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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO TAXATION - MANUFACTURING FACILITIES TAX CREDIT ACT

Introduced By: Representatives Guthrie, Johnston, Morin, O`Grady, and Serpa

Date Introduced: March 26, 2014

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 69

4 RHODE ISLAND MANUFACTURING FACILITIES TAX CREDIT ACT

5 **44-69-1. Short title.** – This act shall be known and may be cited as the "Rhode Island
6 Manufacturing Facilities Tax Credit Act."

7 **44-69-2. Declaration of purpose.** – The general assembly finds and declares that Rhode
8 Island's manufacturing facilities have experienced high vacancy rates and physical deterioration.
9 Without adding economic incentive, these structures are not viable for the redevelopment and
10 reuse by modern commercial, manufacturing enterprises and will continue their physical
11 deterioration. The redevelopment and reuse of these structures are of critical importance to the
12 economic measures and will assist in stimulating the reuse and redevelopment of manufacturing
13 in this state. The purpose of this chapter is to create economic incentives for the purpose of
14 stimulating the redevelopment and reuse of Rhode Island's manufacturing facilities.

15 **44-69-3. Definitions.** – As used in this chapter:

16 (1) "Certified rehabilitation" means any rehabilitation of a manufacturing facility
17 consistent with the district in which the property is located as determined by the local zoning
18 regulations and rules and regulations and guidelines promulgated by the director of revenue
19 pursuant to the provisions of this chapter.

1 (2) "Certified manufacturing facility" means a manufacturing facility that has been issued
2 a certificate by the director of revenue indicating that such manufacturing facility has met the
3 requirements necessary to receive tax credits pursuant to this chapter.

4 (3) "Commissioner" means the state building code commissioner of the building code
5 commission.

6 (4) "Director" means the director of revenue in the department of administration.

7 (5) "Exempt from real property tax" means, with respect to any certified manufacturing
8 facility, that the facility is exempt from taxation pursuant to § 44-3-3.

9 (6) "Holding period" means twenty-four (24) months after the state building code
10 commissioner issues a certificate of completed work to the owner. In the case of a rehabilitation
11 which may reasonably be expected to be completed in phases as described in subdivision (10) of
12 this section, "holding period" shall be extended to include a period of time beginning on the date
13 of issuance of a certificate of completed work for the first phase or phases for which a certificate
14 of completed work is issued and continuing until the expiration of twenty-four (24) months after
15 the certificate of completed work issued for the last phase.

16 (7) "Manufacturing facility" means a plant consisting of one or more buildings with tools,
17 equipment, or other devices used primarily for the production or manufacture of goods, items,
18 and other forms of tangible property, or for making modifications which add value to the goods,
19 items, and tangible property.

20 (8) "Placed in service" means that substantial rehabilitation work has been completed
21 which would allow for use of the entire structure or some identifiable portion of the structure as a
22 manufacturing facility and that manufacturing is actually taking place within the facility, or the
23 owner has commenced depreciation of the qualified rehabilitation expenditures, whichever occurs
24 first.

25 (9) "Qualified rehabilitation expenditures" means any amounts expended in the
26 rehabilitation of a manufacturing facility pursuant to the rules, regulations and guidelines
27 established by the director of revenue pursuant to the provisions of this chapter.

28 (10) "Secretary" means the secretary of commerce.

29 (11) "Standards" refers to the standards promulgated pursuant to § 44-69-4 that would
30 enable a building to qualify for a tax credit as a certified manufacturing facility.

31 (12) "Substantial rehabilitation" means, with respect to a manufacturing facility, that the
32 qualified rehabilitation expenses of the building during the twenty-four (24) month period
33 selected by the taxpayer ending with or within the taxable year exceed fifty percent (50%) of the
34 adjusted basis in such building and its structural components as of the beginning of such period.

1 In the case of any rehabilitation, which may reasonably be expected to be completed in phases set
2 forth in architectural plans and specifications completed before the rehabilitation begins, the
3 above definition shall be applied by substituting "sixty (60) month period" for "twenty-four (24)
4 month period".

5 (13) "Tax administrator" means the tax administrator appointed by the director of the
6 department of revenue pursuant to chapter 1 of title 44.

