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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- REBUILD RHODE ISLAND
TAX CREDIT

Introduced By: Senators Crowley, Nesselbush, Conley, and Cano

Date Introduced: February 04, 2020

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-64.20-3 and 42-64.20-5 of the General Laws in Chapter 42-
2 64.20 entitled "Rebuild Rhode Island Tax Credit" are hereby amended to read as follows:

3 **42-64.20-3. Definitions.**

4 As used in this chapter:

5 (1) "Adaptive reuse" means the conversion of an existing structure from the use for which
6 it was constructed to a new use by maintaining elements of the structure and adapting such
7 elements to a new use.

8 (2) "Affiliate" means an entity that directly or indirectly controls, is under common
9 control with, or is controlled by the business. Control exists in all cases in which the entity is a
10 member of a controlled group of corporations as defined pursuant to § 1563 of the Internal
11 Revenue Code of 1986 (26 U.S.C. § 1563) or the entity is an organization in a group of
12 organizations under common control as defined pursuant to subsection (b) or (c) of § 414 of the
13 Internal Revenue Code of 1986 (26 U.S.C. § 414). A taxpayer may establish by clear and
14 convincing evidence, as determined by the tax administrator, that control exists in situations
15 involving lesser percentages of ownership than required by those statutes. An affiliate of a
16 business may contribute to meeting either the capital investment or full-time employee
17 requirements of a business that applies for a credit under this chapter.

18 (3) "Affordable housing" means housing for sale or rent with combined rental costs or

1 combined mortgage loan debt service, property taxes, and required insurance that do not exceed
2 thirty percent (30%) of the gross annual income of a household earning up to eighty percent
3 (80%) of the area median income, as defined annually by the United States Department of
4 Housing and Urban Development.

5 (4) "Applicant" means a developer applying for a rebuild Rhode Island tax credit under
6 this chapter.

7 (5) "Business" means a corporation as defined in § 44-11-1(4), or a partnership, an S
8 corporation, a non-profit corporation, a sole proprietorship, or a limited-liability corporation. A
9 business shall include an affiliate of the business if that business applies for a credit based upon
10 any capital investment made by an affiliate.

11 (6) "Capital investment" in a real estate project means expenses by a developer incurred
12 after application for:

13 (i) Site preparation and construction, repair, renovation, improvement, equipping, or
14 furnishing on real property or of a building, structure, facility, or improvement to real property;

15 (ii) Obtaining and installing furnishings and machinery, apparatus, or equipment,
16 including but not limited to, material goods for the operation of a business on real property or in a
17 building, structure, facility, or improvement to real property.

18 In addition to the foregoing, if a developer acquires or leases a qualified development
19 project, the capital investment made or acquired by the seller or owner, as the case may be, if
20 pertaining primarily to the premises of the qualified development project, shall be considered a
21 capital investment by the developer and, if pertaining generally to the qualified development
22 project being acquired or leased, shall be allocated to the premises of the qualified development
23 project on the basis of the gross leasable area of the premises in relation to the total gross leasable
24 area in the qualified development project. The capital investment described herein shall be
25 defined through rules and regulations promulgated by the commerce corporation.

26 (7) "Certified historic structure" means a property located in the state of Rhode Island and
27 is

28 (i) Listed individually on the national register of historic places; or

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

30 (iii) Located in a registered historic district and certified by either the Rhode Island
31 historical preservation and heritage commission created pursuant to § 42-45-2 or the Secretary of
32 the Interior as being of historic significance to the district.

33 (8) "Commerce corporation" means the Rhode Island commerce corporation established
34 pursuant to § 42-64-1 et seq.

1 (9) "Commercial" shall mean non-residential development.

2 (10) "Developer" means a person, firm, business, partnership, association, political
3 subdivision, or other entity that proposes to divide, divides, or causes to be divided real property
4 into a subdivision or proposes to build or builds a building or buildings or otherwise improves
5 land or existing structures, which division, building, or improvement qualifies for benefits under
6 this chapter.

7 (11) "Development" means the improvement of land through the carrying out of building,
8 engineering, or other operations in, on, over, or under land, or the making of any material change
9 in the use of any buildings or land for the purposes of accommodating land uses.

10 (12) "Eligibility period" means the period in which a developer may claim a tax credit
11 under this act, beginning with the tax period in which the commerce corporation accepts
12 certification from the developer that it has met the requirements of the act and extending
13 thereafter for a term of five (5) years.

