

**2022 -- S 2551 SUBSTITUTE A**

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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2022**

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A N A C T

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

Introduced By: Senators Kallman, McCaffrey, Gallo, DiMario, Ruggerio, Miller,  
Lawson, Valverde, Seveney, and Lombardo

Date Introduced: March 01, 2022

Referred To: Senate Labor

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 42-64.20  
2 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 elements  
7 to a new use.

8           (2) "Affiliate" means an entity that directly or indirectly controls, is under common control  
9 with, or is controlled by the business. Control exists in all cases in which the entity is a member of  
10 a controlled group of corporations as defined pursuant to § 1563 of the Internal Revenue Code of  
11 1986 (26 U.S.C. § 1563) or the entity is an organization in a group of organizations under common  
12 control as defined pursuant to subsection (b) or (c) of § 414 of the Internal Revenue Code of 1986  
13 (26 U.S.C. § 414). A taxpayer may establish by clear and convincing evidence, as determined by  
14 the tax administrator, that control exists in situations involving lesser percentages of ownership  
15 than required by those statutes. An affiliate of a business may contribute to meeting either the  
16 capital investment or full-time employee requirements of a business that applies for a credit under  
17 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 (80%)  
3 of the area median income, as defined annually by the United States Department of Housing and  
4 Urban Development.

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

7 (5) "Business" means a corporation as defined in § 44-11-1(4), or a partnership, an S  
8 corporation, a nonprofit 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, including  
16 but not limited to, material goods for the operation of a business on real property or in a building,  
17 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 project  
22 being acquired or leased, shall be allocated to the premises of the qualified development project on  
23 the basis of the gross leasable area of the premises in relation to the total gross leasable area in the  
24 qualified development project. The capital investment described herein shall be defined through  
25 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) "Construction worker" means any laborer, mechanic, or machine operator employed  
3 by a contractor or subcontractor in connection with the construction, alteration, repair, demolition,  
4 reconstruction, or other improvements to real property.

5 ~~(10)~~(11) "Developer" means a person, firm, business, partnership, association, political  
6 subdivision, or other entity that proposes to divide, divides, or causes to be divided real property  
7 into a subdivision or proposes to build or builds a building or buildings or otherwise improves land  
8 or existing structures, which division, building, or improvement qualifies for benefits under this  
9 chapter.

10 ~~(11)~~(12) "Development" means the improvement of land through the carrying out of  
11 building, engineering, or other operations in, on, over, or under land, or the making of any material  
12 change in the use of any buildings or land for the purposes of accommodating land uses.

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

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

24 ~~(14)~~(15) "Hope community" means a municipality for which the five-year (5) average  
25 percentage of families with income below the federal poverty level exceeds the state five-year (5)  
26 average percentage, both as most recently reported by the U.S. Department of Commerce, Bureau  
27 of the Census.

28 ~~(15)~~(16) "Manufacturer" shall mean any entity that:

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

34 (ii) Is described in codes 31-33 of the North American Industry Classification System, as

1 revised from time to time.

2 ~~(16)~~(17) "Mixed use" means a development comprising both commercial and residential  
3 components.

4 ~~(17)~~(18) "Partnership" means an entity classified as a partnership for federal income tax  
5 purposes.

6 ~~(18)~~(19) "Placed in service" means the earlier of (i) Substantial construction or  
7 rehabilitation work has been completed that would allow for occupancy of an entire structure or  
8 some identifiable portion of a structure, as established in the application approved by the commerce  
9 corporation board or (ii) Receipt by the developer of a certificate, permit, or other authorization  
10 allowing for occupancy of the project or some identifiable portion of the project by the municipal  
11 authority having jurisdiction.

12 ~~(19)~~(20) "Project" means qualified development project as defined under subsection  
13 ~~(23)~~(24).

14 ~~(20)~~(21) "Project area" means land or lands under common ownership or control in which  
15 a qualified development project is located.

16 ~~(21)~~(22) "Project cost" means the costs incurred in connection with the qualified  
17 development project or qualified residential or mixed use project by the applicant until the issuance  
18 of a permanent certificate of occupancy, or until such other time specified by the commerce  
19 corporation, for a specific investment or improvement, as defined through rules and regulations  
20 promulgated by the commerce corporation.