7 **44-69-4. Tax credit.** – (a) On or before January 1, 2015, the director of revenue, in
8 consultation with the state building code commissioner and the secretary of commerce, shall
9 promulgate standards, as well as rules and regulations and guidelines that establish a procedure
10 for the owner or operator of a manufacturing facility to obtain tax credits for engaging in certified
11 rehabilitation of a manufacturing facility.

12 (b) Any person, firm, partnership, trust, estate, limited liability company, corporation
13 (whether for profit or nonprofit) or other business entity that incurs qualified rehabilitation
14 expenditures for the substantial rehabilitation of a manufacturing facility and verified by the
15 division of taxation and the state building code commission, provided the rehabilitation meets
16 those standards established pursuant to this chapter, for rehabilitation of a manufacturing facility,
17 shall be entitled to a credit against the taxes imposed on such person or entity pursuant to chapters
18 11, 12, 13, 14, 17 or 30 of this title. For certified manufacturing facilities or some identifiable
19 portion of a structure placed in service on or after January 1, 2015, the credit shall be an amount
20 not to exceed thirty percent (30%) of the qualified rehabilitation expenditures.

21 (c) The division of taxation is hereby expressly authorized and empowered to enter into
22 contracts with persons, firms, partnerships, trusts, estates, limited liability companies,
23 corporations (whether for profit or nonprofit) or other business entities that incur qualified
24 rehabilitation expenditures for the substantial rehabilitation of certified manufacturing facilities or
25 some identifiable portion of a structure to be placed in service on or after January 1, 2015, for the
26 following purposes, all of which shall be set forth in more particular detail as follows:

27 (1) Upon payment of the fees as set forth in this section, the division of taxation shall, on
28 behalf of the state of Rhode Island, guaranty through a contract with persons, firms, partnerships,
29 trusts, estates, limited liability companies, corporations (whether for profit or nonprofit) or other
30 business entities that will incur qualified rehabilitation expenditures for the substantial
31 rehabilitation of a certified manufacturing facility or some identifiable portion of a structure to be
32 placed in service on or after January 1, 2015, the delivery of one hundred percent (100%) of the
33 tax credit in an amount which is the actual qualified rehabilitation expenditures multiplied by the
34 tax credit percentage selected by the taxpayer at the time of their application with the director of

1 revenue, and any processing fees. The tax credit and fee shall not exceed the following
2 combinations which shall be selected by any person, firm, partnership, trust, estate, limited
3 liability company, corporation (whether for profit or nonprofit) or other business entity that will
4 incur qualified rehabilitation expenditures for the substantial rehabilitation of certified
5 manufacturing structures or some identifiable portion of a structure to be placed in service on or
6 after January 1, 2015:

7 (i) For an amount of credit not exceeding twenty-five percent (25%) of the qualified
8 rehabilitation expenditures, the fee shall be an amount equal to three percent (3%) of the qualified
9 rehabilitation expenditures.

10 (ii) For an amount of credit not exceeding twenty-six percent (26%) of the qualified
11 rehabilitation expenditures, the fee shall be an amount equal to four percent (4%) of the qualified
12 rehabilitation expenditures.

13 (iii) For an amount of credit not exceeding twenty-seven percent (27%) of the qualified
14 rehabilitation expenditures, the fee shall be an amount equal to five percent (5%) of the qualified
15 rehabilitation expenditures.

16 (d) Any contract executed pursuant to this chapter by a person, firm, partnership, trust,
17 estate, limited liability company, corporation (whether for profit or nonprofit) or other business
18 entity that incurs qualified rehabilitation expenditures for the substantial rehabilitation of certified
19 manufacturing structures or some identifiable portion of a structure to be placed in service on or
20 after January 1, 2015, shall be assignable to:

21 (1) An affiliate thereof without any consent from the division of taxation; or

22 (2) A person, firm, partnership, trust, estate, limited liability company, corporation
23 (whether for profit or nonprofit) or other business entity that incurs qualified rehabilitation
24 expenditures for the substantial rehabilitation of certified manufacturing structures or some
25 identifiable portion of a structure to be placed in service on or after January 1, 2015, with such
26 assignment to be approved by the division of taxation, which approval shall not be unreasonably
27 withheld. For purposes of this subsection, "affiliate" shall be defined as any entity controlling,
28 controlled by or under common control with such person, firm, partnership, trust, estate, limited
29 liability company, corporation (whether for profit or nonprofit) or other business entity.