14 (13) "Full-time employee" means a person who is employed by a business for
15 consideration for a minimum of at least thirty-five (35) hours per week, or who renders any other
16 standard of service generally accepted by custom or practice as full-time employment, or who is
17 employed by a professional employer organization pursuant to an employee leasing agreement
18 between the business and the professional employer organization for a minimum of thirty-five
19 (35) hours per week, or who renders any other standard of service generally accepted by custom
20 or practice as full-time employment, and whose wages are subject to withholding.

21 (14) "Hope community" means a municipality for which the five-year (5) average
22 percentage of families with income below the federal poverty level exceeds the state five-year (5)
23 average percentage, both as most recently reported by the U.S. Department of Commerce, Bureau
24 of the Census.

25 (15) "Manufacturer" shall mean any entity that:

26 (i) Uses any premises within the state primarily for the purpose of transforming raw
27 materials into a finished product for trade through any or all of the following operations:
28 adapting, altering, finishing, making, processing, refining, metalworking, and ornamenting, but
29 shall not include fabricating processes incidental to warehousing or distribution of raw materials,
30 such as alteration of stock for the convenience of a customer; or

31 (ii) Is described in codes 31-33 of the North American Industry Classification System, as
32 revised from time to time.

33 (16) "Mixed use" means a development comprising both commercial and residential
34 components.

1 (17) "Partnership" means an entity classified as a partnership for federal income tax
2 purposes.

3 (18) "Placed in service" means the earlier of (i) Substantial construction or rehabilitation
4 work has been completed that would allow for occupancy of an entire structure or some
5 identifiable portion of a structure, as established in the application approved by the commerce
6 corporation board or (ii) Receipt by the developer of a certificate, permit, or other authorization
7 allowing for occupancy of the project or some identifiable portion of the project by the municipal
8 authority having jurisdiction.

9 (19) "Pawtucket-Central Falls station redevelopment district" means the area in the city
10 of Pawtucket beginning at the point of intersection of Lonsdale Avenue and Rand Street, turning
11 south on Lonsdale Avenue until Beecher Street, then heading east, then south, then east on
12 Beecher Street to Coleman Street, then turning south onto Coleman Street to Carpenter Street,
13 then heading east onto Carpenter Street to Conant Street, then turning south onto Conant Street to
14 Weeden Street, turning west onto Weeden Street to Coleman Street, then turning south onto
15 Coleman Street to Centre Street, then turning east onto Centre Street to Conant Street, then
16 turning south onto Conant Street to Mineral Spring Avenue, then turning east onto Mineral
17 Spring Avenue to Church Street, continuing east onto Church Street to Park Place West, turning
18 north onto Park Place West to Dexter Street, continuing north onto Dexter Street to Cross Street,
19 then turning west onto Cross Street to Pine Street, then turning north onto Pine Street to Rand
20 Street, then turning west onto Rand Street to Lonsdale Avenue. In the City of Central Falls it
21 means the area beginning at the point of intersection of Dexter Street and the Central Falls-
22 Pawtucket city line, then following the Central Falls-Pawtucket city line to Clay Street, then
23 turning east onto Clay Street to Hawes Street, then turning north onto Hawes Street to Cross
24 Street, then turning west onto Cross Street to Pine Street, then turning north onto Pine Street to
25 Knight Street, then turning east onto Knight Street to Dexter Street, then turning north onto
26 Dexter Street to Central Street, then turning west onto Central Street to Pine Street, then turning
27 north onto Pine Street to Rand Street, then turning east onto Rand Street to Dexter Street, then
28 turning north onto Dexter Street to Mowry Street, then turning west onto Mowry Street to Pine
29 Street, then turning south onto Pine Street to Rand Street, then turning west onto Rand Street to
30 Lonsdale Avenue, then turning south onto Lonsdale Avenue to the Central Falls-Pawtucket city
31 line, then following the Central Falls-Pawtucket city line east to Dexter Street.

32 ~~(19)~~(20) "Project" means qualified development project as defined under subsection
33 ~~(23)~~(24).

34 ~~(20)~~(21) "Project area" means land or lands under common ownership or control in which

1 a qualified development project is located.

2 ~~(21)~~(22) "Project cost" means the costs incurred in connection with the qualified
3 development project or qualified residential or mixed use project by the applicant until the
4 issuance of a permanent certificate of occupancy, or until such other time specified by the
5 commerce corporation, for a specific investment or improvement, as defined through rules and
6 regulations promulgated by the commerce corporation.

