

2016 -- S 2274

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO TAXATION -- PROPERTY SUBJECT TO TAXATION -- RENEWABLE
ENERGY SYSTEMS

Introduced By: Senators Pagliarini, Algiere, and Lombardi

Date Introduced: February 09, 2016

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-3-3 of the General Laws in Chapter 44-3 entitled "Property
2 Subject to Taxation" is hereby amended to read as follows:

3 **44-3-3. Property exempt.** -- (a) The following property is exempt from taxation.

4 (1) Property belonging to the state except as provided in § 44-4-4.1;

5 (2) Lands ceded or belonging to the United States;

6 (3) Bonds and other securities issued and exempted from taxation by the government of
7 the United States or of this state;

8 (4) Real estate, used exclusively for military purposes, owned by chartered or
9 incorporated organizations approved by the adjutant general and composed of members of the
10 national guard, the naval militia, or the independent chartered military organizations;

11 (5) Buildings for free public schools, buildings for religious worship, and the land upon
12 which they stand and immediately surrounding them, to an extent not exceeding five (5) acres so
13 far as the buildings and land are occupied and used exclusively for religious or educational
14 purposes;

15 (6) Dwellings houses and the land on which they stand, not exceeding one acre in size,
16 or the minimum lot size for zone in which the dwelling house is located, whichever is the greater,
17 owned by, or held in trust for, any religious organization and actually used by its officiating
18 clergy; provided, further, that in the town of Charlestown, where the property previously

1 described in this paragraph is exempt in total, along with dwelling houses and the land on which
2 they stand in Charlestown, not exceeding one acre in size, or the minimum lot size for zone in
3 which the dwelling house is located, whichever is the greater, owned by, or held in trust for, any
4 religious organization and actually used by its officiating clergy, or used as a convent, nunnery, or
5 retreat center by its religious order.

6 (7) Intangible personal property owned by, or held in trust for, any religious or charitable
7 organization, if the principal or income is used or appropriated for religious or charitable
8 purposes;

9 (8) Buildings and personal estate owned by any corporation used for a school, academy,
10 or seminary of learning, and of any incorporated public charitable institution, and the land upon
11 which the buildings stand and immediately surrounding them to an extent not exceeding one acre,
12 so far as they are used exclusively for educational purposes, but no property or estate whatever is
13 hereafter exempt from taxation in any case where any part of its income or profits, or of the
14 business carried on there, is divided among its owners or stockholders; provided, however, that
15 unless any private nonprofit corporation organized as a college or university located in the town
16 of Smithfield reaches a memorandum of agreement with the town of Smithfield, the town of
17 Smithfield shall bill the actual costs for police, fire, and rescue services supplied, unless
18 otherwise reimbursed, to said corporation commencing March 1, 2014;

19 (9) Estates, persons, and families of the president and professors for the time being of
20 Brown University for not more than ten thousand dollars (\$ 10,000) for each officer, the officer's
21 estate, person, and family included, but only to the extent that any person had claimed and
22 utilized the exemption prior to, and for a period ending, either on or after December 31, 1996;

23 (10) Property especially exempt by charter unless the exemption has been waived in
24 whole or in part.

25 (11) Lots of land exclusively for burial grounds;

26 (12) Property, real and personal, held for, or by, an incorporated library, society, or any
27 free public library, or any free public library society, so far as the property is held exclusively for
28 library purposes, or for the aid or support of the aged poor, or poor friendless children, or the poor
29 generally, or for a nonprofit hospital for the sick or disabled;

30 (13) Real or personal estate belonging to, or held in trust for, the benefit of incorporated
31 organizations of veterans of any war in which the United States has been engaged, the parent
32 body of which has been incorporated by act of Congress, to the extent of four hundred thousand
33 dollars (\$ 400,000) if actually used and occupied by the association; provided, that the city
34 council of the city of Cranston may by ordinance exempt the real or personal estate as previously

1 described in this subdivision located within the city of Cranston to the extent of five hundred
2 thousand dollars (\$500,000);