21 ~~(22)~~(23) "Project financing gap" means:

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

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

28 ~~(23)~~(24) "Qualified development project" means a specific construction project or  
29 improvement, including lands, buildings, improvements, real and personal property or any interest  
30 therein, including lands under water, riparian rights, space rights and air rights, acquired, owned,  
31 leased, developed or redeveloped, constructed, reconstructed, rehabilitated or improved,  
32 undertaken by a developer, owner or tenant, or both, within a specific geographic area, meeting the  
33 requirements of this chapter, as set forth in an application made to the commerce corporation.

34 ~~(24)~~(25) "Recognized historical structure" means a property located in the state of Rhode

1 Island and commonly considered to be of historic or cultural significance as determined by the  
2 commerce corporation in consultation with the state historic preservation officer.

3 ~~(25)~~(26) "Residential" means a development of residential dwelling units.

4 ~~(26)~~(27) "Targeted industry" means any advanced, promising, or otherwise prioritized  
5 industry identified in the economic development vision and policy promulgated pursuant to § 42-  
6 64.17-1 or, until such time as any such economic development vision and policy is promulgated,  
7 as identified by the commerce corporation.

8 ~~(27)~~(28) "Transit-oriented development area" means an area in proximity to transit  
9 infrastructure that will be further defined by regulation of the commerce corporation in consultation  
10 with the Rhode Island department of transportation.

11 (28)(29) "Workforce housing" means housing for sale or rent with combined rental costs  
12 or combined mortgage loan debt service, property taxes, and required insurance that do not exceed  
13 thirty percent (30%) of the gross annual income of a household earning between eighty percent  
14 (80%) and one hundred and forty percent (140%) of the area median income, as defined annually  
15 by the United States Department of Housing and Urban Development.

16 **42-64.20-5. Tax credits.**

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

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

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

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

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

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

32 (ii) It (A) Is a commercial development consisting of at least 25,000 square feet occupied  
33 by at least one business employing at least 25 full-time employees after construction or such  
34 additional full-time employees as the commerce corporation may determine; (B) Is a multi-family

1 residential development in a new, adaptive reuse, certified historic structure, or recognized  
2 historical structure consisting of at least 20,000 square feet and having at least 20 residential units  
3 in a hope community; or (C) Is a mixed-use development in a new, adaptive reuse, certified historic  
4 structure, or recognized historical structure consisting of at least 25,000 square feet occupied by at  
5 least one business, subject to further definition through rules and regulations promulgated by the  
6 commerce corporation; and

7 (iii) Involves a total project cost of not less than \$ 5,000,000, except for a qualified  
8 development project located in a hope community or redevelopment area designated under § 45-  
9 32-4 in which event the commerce corporation shall have the discretion to modify the minimum  
10 project cost requirement.

11 (4) All construction workers shall be paid in accordance with the wages and benefits  
12 required pursuant to chapter 13 of title 37 with all contractors and subcontractors required to file  
13 certified payrolls on a monthly basis for all work completed in the preceding month on a uniform  
14 form prescribed by the director of labor and training. Failure to follow the requirements pursuant  
15 to chapter 13 of title 37 shall constitute a material violation and a material breach of the agreement  
16 with the state. The commerce corporation, in consultation with the director of labor and training,  
17 shall have the discretion to revoke the tax credits.

18 (i) The commerce corporation, in consultation with the director of labor and training, shall  
19 promulgate such rules and regulations as are necessary to implement the enforcement of this  
20 section.

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

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

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

33 (e) Applicants (1) Who have received the notice referenced in subsection (d) above and  
34 who may be eligible for a tax credit pursuant to chapter 33.6 of title 44, (2) Whose application

1 involves a certified historic structure or recognized historical structure, or (3) Whose project is  
2 occupied by at least one manufacturer shall be exempt from the requirements of subsections  
3 (b)(3)(ii) and (b)(3)(iii). The following procedure shall apply to such applicants:

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

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

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

11 (f) Maximum project credit.

