1-4, or any board, body, commission, department, or officer succeeding to
8 the principal functions of the corporation or to whom the powers conferred upon the corporation
9 by this chapter are given by law;

10 (7) "Corporation loans" means loans by the corporation to an educational institution or
11 child day care center for the purpose of funding education loans;

12 (8) "Cost" as applied to a project or any portion of it, financed under the provisions of
13 this chapter, embraces all or any part of the cost of construction and acquisition of all lands,
14 structures, real or personal property, rights, rights of way, franchises, easements, and interests
15 acquired or used for a project, the cost of demolishing or removing any buildings or structures on
16 land so acquired, including the cost of acquiring any lands to which the buildings or structures
17 may be moved, the cost of all machinery and equipment, financing charges, interest prior to,
18 during and for a period after completion of the construction, provisions for working capital,
19 reserves for principal and interest and for extensions, enlargements, additions, replacements,
20 renovations and improvements, cost of engineering, financial and legal services, plans,
21 specifications, studies, surveys, estimates of cost and of revenues, administrative expenses,
22 expenses necessary or incident to determining the feasibility or practicability of constructing the
23 project, and other expenses that may be necessary or incident to the construction and acquisition
24 of the project, the financing of the construction and acquisition, and the placing of the project in
25 operation;

26 (9) "Default insurance" means insurance insuring education loans, corporation loans, or
27 bonds or notes of the corporation against default;

28 (10) "Default reserve fund" means a fund established pursuant to a resolution of the
29 corporation for the purpose of securing education loans, corporation loans, or bonds or notes of
30 the corporation;

31 (11) "Education loan" means a loan which is made by or on behalf of an educational
32 institution or child day care center from the proceeds of a corporation loan, to a student or parents
33 of a student or both, to finance the student's attendance at the institution;

34 (12) "Education loan series portfolio" means all education loans made by or on behalf of

1 a specific educational institution or child day care center which are funded from the proceeds of a
2 corporation loan to the institution out of the proceeds of a related specific bond or note issued
3 through the corporation;

4 (13) "Educational institution" means:

5 (i) ~~an~~ An educational institution or local education authority participating in the school
6 housing aid program as described in chapter 7 of title 16 situated within this state which, by virtue
7 of law or charter, is a public or other nonprofit educational institution empowered to provide a
8 program of education at the primary, secondary or high school level, beyond the high school
9 level, and which is accredited by a nationally recognized educational accrediting agency or
10 association and awards a bachelor's or advance degree or provides a program of not less than two
11 (2) years' duration which is accepted for full credit toward a bachelor's degree;

12 (ii) Any nonprofit corporation, business corporation, limited liability company or
13 partnership or limited partnership the shareholders or members or partners or limited partners of
14 which are limited to those entities described in paragraph (13)(i) hereof; or

15 (iii) Any nonprofit corporation, business corporation, limited liability company,
16 partnership or limited partnership which is a party to a public-private partnership agreement at
17 least one of the parties of which is described in paragraph 13(i) hereof.

18 (14) "Health care provider" means:

19 (i) Any nonprofit hospital incorporated under the laws of the state, including any
20 nonprofit subsidiary corporations formed by any hospital or formed by the parent corporation of
21 the hospital;

22 (ii) Any nonprofit corporation, the member or members of which consist solely of one or
23 more hospitals or their parent corporations;

24 (iii) Any other hospital, which is licensed as a general hospital or maternity hospital
25 pursuant to chapter 17 of title 23, which is exempt from taxation;

26 (iv) Any nonprofit group health association;

27 (v) Any cooperative hospital service organization, or any nonprofit corporation that is
28 licensed as a skilled nursing and/or intermediate care facility pursuant to chapter 17 of title 23,
29 including any nonprofit subsidiary corporation formed by any of the foregoing skilled nursing
30 and/or intermediate care facilities, or any nonprofit corporation eligible to receive funding,
31 pursuant to chapter 8.5 of title 40.1, and/or a corporation created pursuant to chapter 6 of title 7;
32 provided, that it is a real estate holding corporation created for the benefit of a nonprofit
33 corporation eligible to receive funding under chapter 8.5 of title 40.1;

34 (vi) Any nonprofit health care corporation whose purpose is to provide home care

1 services or supplies to the citizens of this state including, but not limited to, nonprofit visiting
2 nurse associations and nonprofit home care organizations;

3 (vii) Any other not-for-profit corporation organized pursuant to chapter 6 of title 7 or
4 pursuant to any special act of the general assembly and which is exempt from federal taxation of
5 income in accordance with Section 501(c)(3), 26 U.S.C. section 501(c)(3), of the Internal
6 Revenue Code and which is licensed as:

7 (A) A health care facility pursuant to chapter 17 of title 23;

8 (B) A "facility" pursuant to chapter 24 of title 40.1;

9 (C) A "residential care and assisted living facility" pursuant to chapter 17.4 of title 23;

10 (D) An adult day-care facility; or

11 (E) A "clinical laboratory" pursuant to chapter 23-16.2 and as a manufacturer of
12 biological products by the United States Department of Health and Human Services Food and
13 Drug Administration that operates in Rhode Island;

14 (viii) Any not-for-profit corporation which is exempt from federal taxation of income in
15 accordance with Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. section 501(c)(3), or
16 any successor section of the Internal Revenue Code, which under contract with the state educates,
17 counsels or rehabilitates young people who have come subject to child welfare, juvenile justice or
18 mental health systems in the state; or

19 (ix) Any network or similar arrangement of those entities listed in subsection ~~(14)~~(i)
20 through (viii) above;

21 (x)(A) Any nonprofit corporation, business corporation, limited liability company,
22 partnership or limited partnership, the shareholders or members or partners or limited partners of
23 which are limited to those entities described in paragraph (14)(i) through (ix) hereof; or

24 (B) Any nonprofit corporation, business corporation, limited liability company,
25 partnership or limited partnership which is a party to a public-private partnership agreement at
26 least one of the parties of which is described in paragraph (14)(i) through (ix) hereof.