3 (14) Property, real and personal, held for, or by, the fraternal corporation, association, or
4 body created to build and maintain a building or buildings for its meetings or the meetings of the
5 general assembly of its members, or subordinate bodies of the fraternity, and for the
6 accommodation of other fraternal bodies or associations, the entire net income of which real and
7 personal property is exclusively applied or to be used to build, furnish, and maintain an asylum or
8 asylums, a home or homes, a school or schools, for the free education or relief of the members of
9 the fraternity, or the relief, support, and care of worthy and indigent members of the fraternity,
10 their wives, widows, or orphans, and any fund given or held for the purpose of public education,
11 almshouses, and the land and buildings used in connection therewith;

12 (15) Real estate and personal property of any incorporated volunteer fire engine
13 company or incorporated volunteer ambulance or rescue corps in active service;

14 (16) The estate of any person who, in the judgment of the assessors, is unable from
15 infirmity or poverty to pay the tax; providing, that in the town of Burrillville the tax shall
16 constitute a lien for five (5) years on the property where the owner is entitled to the exemption. At
17 the expiration of five (5) years, the lien shall be abated in full. Provided, if the property is sold or
18 conveyed, or if debt secured by the property is refinanced during the five (5) year period, the lien
19 immediately becomes due and payable; any person claiming the exemption aggrieved by an
20 adverse decision of an assessor shall appeal the decision to the local board of tax review and
21 thereafter according to the provisions of § 44-5-26;

22 (17) Household furniture and family stores of a housekeeper in the whole, including
23 clothing, bedding, and other white goods, books, and all other tangible personal property items
24 that are common to the normal household;

25 (18) Improvements made to any real property to provide a shelter and fallout protection
26 from nuclear radiation, to the amount of one thousand five hundred dollars (\$ 1,500); provided,
27 that the improvements meet applicable standards for shelter construction established from time to
28 time by the Rhode Island emergency management agency. The improvements are deemed to
29 comply with the provisions of any building code or ordinance with respect to the materials or the
30 methods of construction used and any shelter or its establishment is deemed to comply with the
31 provisions of any zoning code or ordinance;

32 (19) Aircraft for which the fee required by § 1-4-6 has been paid to the tax administrator;

33 (20) Manufacturer's inventory

34 (i) For the purposes of §§ 44-4-10, 44-5-3, 44-5-20, and 44-5-38, a person is deemed to

1 be a manufacturer within a city or town within this state if that person uses any premises, room,
2 or place in it primarily for the purpose of transforming raw materials into a finished product for
3 trade through any or all of the following operations: adapting, altering, finishing, making, and
4 ornamenting; provided, that public utilities; non-regulated power producers commencing
5 commercial operation by selling electricity at retail or taking title to generating facilities on or
6 after July 1, 1997; building and construction contractors; warehousing operations, including
7 distribution bases or outlets of out-of-state manufacturers; and fabricating processes incidental to
8 warehousing or distribution of raw materials, such as alteration of stock for the convenience of a
9 customer; are excluded from this definition;

10 (ii) For the purposes of §§ 44-3-3, 44-4-10, and 44-5-38, the term "manufacturer's
11 inventory" or any similar term means and includes the manufacturer's raw materials, the
12 manufacturer's work in process, and finished products manufactured by the manufacturer in this
13 state, and not sold, leased, or traded by the manufacturer or its title or right to possession
14 divested; provided, that the term does not include any finished products held by the manufacturer
15 in any retail store or other similar selling place operated by the manufacturer whether or not the
16 retail establishment is located in the same building in which the manufacturer operates the
17 manufacturing plant;

18 (iii) For the purpose of § 44-11-2, a "manufacturer" is a person whose principal business
19 in this state consists of transforming raw materials into a finished product for trade through any or
20 all of the operations described in paragraph (i) of this subdivision. A person will be deemed to be
21 principally engaged if the gross receipts that person derived from the manufacturing operations in
22 this state during the calendar year or fiscal year mentioned in § 44-11-1 amounted to more than
23 fifty percent (50%) of the total gross receipts that person derived from all the business activities
24 in which that person engaged in this state during the taxable year. For the purpose of computing
25 the percentage, gross receipts derived by a manufacturer from the sale, lease, or rental of finished
26 products manufactured by the manufacturer in this state, even though the manufacturer's store or
27 other selling place may be at a different location from the location of the manufacturer's
28 manufacturing plant in this state, are deemed to have been derived from manufacturing;