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

16 (2) The credit allowed pursuant to this chapter, inclusive of any sales and use tax  
17 exemptions allowed pursuant to this chapter, shall not exceed fifteen million dollars (\$15,000,000)  
18 for any qualified development project under this chapter; except as provided in subsection (f)(3) of  
19 this section; provided however, any qualified development project that exceeds the project cap upon  
20 passage of this act shall be deemed not to exceed the cap, shall not be reduced, nor shall it be further  
21 increased. No building or qualified development project to be completed in phases or in multiple  
22 projects shall exceed the maximum project credit of fifteen million dollars (\$15,000,000) for all  
23 phases or projects involved in the rehabilitation of the building. Provided, however, that for  
24 purposes of this subsection and no more than once in a given fiscal year, the commerce corporation  
25 may consider the development of land and buildings by a developer on the "I-195 land" as defined  
26 in § 42-64.24-3(6) as a separate, qualified development project from a qualified development  
27 project by a tenant or owner of a commercial condominium or similar legal interest including  
28 leasehold improvement, fit out, and capital investment. Such qualified development project by a  
29 tenant or owner of a commercial condominium or similar legal interest on the I-195 land may be  
30 exempted from subsection (f)(1)(i) of this section.

31 (3) The credit allowed pursuant to this chapter, inclusive of any sales and use tax  
32 exemptions allowed pursuant to this chapter, shall not exceed twenty-five million dollars  
33 (\$25,000,000) for the project for which the I-195 redevelopment district was authorized to enter  
34 into a purchase and sale agreement for parcels 42 and P4 on December 19, 2018, provided that

1 project is approved for credits pursuant to this chapter by the commerce corporation.

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

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

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

9 (3) The project is located in a transit-oriented development area;

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

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

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

17 (h) Maximum aggregate credits. The aggregate sum authorized pursuant to this chapter,  
18 inclusive of any sales and use tax exemptions allowed pursuant to this chapter, shall not exceed  
19 two hundred ten million dollars (\$210,000,000), excluding any tax credits allowed pursuant to  
20 subsection (f)(3) of this section.

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

23 (j) The amount of a tax credit allowed under this chapter shall be allowable to the taxpayer  
24 in up to five, annual increments; no more than thirty percent (30%) and no less than fifteen percent  
25 (15%) of the total credits allowed to a taxpayer under this chapter may be allowable for any taxable  
26 year.

27 (k) If the portion of the tax credit allowed under this chapter exceeds the taxpayer's total  
28 tax liability for the year in which the relevant portion of the credit is allowed, the amount that  
29 exceeds the taxpayer's tax liability may be carried forward for credit against the taxes imposed for  
30 the succeeding four (4) years, or until the full credit is used, whichever occurs first. Credits allowed  
31 to a partnership, a limited-liability company taxed as a partnership, or multiple owners of property  
32 shall be passed through to the persons designated as partners, members, or owners respectively pro  
33 rata or pursuant to an executed agreement among persons designated as partners, members, or  
34 owners documenting an alternate distribution method without regard to their sharing of other tax



1 or economic attributes of such entity.

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

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

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

16 (o) In the case of a corporation, this credit is only allowed against the tax of a corporation  
17 included in a consolidated return that qualifies for the credit and not against the tax of other  
18 corporations that may join in the filing of a consolidated tax return.

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

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

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

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

34 SECTION 2. Sections 44-33.6-2 and 44-33.6-3 of the General Laws in Chapter 44-33.6

1 entitled "Historic Preservation Tax Credits 2013" are hereby amended to read as follows:

2 **44-33.6-2. Definitions.**

3 As used in this chapter:

4 (1) "Certified historic structure" means a property which is located in the state of Rhode  
5 Island and is:

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

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

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

10 (2) "Certified rehabilitation" means any rehabilitation of a certified historic structure  
11 consistent with the historic character of such property or the district in which the property is located  
12 as determined by the commission guidelines.

13 (3) "Substantial construction" means that: (i) the owner of a certified historic structure has  
14 entered into a contract with the division of taxation and paid the processing fee; (ii) the commission  
15 has certified that the certified historic structure's rehabilitation will be consistent with the standards  
16 set forth in this chapter; and (iii) the owner has expended ten percent (10%) of its qualified  
17 rehabilitation expenditures, estimated in the contract entered into with the division of taxation for  
18 the project or its first phase of a phased project.