7 ~~(22)~~(23) "Project financing gap" means:

8 (i) The part of the total project cost that remains to be financed after all other sources of
9 capital have been accounted for (the sources will include, but not be limited to, developer-
10 contributed capital), which shall be defined through rules and regulations promulgated by the
11 commerce corporation; or

12 (ii) The amount of funds that the state may invest in a project to gain a competitive
13 advantage over a viable and comparable location in another state by means described in this
14 chapter.

15 ~~(23)~~(24) "Qualified development project" means a specific construction project or
16 improvement, including lands, buildings, improvements, real and personal property or any
17 interest therein, including lands under water, riparian rights, space rights and air rights, acquired,
18 owned, leased, developed or redeveloped, constructed, reconstructed, rehabilitated or improved,
19 undertaken by a developer, owner or tenant, or both, within a specific geographic area, meeting
20 the requirements of this chapter, as set forth in an application made to the commerce corporation.

21 ~~(24)~~(25) "Recognized historical structure" means a property located in the state of Rhode
22 Island and commonly considered to be of historic or cultural significance as determined by the
23 commerce corporation in consultation with the state historic preservation officer.

24 ~~(25)~~(26) "Residential" means a development of residential dwelling units.

25 ~~(26)~~(27) "Targeted industry" means any advanced, promising, or otherwise prioritized
26 industry identified in the economic development vision and policy promulgated pursuant to § 42-
27 64.17-1 or, until such time as any such economic development vision and policy is promulgated,
28 as identified by the commerce corporation.

29 ~~(27)~~(28) "Transit-oriented development area" means an area in proximity to transit
30 infrastructure that will be further defined by regulation of the commerce corporation in
31 consultation with the Rhode Island department of transportation.

32 ~~(28)~~(29) "Workforce housing" means housing for sale or rent with combined rental costs
33 or combined mortgage loan debt service, property taxes, and required insurance that do not
34 exceed thirty percent (30%) of the gross annual income of a household earning between eighty

1 percent (80%) and one hundred and forty percent (140%) of the area median income, as defined
2 annually by the United States Department of Housing and Urban Development.

3 **42-64.20-5. Tax credits.**

4 (a) An applicant meeting the requirements of this chapter may be allowed a credit as set
5 forth hereinafter against taxes imposed upon such person under applicable provisions of title 44
6 of the general laws for a qualified development project.

7 (b) To be eligible as a qualified development project entitled to tax credits, an applicant's
8 chief executive officer or equivalent officer shall demonstrate to the commerce corporation, at the
9 time of application, that:

10 (1) The applicant has committed a capital investment or owner equity of not less than
11 twenty percent (20%) of the total project cost;

12 (2) There is a project financing gap in which after taking into account all available private
13 and public funding sources, the project is not likely to be accomplished by private enterprise
14 without the tax credits described in this chapter; and

15 (3) The project fulfills the state's policy and planning objectives and priorities in that:

16 (i) The applicant will, at the discretion of the commerce corporation, obtain a tax
17 stabilization agreement from the municipality in which the real estate project is located on such
18 terms as the commerce corporation deems acceptable;

19 (ii) It (A) Is a commercial development consisting of at least 25,000 square feet occupied
20 by at least one business employing at least 25 full-time employees after construction or such
21 additional full-time employees as the commerce corporation may determine; (B) Is a multi-family
22 residential development in a new, adaptive reuse, certified historic structure, or recognized
23 historical structure consisting of at least 20,000 square feet and having at least 20 residential units
24 in a hope community; or (C) Is a mixed-use development in a new, adaptive reuse, certified
25 historic structure, or recognized historical structure consisting of at least 25,000 square feet
26 occupied by at least one business, subject to further definition through rules and regulations
27 promulgated by the commerce corporation; and

28 (iii) Involves a total project cost of not less than \$5,000,000, except for a qualified
29 development project located in a hope community or redevelopment area designated under § 45-
30 32-4 in which event the commerce corporation shall have the discretion to modify the minimum
31 project cost requirement.

32 (c) The commerce corporation shall develop separate, streamlined application processes
33 for the issuance of rebuild RI tax credits for each of the following:

34 (1) Qualified development projects that involve certified historic structures;

- 1 (2) Qualified development projects that involve recognized historical structures;
2 (3) Qualified development projects that involve at least one manufacturer; and
3 (4) Qualified development projects that include affordable housing or workforce housing.