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

33 (f) If the amount of the tax credit exceeds the taxpayer's total tax liability for the year in
34 which the substantially rehabilitated property is placed in service, the amount that exceeds the

1 taxpayer's tax liability may be carried forward for credit against the taxes imposed for the
2 succeeding ten (10) years, or until the full credit is used, whichever occurs first for the tax credits.
3 Credits allowed to a partnership, a limited liability company taxed as a partnership or multiple
4 owners of property shall be passed through to the persons designated as partners, members or
5 owners respectively pro rata or pursuant to an executed agreement among such persons
6 designated as partners, members or owners documenting an alternate distribution method without
7 regard to their sharing of other tax or economic attributes of such entity.

8 (g)(1) If the taxpayer has not claimed the tax credits in whole or part, taxpayers eligible
9 for the tax credits may assign, transfer or convey the credits, in whole or in part, by sale or
10 otherwise to any individual or entity, including, but not limited to, condominium owners in the
11 event the certified manufacturing structure is converted into condominiums. The assignee of the
12 tax credits may use acquired credits to offset up to one hundred percent (100%) of the tax
13 liabilities otherwise imposed pursuant to chapters 11, 12, 13, (other than the tax imposed under §
14 44-13-13), 14, 17 or 30 of this title. The assignee may apply the tax credit against taxes imposed
15 on the assignee until the end of the tenth (10th) calendar year after the year in which the
16 substantially rehabilitated property is placed in service or until the full credit assigned is used,
17 whichever occurs first. Fiscal year assignees may claim the credit until the expiration of the fiscal
18 year that ends within the tenth (10th) year after the year in which the substantially rehabilitated
19 property is placed in service. The assignor shall perfect the transfer by notifying the state of
20 Rhode Island division of taxation, in writing, within thirty (30) calendar days following the
21 effective date of the transfer and shall provide any information as may be required by the division
22 of taxation to administer and carry out the provisions of this section.

23 (2) For purposes of this chapter, any assignment or sales proceeds received by the
24 taxpayer for its assignment or sale of the tax credits allowed pursuant to this section shall be
25 exempt from this title. If a tax credit is subsequently recaptured, revoked or adjusted, the seller's
26 tax calculation for the year of revocation, recapture, or adjustment shall be increased by the total
27 amount of the sales proceeds, without proration, as a modification under chapter 30 of this title.

28 (3) In the event that the seller is not a natural person, the seller's tax calculation under
29 chapters 11, 12, 13 (other than with respect to the tax imposed under § 44-13-13), 14, 17, or 30 of
30 this title, as applicable, for the year of revocation, recapture, or adjustment, shall be increased by
31 including the total amount of the sales proceeds without proration.

32 (h) Substantial rehabilitation of property that is exempt from real property tax shall be
33 ineligible for the tax credits authorized under this chapter. In the event a certified manufacturing
34 facility undergoes a substantial rehabilitation in compliance with the standards established

1 pursuant to this chapter and within twenty-four (24) months after issuance of a certificate of
2 completed work the property becomes exempt from real property tax, the taxpayer's tax for the
3 year shall be increased by the total amount of credit actually used against the tax.

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

7 **44-69-5. Administration.** – (a) To claim the tax credit authorized in this chapter,
8 taxpayers shall apply to the director of revenue for designation of the manufacturing facility as a
9 certified manufacturing facility, which designation shall set forth:

10 (1) The proposed construction or renovation for such facility;

11 (2) How such renovation shall result in increased manufacturing capacity and capabilities
12 for such facility; and

13 (3) A certification and explanation as to how the proposed construction and renovation
14 shall be consistent with the standards promulgated pursuant to this chapter.

15 (b) The director of revenue shall refer the application to the office of the state building
16 code commission, which commission shall review the application to determine if the proposed
17 renovations are consistent with the provisions of subsection (a) of this section. The director of
18 revenue may also refer the matter to the secretary of commerce if the director determines that
19 such review would assist in making a determination on the application.

20 (c) After such review, the office of the state building code commissioner and, if there has
21 been a referral to the secretary, the secretary shall report back to the director of revenue on
22 whether the renovation proposed in the application are consistent with the provisions of
23 subsection (a) of this section, and shall include a recommendation as to the granting or denial of
24 the application.