19 (4) "Commission" means the Rhode Island historical preservation and heritage commission  
20 created pursuant to § 42-45-2.

21 (5) "Construction worker" means any laborer, mechanic, or machine operator employed by  
22 a contractor or subcontractor in connection with the construction, alteration, repair, demolition,  
23 reconstruction, or other improvements to real property.

24 ~~(5)(6)~~ (6) "Exempt from real property tax" means, with respect to any certified historic  
25 structure, that the structure is exempt from taxation pursuant to § 44-3-3.

26 ~~(6)(7)~~ (7) "Hard construction costs" means the direct contractor costs for labor, material,  
27 equipment, and services associated with an approved project, contractors overhead and profit, and  
28 other direct construction costs.

29 ~~(7)(8)~~ (8) "Holding period" means twenty-four (24) months after the commission issues a  
30 certificate of completed work to the owner. In the case of a rehabilitation which may reasonably be  
31 expected to be completed in phases as described in subdivision (15) of this section, "holding period"  
32 shall be extended to include a period of time beginning on the date of issuance of a certificate of  
33 completed work for the first phase or phases for which a certificate of completed work is issued  
34 and continuing until the expiration of twenty-four (24) months after the certificate of completed

1 work issued for the last phase.

2 ~~(8)~~(9) "Part 2 application" means the Historic Preservation Certification Application Part  
3 2–Description of Rehabilitation.

4 ~~(9)~~(10) "Placed in service" means that substantial rehabilitation work has been completed  
5 which would allow for occupancy of the entire structure or some identifiable portion of the  
6 structure, as established in the Part 2 application.

7 ~~(10)~~(11) "Principal residence" means the principal residence of the owner within the  
8 meaning of section 121 of the Internal Revenue Code [26 U.S.C. § 121] or any successor provision.

9 ~~(11)~~(12) "Qualified rehabilitation expenditures" means any amounts expended in the  
10 rehabilitation of a certified historic structure properly capitalized to the building and either:

- 11 (i) Depreciable under the Internal Revenue Code, 26 U.S.C. § 1 et seq., or
- 12 (ii) Made with respect to property (other than the principal residence of the owner) held for  
13 sale by the owner. Fees paid pursuant to this chapter are not qualified rehabilitation expenditures.  
14 Notwithstanding the foregoing, except in the case of a nonprofit corporation, there will be deducted  
15 from qualified rehabilitation expenditures for the purposes of calculating the tax credit any funds  
16 made available to the person (including any entity specified in section 44-33.5-3(a)) incurring the  
17 qualified rehabilitation expenditures in the form of a direct grant from a federal, state or local  
18 governmental entity or agency or instrumentality of government.

19 ~~(12)~~(13) "Registered historic district" means any district listed in the national register of  
20 historic places or the state register of historic places.

21 ~~(13)~~(14) "Remain idle" means that substantial work has ceased at the subject project; work  
22 crews have been reduced by more than twenty-five percent (25%) for reasons unrelated to  
23 scheduled completion of work in accordance with the project schedule, reasonably unanticipated  
24 physical conditions, or force majeure; or the project schedule that was originally submitted by the  
25 taxpayer to the commission has been extended by more than twelve (12) months for reasons other  
26 than reasonably unanticipated physical conditions or an event of force majeure (by way of example,  
27 and not in limitation, any delays, work stoppage, or work force reduction caused by issues with  
28 project funding, finances, disputes, or violation of laws shall be deemed to cause a project to remain  
29 idle).

30 ~~(14)~~(15) "Scattered site development" means a development project for which the  
31 developer seeks unified financing to rehabilitate dwelling units in two (2) or more buildings located  
32 in an area that is defined by a neighborhood revitalization plan and is not more than one mile in  
33 diameter.

34 ~~(15)~~(16) "Social club" means a corporation or other entity and/or its affiliate that offers its

1 facilities primarily to members for social or recreational purposes and the majority source of its  
2 revenue is from funds and/or dues paid by its members and/or an entity defined as a social club  
3 pursuant to the Internal Revenue Code section 501(c)(7).

