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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO HISTORIC STRUCTURES -- TAX CREDIT

Introduced By: Senators Goodwin, Pichardo, Pearson, Miller, and Paiva Weed

Date Introduced: March 13, 2013

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-33.2-2 of the General Laws in Chapter 44-33.2 entitled "Historic
2 Structures – Tax Credit" is hereby amended to read as follows:

3 **44-33.2-2. Definitions.** -- As used in this chapter:

4 (1) "Abandoned Project" means a certified rehabilitation approved as of May 15, 2008
5 that has voluntarily withdrawn and forfeited any rights to tax credits under this chapter or a
6 certified rehabilitation approved as of May 15, 2008 that has not met substantial construction on
7 or before May 15, 2013.

8 ~~(2)~~ (2) "Certified historic structure" means a property which is located in the state of
9 Rhode Island and is:

10 (i) Listed individually on the National Register of Historic Places; or

11 (ii) Listed individually in the state register of historic places; or

12 (iii) Located in a registered historic district and certified by either the commission or
13 Secretary of the Interior as being of historic significance to the district.

14 ~~(3)~~ (3) "Certified rehabilitation" means any rehabilitation of a certified historic structure
15 consistent with the historic character of such property or the district in which the property is
16 located as determined by the commission guidelines.

17 ~~(4)~~ (4) "Commission" means the Rhode Island historical preservation and heritage
18 commission created pursuant to Chapter 44-3-3.

19 (5) "Economic Development Corporation" means the Rhode Island economic

1 [development corporation created pursuant to chapter 42-64.](#)

2 ~~(4)~~[\(6\)](#) “Exempt from real property tax” means, with respect to any certified historic
3 structure, that the structure is exempt from taxation pursuant to Chapter 44-3-3.

4 ~~(5)~~[\(7\)](#) “Holding period” means twenty-four (24) months after the commission issues a
5 certificate of completed work to the owner. In the case of a rehabilitation which may reasonably
6 be expected to be completed in phases as described in subdivision (10) of this section, “holding
7 period” shall be extended to include a period of time beginning on the date of issuance of a
8 certificate of completed work for the first phase or phases for which a certificate of completed
9 work is issued for the last phase.

10 ~~(6)~~[\(8\)](#) “Placed in service” means that substantial rehabilitation work has been completed
11 which would allow for occupancy of the entire structure or some identifiable portion of the
12 structure, or the owner has commenced depreciation of the qualified rehabilitation expenditures,
13 whichever occurs first.

14 ~~(7)~~[\(9\)](#) “Principal residence” means the principal residence of the owner within the
15 meaning of § 121 of the Internal Revenue Code [26 U.S.C § 121] or any successor provision.

16 ~~(8)~~[\(10\)](#) “Qualified rehabilitation expenditures” means any amounts expended in the
17 rehabilitation of a certified historic structure properly capitalized to the building and either: (i)
18 depreciable under the Internal Revenue Code, 26 U.S.C § 1 et seq., or (ii) made with respect to
19 property (other than the principal residence of the owner) held for sale by the owner. Fees
20 pursuant to § 44-33.2-4(d) are not qualified rehabilitation expenditures. Notwithstanding the
21 foregoing, except in the case of a nonprofit corporation, there will be deducted from qualified
22 rehabilitation expenditures for the purposes of calculating the tax credit any funds made available
23 to the person (including any entity specified in § 44-33.2-3(a)) incurring the qualified
24 rehabilitation expenditures in the form of a direct grant from a federal, state or local governmental
25 entity or agency or instrumentality of government. Qualified rehabilitation expenditures shall be
26 limited on replacement projects to qualified expenditures incurred and actually paid.

27 ~~(9)~~[\(11\)](#) “Registered historic district” means any district listed in the National Register of
28 Historic Places, or the state register of historic places.

29 [\(12\) "Replacement Project" means any certified historic structure project approved after](#)
30 [July 1, 2012 pursuant to section 44-33.2-3.1.](#)

31 [\(13\) "Scattered Site Development" means a development project for which the developer](#)
32 [seeks unified financing to rehabilitate dwelling units in two \(2\) or more buildings located in an](#)
33 [area that is defined by a neighborhood revitalization plan and is not more than one mile in](#)
34 [diameter.](#)

1 (14) "Substantial Construction" means that: (i) The owner of a certified historic structure
2 has entered into a contract with the division of taxation and paid the processing fee; (ii) The
3 commission has certified that the certified historic structure's rehabilitation will be consistent
4 with the standards set forth in section 44-33.2-4 and (iii) The owner has expended ten percent
5 (10%) of its qualified rehabilitation expenditures, estimated in the contract entered into with the
6 division of taxation for the project or its first phase of a phased project, or has amended the
7 contract to provide for abandonment of a portion of credits due to a change in the scope of the
8 project.