29 (iv) Within the meaning of the preceding paragraphs of this subdivision, the term
30 "manufacturer" also includes persons who are principally engaged in any of the general activities
31 coded and listed as establishments engaged in manufacturing in the Standard Industrial
32 Classification Manual prepared by the Technical Committee on Industrial Classification, Office
33 of Statistical Standards, Executive Office of the President, United States Bureau of the Budget, as
34 revised from time to time, but eliminating as manufacturers those persons, who, because of their

1 limited type of manufacturing activities, are classified in the manual as falling within the trade
2 rather than an industrial classification of manufacturers. Among those thus eliminated, and
3 accordingly also excluded as manufacturers within the meaning of this paragraph, are persons
4 primarily engaged in selling, to the general public, products produced on the premises from which
5 they are sold, such as neighborhood bakeries, candy stores, ice cream parlors, shade shops, and
6 custom tailors, except, that a person who manufactures bakery products for sale primarily for
7 home delivery, or through one or more non-baking retail outlets, and whether or not retail outlets
8 are operated by person, is a manufacturer within the meaning of this paragraph;

9 (v) The term "Person" means and includes, as appropriate, a person, partnership, or
10 corporation; and

11 (vi) The department of revenue shall provide to the local assessors any assistance that is
12 necessary in determining the proper application of the definitions in this subdivision.

13 (21) Real and tangible personal property acquired to provide a treatment facility used
14 primarily to control the pollution or contamination of the waters or the air of the state, as defined
15 in chapter 12 of title 46 and chapter 25 of title 23, respectively, the facility having been
16 constructed, reconstructed, erected, installed, or acquired in furtherance of federal or state
17 requirements or standards for the control of water or air pollution or contamination, and certified
18 as approved in an order entered by the director of environmental management. The property is
19 exempt as long as it is operated properly in compliance with the order of approval of the director
20 of environmental management; provided, that any grant of the exemption by the director of
21 environmental management in excess of ten (10) years is approved by the city or town in which
22 the property is situated. This provision applies only to water and air pollution control properties
23 and facilities installed for the treatment of waste waters and air contaminants resulting from
24 industrial processing; furthermore, it applies only to water or air pollution control properties and
25 facilities placed in operation for the first time after April 13, 1970;

26 (22) New manufacturing machinery and equipment acquired or used by a manufacturer
27 and purchased after December 31, 1974. Manufacturing machinery and equipment is defined as:

28 (i) Machinery and equipment used exclusively in the actual manufacture or conversion
29 of raw materials or goods in the process of manufacture by a manufacturer, as defined in
30 subdivision (20) of this section, and machinery, fixtures, and equipment used exclusively by a
31 manufacturer for research and development or for quality assurance of its manufactured products;

32 (ii) Machinery and equipment that is partially used in the actual manufacture or
33 conversion of raw materials or goods in process of manufacture by a manufacturer, as defined in
34 subdivision (20) of this section, and machinery, fixtures, and equipment used by a manufacturer

1 for research and development or for quality assurance of its manufactured products, to the extent
2 to which the machinery and equipment is used for the manufacturing processes, research and
3 development, or quality assurance. In the instances where machinery and equipment is used in
4 both manufacturing and/or research and development, and/or quality assurance activities and non-
5 manufacturing activities, the assessment on machinery and equipment is prorated by applying the
6 percentage of usage of the equipment for the manufacturing, research and development and
7 quality assurance activity to the value of the machinery and equipment for purposes of taxation,
8 and the portion of the value used for manufacturing, research and development, and quality
9 assurance is exempt from taxation. The burden of demonstrating this percentage usage of
10 machinery and equipment for manufacturing and for research and development, and/or quality
11 assurance of its manufactured products rests with the manufacturer; ~~and~~

12 (iii) Machinery and equipment described in § 44-18-30(7) and (22) that was purchased
13 after July 1, 1997; provided that the city or town council of the city or town in which the
14 machinery and equipment is located adopts an ordinance exempting the machinery and equipment
15 from taxation. For purposes of this subsection, city councils and town councils of any
16 municipality may, by ordinance, wholly or partially exempt from taxation the machinery and
17 equipment discussed in this subsection for the period of time established in the ordinance and
18 may, by ordinance, establish the procedures for taxpayers to avail themselves of the benefit of
19 any exemption permitted under this section; provided, that the ordinance does not apply to any
20 machinery or equipment of a business, subsidiary, or any affiliated business that locates or
21 relocates from a city or town in this state to another city or town in the state- ; and

22 (iv) Machinery, equipment and tangible personal property of an unregulated renewable
23 energy system.

