

2018 -- H 7425

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LC003111  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO THE SMITHFIELD LAND TRUST

Introduced By: Representatives Winfield, and Costantino

Date Introduced: February 02, 2018

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 174 of the Public Laws of 1999, entitled "An Act Establishing the  
2 Smithfield Land Trust," is repealed in its entirety.

3           ~~SECTION 1. The town council of the town of Smithfield (hereafter called the town) is~~  
4 ~~hereby authorized to establish the Smithfield land trust (hereafter called the trust), a body politic~~  
5 ~~and corporate and a public instrumentality. The trust shall have the authority to acquire, hold, and~~  
6 ~~manage real property and interests therein including development rights and easements situated in~~  
7 ~~the town consisting of open, residential, agricultural, recreational historical or littoral property,~~  
8 ~~including existing and future well fields and aquifer recharge areas, fresh water marshes, water~~  
9 ~~bodies, and adjoining uplands, wildlife habitats, land or buildings providing access to or views of~~  
10 ~~water bodies, or for bicycling and hiking paths, or for future public recreational use, and land for~~  
11 ~~agricultural use or air space thereof. With the exception of property acquired for public historical~~  
12 ~~preservation, research and/or educational, public access or recreational purposes, the trust shall~~  
13 ~~hold all property or development rights as open space or for agricultural uses or for water~~  
14 ~~protection purposes or for public access or to prevent the accelerated residential or commercial~~  
15 ~~development thereof in perpetuity, as the trustees may determine. However, whereas certain~~  
16 ~~properties may not have continuing value as open space or conservation lands, the trust may~~  
17 ~~dispose of these properties as it sees fit, providing that any restrictions on the property are taken~~  
18 ~~into account.~~

19           ~~SECTION 2. The purpose of the trust shall be to preserve open space, protect wetlands,~~

1 ~~water bodies, ground and surface water resources, farm lands, historical or cultural places of~~  
2 ~~interest, scenic views, unusual, exceptional or exemplary natural habitats, provide opportunities~~  
3 ~~for research and education on natural resources on land trust held properties and to secure for the~~  
4 ~~town the goals and objectives established in the comprehensive plan.~~

5 ~~SECTION 3. The trust shall be administered by five (5) trustees to be appointed by the~~  
6 ~~town council pursuant to chapter 35 of title 18 of the general laws. The trustees who are first~~  
7 ~~appointed shall be designated to serve for terms of one (1) one year, one (1) two years, one (1)~~  
8 ~~three years, one (1) four years and one (1) five years, respectfully. Thereafter, trustees shall be~~  
9 ~~appointed as aforesaid for a term of office of five (5) years, except that all vacancies occurring~~  
10 ~~during a term shall be filled for the unexpired term. The town council shall appoint persons to~~  
11 ~~serve on the land trust, whom are resident electors, on a non-partisan basis. Said members shall~~  
12 ~~serve without compensation and shall hold office until their successors have been named. All~~  
13 ~~trustees shall be subject to the Rhode Island code of ethics, contained in chapter 14 of title 36 of~~  
14 ~~the general laws.~~

15 ~~SECTION 4. The trustees shall annually elect a chairman, vice chairman and treasurer~~  
16 ~~from their members and shall appoint a secretary who may either be a member or a non-member.~~  
17 ~~Copies of all meeting minutes shall be submitted to the town council for distribution and shall be~~  
18 ~~filed with the town clerk and become a permanent record of the town. The term of office of the~~  
19 ~~chairperson, vice chairperson, treasurer and secretary, unless otherwise prescribed by the town~~  
20 ~~council shall be for the calendar year.~~

21 ~~SECTION 5. The trustees shall adopt rules and regulations governing the conduct of trust~~  
22 ~~affairs, including the acquisition and management of its holdings, not inconsistent with the~~  
23 ~~provisions of this act. All rules and regulations of the trust are subject to the approval of the town~~  
24 ~~council. Decisions of the trustees shall be by majority of those present and voting, excepting in~~  
25 ~~decisions of the acquisition of land, easements, rights of way and other uses referred to in section~~  
26 ~~1 of this trust, which must be by majority vote of all trustees and no business shall be transacted~~  
27 ~~without four (4) trustees present with three (3) voting. The trustees shall prepare an operating~~  
28 ~~budget to be sent to the town manager to be incorporated into the town manager's budget for town~~  
29 ~~council review and consideration. Upon adoption of the budget it will be presented to the~~  
30 ~~financial town meeting for final approval. The funds authorized in this budget will be paid by the~~  
31 ~~town treasurer in accordance with the accepted accounting procedures that are in place in the~~  
32 ~~town at that time. All funds that are released for land acquisition referred to in section 1 of this~~  
33 ~~trust, can only be released after approval by the town council. The trustees shall keep accurate~~  
34 ~~records of their meetings and actions and shall file an annual report which shall be printed in the~~