9 ~~(10)~~(15) "Substantial rehabilitation" means, with respect to a certified historic structure,
10 that the qualified rehabilitation expenses of the building during the twenty-four (24) month period
11 selected by the taxpayer ending with or within the taxable year exceed fifty (50%) of the adjusted
12 basis in such building and its structural components as of the beginning of such period. In the
13 case of rehabilitation, which may reasonably be expected to be completed in phases set forth in
14 architectural plans and specifications completed before the rehabilitation begins, the above
15 definition shall be applied by substituting "sixty (60) month period" for "twenty-four (24) month
16 period".

17 SECTION 2. Chapter 44-33.2 of the General Laws entitled "Historic Structures – Tax
18 Credit" is hereby amended by adding thereto the following section:

19 **44-33.2-3.1. Replacement Projects.** -- (a) The tax administrator shall make available to
20 the economic development corporation, the department of labor and training, and the commission
21 any information and/or data that the administrator may consider necessary to administer this
22 chapter.

23 (b) On July 1, 2013, and every month thereafter, the division of taxation shall report to
24 the economic development corporation, the commission, the state budget officer, the house fiscal
25 advisor and the senate fiscal advisor on all abandoned projects along with the estimated tax
26 credits for said projects. The division of taxation shall also report the cumulative investment
27 earnings and processing fees received and processing fees reimbursed, in order to provide the
28 economic development corporation and the commission with the maximum limit of replacement
29 projects that can be awarded.

30 (c) The economic development corporation and the commission shall solicit and accept
31 applications for replacement projects, which shall be processed and approved in accordance with
32 the terms and provisions of chapter 44-33.2 and the rules and regulations promulgated and
33 amended from time to time in accordance with this chapter. These replacement project(s) shall be
34 entitled to tax credits under this chapter, the total amount of which can not exceed the amount

1 reported in subsection 44-33.2-3.1(b). The economic development corporation and commission
2 shall award replacement projects based on the following criteria:

3 (1) Replacement projects shall meet all requirements for a certified historic structure
4 under this chapter;

5 (2) Replacement projects shall not be a social club or club defined under Internal
6 Revenue Code section 501(c)(7);

7 (3) Replacement projects shall not consist of a single family home or a property that
8 contains less than four (4) residential apartments or condominiums; provided, however, a
9 scattered site development with five (5) or more residential units in the aggregate but no more
10 than thirty percent (30%) of the total project, which may include single family homes, shall be
11 eligible for the tax credit;

12 (4) Replacement projects that are immediately ready for commencement and completion
13 within twenty four (24) months after approval shall receive preference;

14 (5) Replacement projects that address qualified historic tax structures and projects located
15 in cities and towns that are eligible for the distressed communities relief fund, as defined in
16 section 45-13-12, shall receive preference.

17 (d) Within ninety (90) days of receiving notification of being awarded a replacement
18 project, the person, firm, partnership, trust, estate, limited liability company, corporation (whether
19 profit or nonprofit) or other business entity that incurs qualified rehabilitation expenditures shall
20 pay a nonrefundable fee to the division of taxation in the amount of three percent (3%) of the
21 qualified rehabilitation expenditures.

22 (e) Upon payment of the fees as set forth in this section, the division of taxation shall, on
23 behalf of the state of Rhode Island guaranty, through a contract with persons, firms, partnerships,
24 trusts, estates, limited liability companies, corporations (whether for profit or nonprofit) or other
25 business entities that will incur qualified rehabilitation expenditures for the substantial
26 rehabilitation of a certified historic structure, the delivery of one hundred percent (100%) of the
27 tax credit, which shall not exceed twenty-five percent (25%) of the qualified rehabilitation
28 expenditures.

29 (f) For purposes of replacement projects, substantial construction must be met within one
30 (1) year from the date of approval.

31 (g) Replacement projects, where such substantial rehabilitation of a certified historic
32 structure pursuant to this chapter includes qualified rehabilitation expenditures that exceed ten
33 million dollars (\$10,000,000), shall only utilize contractors that participate in a class A
34 apprenticeship program that is registered with and approved by the U.S. department of labor or

1 the department of labor and training, as required pursuant to chapter 28-45, and has graduated
2 apprentices to journeyperson status within three (3) of the past five (5) years for each separate
3 trade or classification which it employs craft employees.

4 (1) The tax administrator shall request verification from the department of labor and
5 training of origination of the apprenticeship program seeking to be verified.

6 (2) The department of labor and training shall provide written verification regarding the
7 registration and approval of apprenticeship programs to the tax administrator no later than thirty
8 (30) days from receipt of the request.

9 (3) The tax administrator may disqualify those qualified rehabilitation expenditures
10 related only to the expenditures, for which an approved apprenticeship program was not verified
11 by the department of labor and training.

12 (h) The tax credit for replacement projects under this subsection shall be administered
13 consistent with all other provisions of this chapter.

14 (i) The commission, in consultation with the economic development corporation and
15 division of taxation, shall promulgate such rules and regulations as are necessary to carry out the
16 intent and purpose of this chapter.

17 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO HISTORIC STRUCTURES -- TAX CREDIT

1 This act would enable the economic development corporation and the Rhode Island
2 historical preservation and heritage commission to solicit and accept applications for replacement
3 projects for those projects which have been abandoned.

4 This act would take effect upon passage.

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