24 (23) Precious metal bullion, meaning any elementary metal that has been put through a
25 process of melting or refining, and that is in a state or condition that its value depends upon its
26 content and not its form. The term does not include fabricated precious metal that has been
27 processed or manufactured for some one or more specific and customary industrial, professional,
28 or artistic uses;

29 (24) Hydroelectric power generation equipment, which includes, but is not limited to,
30 turbines, generators, switchgear, controls, monitoring equipment, circuit breakers, transformers,
31 protective relaying, bus bars, cables, connections, trash racks, headgates, and conduits. The
32 hydroelectric power generation equipment must have been purchased after July 1, 1979, and
33 acquired or used by a person or corporation who or that owns or leases a dam and utilizes the
34 equipment to generate hydroelectric power;

1 (25) Subject to authorization by formal action of the council of any city or town, any real
2 or personal property owned by, held in trust for, or leased to an organization incorporated under
3 chapter 6 of title 7, as amended, or an organization meeting the definition of "charitable trust" set
4 out in § 18-9-4, as amended, or an organization incorporated under the not for profits statutes of
5 another state or the District of Columbia, the purpose of which is the conserving of open space, as
6 that term is defined in chapter 36 of title 45, as amended, provided the property is used
7 exclusively for the purposes of the organization;

8 (26) Tangible personal property, the primary function of which is the recycling, reuse, or
9 recovery of materials (other than precious metals, as defined in § 44-18-30(24)(ii) and (iii)), from
10 or the treatment of "hazardous wastes" as defined in § 23-19.1-4, where the "hazardous wastes"
11 are generated primarily by the same taxpayer and where the personal property is located at, in, or
12 adjacent to a generating facility of the taxpayer. The taxpayer may, but need not, procure an order
13 from the director of the department of environmental management certifying that the tangible
14 personal property has this function, which order effects a conclusive presumption that the tangible
15 personal property qualifies for the exemption under this subdivision. If any information relating
16 to secret processes or methods of manufacture, production, or treatment is disclosed to the
17 department of environmental management only to procure an order, and is a "trade secret" as
18 defined in § 28-21-10(b), it shall not be open to public inspection or publicly disclosed unless
19 disclosure is otherwise required under chapter 21 of title 28 or chapter 24.4 of title 23;

20 (27) Motorboats as defined in § 46-22-2 for which the annual fee required in § 46-22-4
21 has been paid;

22 (28) Real and personal property of the Providence Performing Arts Center, a non-
23 business corporation as of December 31, 1986;

24 (29) Tangible personal property owned by, and used exclusively for the purposes of, any
25 religious organization located in the city of Cranston;

26 (30) Real and personal property of the Travelers Aid Society of Rhode Island, a
27 nonprofit corporation, the Union Mall Real Estate Corporation, and any limited partnership or
28 limited liability company that is formed in connection with, or to facilitate the acquisition of, the
29 Providence YMCA Building; and

30 (31) Real and personal property of Meeting Street Center or MSC Realty, Inc., both not-
31 for-profit Rhode Island corporations, and any other corporation, limited partnership, or limited
32 liability company that is formed in connection with, or to facilitate the acquisition of, the
33 properties designated as the Meeting Street National Center of Excellence on Eddy Street in
34 Providence, Rhode Island.

1 (32) The buildings, personal property, and land upon which the buildings stand, located
2 on Pomham Island, East Providence, currently identified as Assessor's Map 211, Block 01, Parcel
3 001.00, that consists of approximately twenty-one thousand three hundred (21,300) square feet
4 and is located approximately eight hundred sixty feet (860'), more or less, from the shore, and
5 limited exclusively to these said buildings personal estate and land, provided that said property is
6 owned by a qualified 501(c)(3) organization, such as the American Lighthouse Foundation, and is
7 used exclusively for a lighthouse.

8 (33) The Stadium Theatre Performing Arts Centre building located in Monument Square,
9 Woonsocket, Rhode Island, so long as said Stadium Theatre Performing Arts Center is owned by
10 the Stadium Theatre Foundation, a Rhode Island nonprofit corporation.

11 (34) Real and tangible personal property of St. Mary Academy -- Bay View, located in
12 East Providence, Rhode Island.