4 (d) Applications made for a historic structure or recognized historic structure tax credit
5 under chapter 33.6 of title 44 shall be considered for tax credits under this chapter. The division
6 of taxation, at the expense of the commerce corporation, shall provide communications from the
7 commerce corporation to those who have applied for and are in the queue awaiting the offer of
8 tax credits pursuant to chapter 33.6 of title 44 regarding their potential eligibility for the rebuild
9 RI tax credit program.

10 (e) Applicants (1) Who have received the notice referenced in subsection (d) above and
11 who may be eligible for a tax credit pursuant to chapter 33.6 of title 44, (2) Whose application
12 involves a certified historic structure or recognized historical structure, or (3) Whose project is
13 occupied by at least one manufacturer shall be exempt from the requirements of subsections
14 (b)(3)(ii) and (b)(3)(iii). The following procedure shall apply to such applicants:

15 (i) The division of taxation shall remain responsible for determining the eligibility of an
16 applicant for tax credits awarded under chapter 33.6 of title 44;

17 (ii) The commerce corporation shall retain sole authority for determining the eligibility of
18 an applicant for tax credits awarded under this chapter; and

19 (iii) The commerce corporation shall not award in excess of fifteen percent (15%) of the
20 annual amount authorized in any fiscal year to applicants seeking tax credits pursuant to this
21 subsection (e).

22 (f) Maximum project credit.

23 (1) For qualified development projects, the maximum tax credit allowed under this
24 chapter shall be the lesser of (i) Thirty percent (30%) of the total project cost; or (ii) The amount
25 needed to close a project financing gap (after taking into account all other private and public
26 funding sources available to the project), as determined by the commerce corporation.

27 (2) The credit allowed pursuant to this chapter, inclusive of any sales and use tax
28 exemptions allowed pursuant to this chapter, shall not exceed fifteen million dollars
29 (\$15,000,000) for any qualified development project under this chapter; except as provided in
30 subsection (f)(3) of this section; provided however, any qualified development project that
31 exceeds the project cap upon passage of this act shall be deemed not to exceed the cap, shall not
32 be reduced, nor shall it be further increased. No building or qualified development project to be
33 completed in phases or in multiple projects shall exceed the maximum project credit of fifteen
34 million dollars (\$15,000,000) for all phases or projects involved in the rehabilitation of the

1 building. Provided, however, that for purposes of this subsection and no more than once in a
2 given fiscal year, the commerce corporation may consider the development of land and buildings
3 by a developer on the "I-195 land" as defined in § 42-64.24-3(6) as a separate, qualified
4 development project from a qualified development project by a tenant or owner of a commercial
5 condominium or similar legal interest including leasehold improvement, fit out, and capital
6 investment. Such qualified development project by a tenant or owner of a commercial
7 condominium or similar legal interest on the I-195 land may be exempted from subsection
8 (f)(1)(i) of this section.

9 (3) The credit allowed pursuant to this chapter, inclusive of any sales and use tax
10 exemptions allowed pursuant to this chapter, shall not exceed twenty-five million dollars
11 (\$25,000,000) for the project for which the I-195 redevelopment district was authorized to enter
12 into a purchase and sale agreement for parcels 42 and P4 on December 19, 2018, provided that
13 project is approved for credits pursuant to this chapter by the commerce corporation.

14 (g) Credits available under this chapter shall not exceed twenty percent (20%) of the
15 project cost, provided, however, that the applicant shall be eligible for additional tax credits of not
16 more than ten percent (10%) of the project cost, if the qualified development project meets any of
17 the following criteria or other additional criteria determined by the commerce corporation from
18 time to time in response to evolving economic or market conditions:

19 (1) The project includes adaptive reuse or development of a recognized historical
20 structure;

21 (2) The project is undertaken by or for a targeted industry;

22 (3) The project is located in a transit-oriented development area. Notwithstanding the
23 provisions of any general or special law to the contrary, applicants applying for tax credits for
24 projects located in a transit-oriented development area located in the Pawtucket-Central Falls
25 station redevelopment district shall be eligible for credits not exceeding fifty percent (50%) of the
26 project cost;

27 (4) The project includes residential development of which at least twenty percent (20%)
28 of the residential units are designated as affordable housing or workforce housing;

29 (5) The project includes the adaptive reuse of property subject to the requirements of the
30 industrial property remediation and reuse act, § 23-19.14-1 et seq.; or

31 (6) The project includes commercial facilities constructed in accordance with the
32 minimum environmental and sustainability standards, as certified by the commerce corporation
33 pursuant to Leadership in Energy and Environmental Design or other equivalent standards.