27 (15) "Loan funding deposit" means monies or other property deposited by an educational
28 institution or child day care center with the corporation, a guarantor, or a trustee for the purpose
29 of:

30 (i) Providing security for bonds or notes;

31 (ii) Funding a default reserve fund;

32 (iii) Acquiring default insurance;

33 (iv) Defraying costs of the corporation, the monies or properties to be in amounts as
34 deemed necessary by the corporation or a guarantor as a condition for the institution's

1 participation in the corporation's programs;

2 (16) "Nonprofit group health association" means an association or a corporation
3 established by an act of the general assembly, or created pursuant to chapter 6 of title 7, to
4 provide all or any part of a project or property to the citizens of this state;

5 (17) "Note" means a written promise to pay, including, but not limited to, capital notes
6 and revenue anticipation notes;

7 (18) "Parent" means any parent, legal guardian, or sponsor of the student at an
8 educational institution or child day care center;

9 (19) "Participating hospital" means a hospital which, pursuant to the provisions of this
10 chapter, undertakes the financing and construction or acquisition of a project or undertakes the
11 refunding or refinancing of obligations or of a mortgage or of advances as provided in and
12 permitted by this chapter;

13 (20) "Participating educational institution" means an educational institution or child day
14 care center which, pursuant to the provisions of this chapter, undertakes the financing and
15 construction or acquisition of a project, or undertakes the refunding or refinancing of obligations
16 or of a mortgage or of advances or undertakes the financing, directly or indirectly, of education
17 loans, all as provided in and permitted by this chapter;

18 (21) "Project," in the case of a participating educational institution or child day care
19 center means a structure suitable for use as a dormitory or other housing facility, dining hall,
20 student union, administration building, academic building, library, laboratory, research facility,
21 classroom, athletic facility, health care facility, and maintenance, storage or utility facility, and
22 other structures or facilities related to the educational institution or child day care center or
23 required or useful for the instruction of students or the conducting of research or the operation of
24 an educational institution or child day care center including parking and other facilities or
25 structures essential or convenient for the orderly conduct of the educational institution or child
26 day care center and also includes equipment and machinery and other similar items necessary or
27 convenient for the operation of a particular facility or structure in the manner for which its use is
28 intended, but does not include such items as books, fuel, supplies, or other items which are
29 customarily deemed to result in a current operating charge; and, in the case of a participating
30 health care provider, means a structure suitable for use as a hospital, clinic, nursing home,
31 congregate housing for the elderly and/or infirm, mental health service unit, or other health care
32 facility, laboratory, laundry, nurses', interns', or clients' residence, administration building,
33 research facility, and maintenance, storage or utility facility, and other structures or facilities
34 related to the health care provider or required or useful for the operation of the project, including

1 parking and other facilities or structures essential or convenient for the orderly operation of the
2 project, and also includes equipment and machinery and other similar items necessary or
3 convenient for the operation of the project in the manner for which its use is intended, but does
4 not include such items as fuel, supplies, or other items which are customarily deemed to result in
5 a current operating charge;

6 (22) "Public-private partnership agreement" means an arrangement or agreement pursuant
7 to which a nonprofit corporation, business corporation, limited liability company, partnership or
8 limited partnership undertakes or develops a project for an educational institution or a health care
9 provider including, but not limited to, a lease arrangement, wherein pursuant to such arrangement
10 or agreement at the conclusion of such arrangement or agreement the ownership of the bond-
11 financed or note-financed project is transferred to the educational institution or health care
12 provider for no additional consideration.

13 ~~(23)~~ (22) "Revenue anticipation note(s)" means a note or notes of the corporation not
14 exceeding twelve (12) months in duration to maturity issued for the benefit of a health care
15 provider or educational institution in anticipation of revenues reasonably expected to be collected
16 by the health care provider or educational institution within twelve (12) months from the date of
17 the note or notes;

18 ~~(24)~~ (23) "School housing project" means an "approved project," as defined in section 16-
19 7-36(2);

20 ~~(25)~~ (24) "School housing project financing" means bonds issued through the corporation
21 to fund school housing projects as provided in and permitted by section 16-7-44;

22 ~~(26)~~ (25) "State" means the state of Rhode Island and Providence Plantations; and

23 ~~(27)~~ (26) "State reimbursement" shall mean the state's share of school housing project
24 cost as determined in accordance with sections 16-7-35 -- 16-7-47.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would expand the eligible list of borrowers from the Health and Educational
2 Building Corporation to include not only educational institutions and health care providers as
3 currently defined but also various entities controlled by such educational institutions and health
4 care providers as well as those engaged in public-private partnership agreements with education
5 institutions and health care providers.

6 This act would take effect upon passage.

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