13 (35) Real and personal property of East Bay Community Action Program and its
14 predecessor, Self Help, Inc; provided, that the organization is qualified as a tax exempt
15 corporation under § 501(c)(3) of the United States Internal Revenue Code.

16 (36) Real and personal property located within the city of East Providence of the
17 Columbus Club of East Providence, a Rhode Island charitable nonprofit corporation.

18 (37) Real and personal property located within the city of East Providence of the
19 Columbus Club of Barrington, a Rhode Island charitable nonprofit corporation.

20 (38) Real and personal property located within the city of East Providence of Lodge
21 2337 BPO Elks, a Rhode Island nonprofit corporation.

22 (39) Real and personal property located within the city of East Providence of the St.
23 Andrews Lodge No. 39, a Rhode Island charitable nonprofit corporation.

24 (40) Real and personal property located within the city of East Providence of the
25 Trustees of Methodist Health and Welfare service a/k/a United Methodist Elder Care, a Rhode
26 Island nonprofit corporation.

27 (41) Real and personal property located on the first floor of 90 Leonard Avenue within
28 the city of East Providence of the Zion Gospel Temple, Inc., a religious nonprofit corporation.

29 (42) Real and personal property located within the city of East Providence of the Cape
30 Verdean Museum Exhibit, a Rhode Island nonprofit corporation.

31 (43) The real and personal property owned by a qualified 501(c)(3) organization that is
32 affiliated and in good standing with a national, congressionally chartered organization and
33 thereby adheres to that organization's standards and provides activities designed for recreational,
34 educational, and character building purposes for children from ages six (6) years to seventeen

1 (17) years.

2 (44) Real and personal property of the Rhode Island Philharmonic Orchestra and Music
3 School; provided, that the organization is qualified as a tax exempt corporation under § 501(c)(3)
4 of the United States Internal Revenue Code.

5 (45) The real and personal property located within the town of West Warwick at 211
6 Cowesett Avenue, Plat 29-Lot 25, which consists of approximately twenty-eight thousand seven
7 hundred and fifty (28,750) square feet and is owned by the Station Fire Memorial Foundation of
8 East Greenwich, a Rhode Island nonprofit corporation.

9 (46) Real and personal property of the Comprehensive Community Action Program, a
10 qualified tax exempt corporation under § 501(c)(3) of the United States Internal Revenue Code.

11 (47) Real and personal property located at 52 Plain Street, within the city of Pawtucket
12 of the Pawtucket Youth Soccer Association, a Rhode Island nonprofit corporation.

13 (b) Except as provided below, when a city or town taxes a for-profit hospital facility, the
14 value of its real property shall be the value determined by the most recent full revaluation or
15 statistical property update performed by the city or town; provided, however, in the year a
16 nonprofit hospital facility converts to or otherwise becomes a for-profit hospital facility, or a for-
17 profit hospital facility is initially established, the value of the real property and personal property
18 of the for-profit hospital facility shall be determined by a valuation performed by the assessor for
19 the purpose of determining an initial assessed value of real and personal property, not previously
20 taxed by the city or town, as of the most recent date of assessment pursuant to § 44-5-1, subject to
21 a right of appeal by the for-profit hospital facility which shall be made to the city or town tax
22 assessor with a direct appeal from an adverse decision to the Rhode Island superior court business
23 calendar.

24 A "for-profit hospital facility" includes all real and personal property affiliated with any
25 hospital as identified in an application filed pursuant to chapters 23-17 and/or 23-17.14.
26 Notwithstanding the above, a city or town may enter into a stabilization agreement with a for-
27 profit hospital facility under § 44-3-9 or other laws specific to the particular city or town relating
28 to stabilization agreements. In a year in which a nonprofit hospital facility converts to, or
29 otherwise becomes, a for-profit hospital facility, or a for-profit hospital facility is otherwise
30 established, in that year only the amount levied by the city or town and/or the amount payable
31 under the stabilization agreement for that year related to the for-profit hospital facility shall not be
32 counted towards determining the maximum tax levy permitted under § 44-5-2.

1 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 TAXATION -- PROPERTY SUBJECT TO TAXATION -- RENEWABLE
ENERGY SYSTEMS

- 1 This act would exempt from state taxation the machinery, equipment, and tangible
- 2 personal property of an unregulated renewable energy system.
- 3 This act would take effect upon passage.

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