4 ~~(16)~~(17) "Substantial rehabilitation" means, with respect to a certified historic structure,  
5 that the qualified rehabilitation expenses of the building during the twenty-four (24) month period  
6 selected by the taxpayer ending with or within the taxable year exceed the adjusted basis in such  
7 building and its structural components as of the beginning of such period. In the case of any  
8 rehabilitation, which may reasonably be expected to be completed in phases set forth in  
9 architectural plans and specifications completed before the rehabilitation begins, the above  
10 definition shall be applied by substituting "sixty (60) month period" for "twenty-four (24) month  
11 period."

12 ~~(17)~~(18) "Trade or business" means an activity that is carried on for the production of  
13 income from the sale or manufacture of goods or performance of services, excluding residential  
14 rental activity.

15 **44-33.6-3. Tax credit.**

16 (a) Subject to the maximum credit provisions set forth in subsections (c) and (d) below,  
17 any person, firm, partnership, trust, estate, limited liability company, corporation (whether for  
18 profit or nonprofit) or other business entity that incurs qualified rehabilitation expenditures for the  
19 substantial rehabilitation of a certified historic structure, provided the rehabilitation meets standards  
20 consistent with the standards of the Secretary of the United States Department of the Interior for  
21 rehabilitation as certified by the commission and said person, firm, partnership, trust, estate, limited  
22 liability company, corporation or other business entity is not a social club as defined in § 44-33.6-  
23 2(15) of this chapter, shall be entitled to a credit against the taxes imposed on such person or entity  
24 pursuant to chapter 11, 12, 13, 14, 17 or 30 of this title in an amount equal to the following:

25 (1) Twenty percent (20%) of the qualified rehabilitation expenditures; or

26 (2) Twenty-five percent (25%) of the qualified rehabilitation expenditures provided that  
27 either:

28 (i) At least twenty-five percent (25%) of the total rentable area of the certified historic  
29 structure will be made available for a trade or business; or

30 (ii) The entire rentable area located on the first floor of the certified historic structure will  
31 be made available for a trade or business.

32 (b) Tax credits allowed pursuant to this chapter shall be allowed for the taxable year in  
33 which such certified historic structure or an identifiable portion of the structure is placed in service  
34 provided that the substantial rehabilitation test is met for such year.

1 (c) Maximum project credit. The credit allowed pursuant to this chapter shall not exceed  
2 five million dollars (\$5,000,000) for any certified rehabilitation project under this chapter. No  
3 building to be completed in phases or in multiple projects shall exceed the maximum project credit  
4 of five million dollars (\$5,000,000) for all phases or projects involved in the rehabilitation of such  
5 building.

6 (d) Maximum aggregate credits. The aggregate credits authorized to be reserved pursuant  
7 to this chapter shall not exceed sums estimated to be available in the historic preservation tax credit  
8 trust fund pursuant to this chapter.

9 (e) Subject to the exception provided in subsection (g) of this section, if the amount of the  
10 tax credit exceeds the taxpayer's total tax liability for the year in which the substantially  
11 rehabilitated property is placed in service, the amount that exceeds the taxpayer's tax liability may  
12 be carried forward for credit against the taxes imposed for the succeeding ten (10) years, or until  
13 the full credit is used, whichever occurs first for the tax credits. Credits allowed to a partnership, a  
14 limited liability company taxed as a partnership or multiple owners of property shall be passed  
15 through to the persons designated as partners, members or owners respectively pro rata or pursuant  
16 to an executed agreement among such persons designated as partners, members or owners  
17 documenting an alternate distribution method without regard to their sharing of other tax or  
18 economic attributes of such entity. Credits may be allocated to partners, members or owners that  
19 are exempt from taxation under section 501(c)(3), section (c)(4) or section 501(c)(6) of the U.S.  
20 Code and these partners, members or owners must be treated as taxpayers for purposes of this  
21 section.