25 (d) The director of revenue shall render a decision on the application in writing and
26 forward a copy of that decision to the applicant within fifteen (15) business days of receipt of all
27 reports required in subsection (c) of this section. Such decision shall indicate whether the
28 proposal is accepted or not. The director may approve or deny the application, and shall state
29 reasons therein. The director may also conditionally deny an application or conditionally approve
30 it, setting forth what steps the applicant may need to take to obtain certification approval. In the
31 event the proposal is accepted, the facility shall be designated as a certified manufacturing
32 facility. Such approval shall also set forth the amount of time within which the rehabilitation to
33 the facility must take place in order to qualify for a tax credit under this chapter.

34 **44-69-6. Action of plan.** – (a) As to any applicant whose application is approved,

1 substantial rehabilitation work shall be completed within the timeframes set forth in the director
2 of revenue's decision. After completion of the rehabilitation work to the certified manufacturing
3 facility, the applicant shall apply:

4 (1) To the state building code commission for a certification that the rehabilitation is
5 consistent with the standards of the secretary of the United States Department of the Interior for
6 rehabilitation; and

7 (2) To the division of taxation for a certification as to the amount of tax credit for which
8 the rehabilitation qualifies.

9 (b) Within ninety (90) days after the commission's and the division of taxation's receipt of
10 the taxpayer's application requesting certification for the completed rehabilitation work, the state
11 building code commissioner shall make an inspection of the certified manufacturing facility to
12 determine that such rehabilitation work has been undertaken, and shall report back to both the
13 applicant and to the division of taxation as to the findings of such inspection. The division of
14 taxation shall be entitled to rely on the report of the building inspector code commissioner
15 without independent investigation and, with respect to the amount of tax credit for which the
16 rehabilitation qualifies, upon the certification of a certified public accountant licensed in the state
17 of Rhode Island. The commission shall issue the taxpayer a written determination either denying
18 or certifying the rehabilitation.

19 (c) In the event all reports provided for in subsection (b) of this section are favorable, the
20 division of taxation shall issue a certification of the amount of credit for which the rehabilitation
21 qualifies. To claim the tax credit, the commission's and the division of taxation's certification as
22 to the amount of the tax credit shall be attached to all state tax returns on which the credit is
23 claimed.

24 (d) No taxpayer may benefit from the provisions of this chapter unless the owner of the
25 certified manufacturing structure grants a restrictive covenant to the commission, agreeing that
26 during the holding period no alterations to the certified manufacturing structure will be made
27 without the commission's approval and in a manner inconsistent with the standards of the
28 Secretary of the United States Department of the Interior.

29 (e) The division of taxation shall charge a fee equal to five percent (5%) of the qualified
30 rehabilitation expenditures as contracted between the division of taxation and the person, firm,
31 partnership, trust, estate, limited liability company, corporation (whether for profit or nonprofit)
32 or other business entity that incurs qualified rehabilitation expenditures for the substantial
33 rehabilitation of certified manufacturing facilities or some identifiable portion of a structure to be
34 placed in service after December 31, 2014.

1 (f) If information comes to the attention of the commission or the division of taxation at
2 any time up to and including the last day of the holding period that is materially inconsistent with
3 representations made in an application, the commission or the division of taxation may deny the
4 requested certification, revoke a certification previously given or terminate the contract, with any
5 processing fees paid to be forfeited.

6 **44-69-7. Information requests.** – The tax administrator and his or her agents, for the
7 purpose of ascertaining the correctness of any credit claimed under the provisions of this chapter,
8 may examine any books, paper, records, or memoranda bearing upon the matters required to be
9 included in the return, report, or other statement, and may require the attendance of the person
10 executing the return, report, or other statement, or of any officer or employee of any taxpayer, or
11 the attendance of any other person, and may examine the person under oath respecting any matter
12 which the tax administrator or his or her agent deems pertinent or material in determining the
13 eligibility for credits claimed.

14 SECTION 2. This act shall take effect on January 1, 2015.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION - MANUFACTURING FACILITIES TAX CREDIT ACT

1 This act would establish new tax credits as incentives to owners to rehabilitate
2 manufacturing facilities and to put such facilities into operation. The program would be operated
3 by the director of revenue, with input and assistance from the state building code commissioner
4 and the secretary of commerce.

5 This act would take effect on January 1, 2015.

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