34 (h) Maximum aggregate credits. The aggregate sum authorized pursuant to this chapter,

1 inclusive of any sales and use tax exemptions allowed pursuant to this chapter, shall not exceed
2 two hundred ten million dollars (\$210,000,000), excluding any tax credits allowed pursuant to
3 subsection (f)(3) of this section.

4 (i) Tax credits shall not be allowed under this chapter prior to the taxable year in which
5 the project is placed in service.

6 (j) The amount of a tax credit allowed under this chapter shall be allowable to the
7 taxpayer in up to five, annual increments; no more than thirty percent (30%) and no less than
8 fifteen percent (15%) of the total credits allowed to a taxpayer under this chapter may be
9 allowable for any taxable year.

10 (k) If the portion of the tax credit allowed under this chapter exceeds the taxpayer's total
11 tax liability for the year in which the relevant portion of the credit is allowed, the amount that
12 exceeds the taxpayer's tax liability may be carried forward for credit against the taxes imposed for
13 the succeeding four (4) years, or until the full credit is used, whichever occurs first. Credits
14 allowed to a partnership, a limited-liability company taxed as a partnership, or multiple owners of
15 property shall be passed through to the persons designated as partners, members, or owners
16 respectively pro rata or pursuant to an executed agreement among persons designated as partners,
17 members, or owners documenting an alternate distribution method without regard to their sharing
18 of other tax or economic attributes of such entity.

19 (l) The commerce corporation, in consultation with the division of taxation, shall
20 establish, by regulation, the process for the assignment, transfer, or conveyance of tax credits.

21 (m) For purposes of this chapter, any assignment or sales proceeds received by the
22 taxpayer for its assignment or sale of the tax credits allowed pursuant to this section shall be
23 exempt from taxation under title 44. If a tax credit is subsequently revoked or adjusted, the
24 seller's tax calculation for the year of revocation or adjustment shall be increased by the total
25 amount of the sales proceeds, without proration, as a modification under chapter 30 of title 44. In
26 the event that the seller is not a natural person, the seller's tax calculation under chapter 11, 13,
27 14, or 17 of title 44, as applicable, for the year of revocation, or adjustment, shall be increased by
28 including the total amount of the sales proceeds without proration.

29 (n) The tax credit allowed under this chapter may be used as a credit against corporate
30 income taxes imposed under chapter 11, 13, 14, or 17, of title 44, or may be used as a credit
31 against personal income taxes imposed under chapter 30 of title 44 for owners of pass-through
32 entities such as a partnership, a limited-liability company taxed as a partnership, or multiple
33 owners of property.

34 (o) In the case of a corporation, this credit is only allowed against the tax of a corporation

1 included in a consolidated return that qualifies for the credit and not against the tax of other
2 corporations that may join in the filing of a consolidated tax return.

3 (p) Upon request of a taxpayer and subject to annual appropriation, the state shall redeem
4 this credit, in whole or in part, for ninety percent (90%) of the value of the tax credit. The division
5 of taxation, in consultation with the commerce corporation, shall establish by regulation a
6 redemption process for tax credits.

7 (q) Projects eligible to receive a tax credit under this chapter may, at the discretion of the
8 commerce corporation, be exempt from sales and use taxes imposed on the purchase of the
9 following classes of personal property only to the extent utilized directly and exclusively in the
10 project: (1) Furniture, fixtures, and equipment, except automobiles, trucks, or other motor
11 vehicles; or (2) Other materials, including construction materials and supplies, that are
12 depreciable and have a useful life of one year or more and are essential to the project.

13 (r) The commerce corporation shall promulgate rules and regulations for the
14 administration and certification of additional tax credit under subsection (e), including criteria for
15 the eligibility, evaluation, prioritization, and approval of projects that qualify for such additional
16 tax credit.

17 (s) The commerce corporation shall not have any obligation to make any award or grant
18 any benefits under this chapter.

19 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 -- REBUILD RHODE ISLAND
TAX CREDIT

1 This act would amend certain provisions of the "Rebuild Rhode Island Tax Credit Act",
2 and would create the Pawtucket-Central Falls station redevelopment district with a metes and
3 bounds description. The act would also provide that tax credits may be available for certain
4 projects located in the transit-oriented development area located in the Pawtucket-Central Falls
5 station redevelopment district for an amount not to exceed fifty percent (50%) of the project cost.

6 This act would take effect upon passage.

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