22 (f) If the taxpayer has not claimed the tax credits in whole or part, taxpayers eligible for  
23 the tax credits may assign, transfer or convey the credits, in whole or in part, by sale or otherwise  
24 to any individual or entity, including, but not limited to, condominium owners in the event the  
25 certified historic structure is converted into condominiums and assignees of the credits that have  
26 not claimed the tax credits in whole or part may assign, transfer or convey the credits, in whole or  
27 in part, by sale or otherwise to any individual or entity. The assignee of the tax credits may use  
28 acquired credits to offset up to one hundred percent (100%) of the tax liabilities otherwise imposed  
29 pursuant to chapter 11, 12, 13, (other than the tax imposed under § 44-13-13), 14, 17 or 30 of this  
30 title. The assignee may apply the tax credit against taxes imposed on the assignee until the end of  
31 the tenth calendar year after the year in which the substantially rehabilitated property is placed in  
32 service or until the full credit assigned is used, whichever occurs first. Fiscal year assignees may  
33 claim the credit until the expiration of the fiscal year that ends within the tenth year after the year  
34 in which the substantially rehabilitated property is placed in service. The assignor shall perfect the

1 transfer by notifying the state of Rhode Island division of taxation, in writing, within thirty (30)  
2 calendar days following the effective date of the transfer and shall provide any information as may  
3 be required by the division of taxation to administer and carry out the provisions of this section.

4 For purposes of this chapter, any assignment or sales proceeds received by the taxpayer for  
5 its assignment or sale of the tax credits allowed pursuant to this section shall be exempt from this  
6 title. If a tax credit is subsequently recaptured under this chapter, revoked or adjusted, the seller's  
7 tax calculation for the year of revocation, recapture, or adjustment shall be increased by the total  
8 amount of the sales proceeds, without proration, as a modification under chapter 30 of this title. In  
9 the event that the seller is not a natural person, the seller's tax calculation under chapters 11, 12, 13  
10 (other than with respect to the tax imposed under § 44-13-13), 14, 17, or 30 of this title, as  
11 applicable, for the year of revocation, recapture, or adjustment, shall be increased by including the  
12 total amount of the sales proceeds without proration.

13 (g) Credits allowed to partners, members or owners that are exempt from taxation under  
14 section 501(c)(3), section (c)(4) or section 501(c)(6) of the U.S. Code, and only said credits, shall  
15 be fully refundable.

16 (h) Substantial rehabilitation of property that either:

17 (1) Is exempt from real property tax;

18 (2) Is a social club; or

19 (3) Consists of a single family home or a property that contains less than three (3)  
20 residential apartments or condominiums shall be ineligible for the tax credits authorized under this  
21 chapter; provided, however, a scattered site development with five (5) or more residential units in  
22 the aggregate (which may include single family homes) shall be eligible for tax credit. In the event  
23 a certified historic structure undergoes a substantial rehabilitation pursuant to this chapter and  
24 within twenty-four (24) months after issuance of a certificate of completed work the property  
25 becomes exempt from real property tax, the taxpayer's tax for the year shall be increased by the  
26 total amount of credit actually used against the tax.

27 (i) In the case of a corporation, this credit is only allowed against the tax of a corporation  
28 included in a consolidated return that qualifies for the credit and not against the tax of other  
29 corporations that may join in the filing of a consolidated tax return.

30 (j) All construction workers shall be paid in accordance with the wages and benefits  
31 required pursuant to chapter 13 of title 37 and all contractors and subcontractors shall file certified  
32 payrolls on a monthly basis for all work completed in the preceding month on a uniform form  
33 prescribed by the director of labor and training. Failure to follow the requirements pursuant to  
34 chapter 13 of title 37 shall constitute a material violation and a material breach of the agreement

1 [with the state. The commerce corporation, in consultation with the director of labor and training,](#)  
2 [shall have the discretion to revoke the tax credits.](#)

3 [\(1\) The commerce corporation, in consultation with the director of labor and training, shall](#)  
4 [promulgate such rules and regulations as are necessary to implement the enforcement of this](#)  
5 [section.](#)

6 SECTION 3. Sections 44-48.3-3 and 44-48.3-5 of the General Laws in Chapter 44-48.3  
7 entitled "Rhode Island New Qualified Jobs Incentive Act 2015" are hereby amended to read as  
8 follows:

9 **44-48.3-3. Definitions.**

10 As used in this chapter, unless the context clearly indicates otherwise, the following words  
11 and phrases shall have the following meanings:

12 (1) "Affiliate" or "affiliated entity" means an entity that directly or indirectly controls, is  
13 under common control with, or is controlled by the business. Control exists in all cases in which  
14 the entity is a member of an affiliated group of corporations as defined pursuant to § 1504 of the  
15 Internal Revenue Code of 1986 (26 U.S.C. § 1504) or the entity is an organization in a group of  
16 organizations under common control as defined pursuant to subsection (b) or (c) of § 414 of the  
17 Internal Revenue Code of 1986 (26 U.S.C. § 414). A taxpayer may establish by clear and  
18 convincing evidence, as determined by the commerce corporation, that control exists in situations  
19 involving lesser percentages of ownership than required by those statutes. An affiliate of a business  
20 may contribute to meeting full-time employee requirements of a business that applies for a credit  
21 under this chapter.

22 (2) "Business" means an applicant that is a corporation, state bank, federal savings bank,  
23 trust company, national banking association, bank holding company, loan and investment  
24 company, mutual savings bank, credit union, building and loan association, insurance company,  
25 investment company, broker-dealer company or surety company, limited liability company,  
26 partnership or sole proprietorship.

27 (3) "Commerce corporation" means the Rhode Island commerce corporation established  
28 pursuant to chapter 64 of title 42.

29 (4) "Commitment period" means the period of time that at a minimum is twenty percent  
30 (20%) greater than the eligibility period.

31 [\(5\) "Construction worker" means any laborer, mechanic, or machine operator employed by](#)  
32 [a contractor or subcontractor in connection with the construction, alteration, repair, demolition,](#)  
33 [reconstruction, or other improvements to real property.](#)

34 ~~(5)~~(6) "Eligibility period" means the period in which a business may claim a tax credit

1 under the program, beginning at the end of the tax period in which the commerce corporation issues  
2 a certification for the business that it has met the employment requirements of the program and  
3 extending thereafter for a term of not more than ten (10) years.

4 ~~(6)~~(7) "Eligible position" or "full-time job" means a full-time position in a business which  
5 has been filled with a full-time employee who earns no less than the median hourly wage as reported  
6 by the United States Bureau of Labor Statistics for the state of Rhode Island, provided, that for  
7 economically fragile industries such as manufacturing, the commerce corporation may reduce the  
8 wage threshold. An economically fragile industry shall not include retail.

9 ~~(7)~~(8) "Full-time employee" means a person who is employed by a business for  
10 consideration for at least thirty-five (35) hours a week, or who is employed by a professional  
11 employer organization pursuant to an employee leasing agreement between the business and the  
12 professional employer organization for at least thirty-five (35) hours a week, and whose wages are  
13 subject to withholding.

14 ~~(8)~~(9) "Hope community" means municipalities with a percentage of families below the  
15 poverty level that is greater than the percentage of families below the poverty level for the state as  
16 a whole as determined by the United States Census Bureau's most recent American Community  
17 Survey.

18 ~~(9)~~(10) "Incentive agreement" means the contract between the business and the commerce  
19 corporation, which sets forth the terms and conditions under which the business shall be eligible to  
20 receive the incentives authorized pursuant to the program.

21 ~~(10)~~(11) "Incentive effective date" means the date the commerce corporation issues a  
22 certification for issuance of tax credit based on documentation submitted by a business pursuant to  
23 § 44-48.3-7.

24 ~~(11)~~(12) "New full-time job" means an eligible position created by the business that did  
25 not previously exist in this state and which is created after approval of an application to the  
26 commerce corporation under the program. Such job position cannot be the result of an acquisition  
27 of an existing company located in Rhode Island by purchase, merger, or otherwise. For the purposes  
28 of determining the number of new full-time jobs, the eligible positions of an affiliate shall be  
29 considered eligible positions of the business so long as such eligible position(s) otherwise meets  
30 the requirements of this section.

31 ~~(12)~~(13) "Partnership" means an entity classified as a partnership for federal income tax  
32 purposes.

33 ~~(13)~~(14) "Program" means the incentive program established pursuant to this chapter.

34 ~~(14)~~(15) "Targeted industry" means any industry identified in the economic development



1 vision and policy promulgated under § 42-64.17-1 or, until such time as any economic development  
2 vision and policy is promulgated, as identified by the commerce corporation.

3 ~~(15)~~(16) "Taxpayer" means a business granted a tax credit under this chapter or such person  
4 entitled to the tax credit because the business is a pass through entity such as a partnership, S  
5 corporation, sole proprietorship or limited liability company taxed as a partnership.

6 ~~(16)~~(17) "Transit oriented development area" means an area in proximity to mass-transit  
7 infrastructure including, but not limited to, an airport, rail or intermodal facility that will be further  
8 defined by regulation of the commerce corporation in consultation with the Rhode Island  
9 department of transportation.

10 **44-48.3-5. Incentive agreement required prior to issuance of tax credits.**

11 (a) The commerce corporation shall require an eligible business to enter into an incentive  
12 agreement prior to the issuance of tax credits. The incentive agreement shall include, but shall not  
13 be limited to, the following:

14 (1) A detailed description of the proposed job creation including industry sectors and the  
15 number of new full-time jobs that are sought to be approved for tax credits;

16 (2) The eligibility period of the tax credits, including the first year for which the tax credits  
17 may be claimed;

18 (3) A requirement that the applicant maintain the project at a location in Rhode Island for  
19 the commitment period, with at least the minimum number of full-time employees as required by  
20 this program;

21 (4) A method for the business to annually certify that it has met the employment  
22 requirements of the program for each year of the commitment period;

23 (5) A provision permitting an audit of the payroll records of the business from time to time,  
24 as the commerce corporation deems necessary;

25 (6) A provision establishing the conditions under which the agreement may be terminated;

26 (7) A provision that if, in any tax period, the business reduces the total number of full-time  
27 employees in its statewide workforce in the last tax period prior to the credit amount approval under  
28 this program by more than twenty percent (20%) of jobs for which a credit was granted under this  
29 chapter as described in the business's incentive agreement(s), then the business shall forfeit all  
30 credit amounts described in the business's incentive agreement(s) for that tax period and each  
31 subsequent tax period, until the first tax period for which documentation demonstrating the  
32 restoration of the business's statewide workforce to the threshold levels required by the incentive  
33 agreement(s) has been reviewed and approved by the commerce corporation, for which tax period  
34 and each subsequent tax period the full amount of the credit shall be allowed; ~~and~~

1 (8) A provision that during the commitment period, if the business ceases operations in the  
2 state or transfers more than fifty percent (50%) of the jobs for which a credit was granted under  
3 this chapter to another state, the tax credit shall cease pursuant to this section and the business shall  
4 be liable to the state for, at a minimum, twenty percent (20%) of all tax benefits granted to the  
5 business under this chapter calculated from the date of the incentive agreement; and

6 (9) A provision that all construction workers shall be paid in accordance with the wages  
7 and benefits required pursuant to chapter 13 of title 37 and all contractors and subcontractors shall  
8 file certified payrolls on a monthly basis for all work completed in the preceding month on a  
9 uniform form prescribed by the director of labor and training. Failure to follow the requirements  
10 pursuant to chapter 13 of title 37 shall constitute a material violation and a material breach of the  
11 agreement with the state. The commerce corporation, in consultation with the director of labor and  
12 training, shall have the discretion to revoke the tax credits.

13 (i) The commerce corporation, in consultation with the tax administrator, shall promulgate  
14 such rules and regulations as are necessary to implement the enforcement of this section.

15 SECTION 4. This act shall take effect on September 1, 2022.

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LC005270/SUB A  
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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

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1           This act would provide a definition for "construction worker" in several sections relating  
2 to tax credits and would provide that construction workers be paid in accordance with wage and  
3 benefits required under the chapter on labor and payments of debts by contractors.

4           This act would take effect on September 1, 2022.

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LC005270/SUB A  
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