1 ~~annual town report. All meetings of the trusts shall be open to the public in accordance with the~~  
2 ~~Rhode Island open meetings act, chapter 46 of title 42 of the general laws.~~

3 ~~SECTION 6. The trust shall have the responsibility to recommend to the town council to:~~

4 ~~(a) Purchase, receive by gift, or otherwise acquire fee simple or lesser interests in real~~  
5 ~~property, including development rights as defined in section 42-82-2 of the general laws, or any~~  
6 ~~interest in real property consistent with purposes of this act, including other development rights~~  
7 ~~on easements of any kind whatsoever;~~

8 ~~(b) Accept gifts, grants or loans of funds or resources or services from any source, public~~  
9 ~~or private, and comply, subject to the provisions of this act, with any terms and conditions thereof~~  
10 ~~within the limits of its available funds;~~

11 ~~(c) Accept from state and/or federal agencies, loans or grants or resources for use in~~  
12 ~~carrying out the trust's purposes and enter into agreements with such agencies respecting any such~~  
13 ~~loans or grants within the limits of its available funds;~~

14 ~~(d) Employ counsel, auditors, engineers, surveyors, appraisers, private consultants,~~  
15 ~~advisors, secretaries or other personnel needed to perform its duties within the limits of its~~  
16 ~~available funds;~~

17 ~~(e) Administer and manage land and interests in land held by it in a manner which allows~~  
18 ~~public use and enjoyment consistent with the natural and scenic resources thereof, including~~  
19 ~~conveyance of any such land or interests in land to, and contracts with, nonprofit organizations,~~  
20 ~~provided such land shall continue to be used in a manner consistent with the purposes of this act~~  
21 ~~and with the terms of any grant or devise by which such land was acquired by the trust;~~

22 ~~(f) Dispose of all or any portion of its real property or interests therein held by it,~~  
23 ~~whenever in the opinion of the trustees said lands or properties have become unsuitable or have~~  
24 ~~ceased to be used for the purpose set forth in this act. Such disposition shall be made only by a~~  
25 ~~vote of the trustees in which at least four (4) members vote in favor of such a disposition and~~  
26 ~~further only after having been approved by a two thirds (2/3) vote at an annual or special financial~~  
27 ~~town meeting of the town. Nothing in this subsection shall be construed to authorize the sale,~~  
28 ~~lease or conveyance of lands or improvements held by the trust as part of a charitable trust or~~  
29 ~~acquired by gift or devise for the public use, whether or not such gift or devise is subject to a~~  
30 ~~condition subsequent or reverter;~~

31 ~~(g) Otherwise do all things necessary for the performance of its duties, the fulfillment of~~  
32 ~~its obligation and the conduct of its business.~~

33 ~~SECTION 7. All funds collected by virtue of the town's bonding authority for the purpose~~  
34 ~~of financing the activities of the trust under this act shall be deposited in a reserve fund by the~~

1 ~~town treasurer. Additional moneys or other liquid assets received as voluntary contributions,~~  
2 ~~grants or loans, funds appropriated to the trust by vote of the annual town meeting or special~~  
3 ~~appropriation process, or proceeds from disposal of real property or interests shall be deposited~~  
4 ~~into said account. All operating expenses lawfully incurred by the trust in carrying out the~~  
5 ~~provisions of this act shall be evidenced by proper vouchers and shall be paid by the treasurer of~~  
6 ~~the town only upon submission of invoices approved by the trust and by the town manager. The~~  
7 ~~treasurer of the town shall prudently invest available assets of the funds, and all income thereon~~  
8 ~~shall accrue to the fund.~~

9       ~~The decision to dissolve the trust shall only result after a vote of the trustees in which at~~  
10 ~~least four (4) members vote to recommend dissolution of the trust to the town council. The town~~  
11 ~~council shall then hold a public hearing on the recommendation to dissolve. At the conclusion of~~  
12 ~~the public hearing the town council shall vote on the matter within forty five (45) days of said~~  
13 ~~hearing. Dissolution shall require three (3) affirmative votes of the town council.~~

14       ~~Upon termination or dissolution of the trust, the title of all funds and other properties~~  
15 ~~owned by the trust which remain after payment or making provision for payment of all bonds,~~  
16 ~~notes and other obligations of the trust shall vest in the town which shall manage the lands of the~~  
17 ~~dissolved trust in the same manner for which such lands were donated or purchased in the best~~  
18 ~~interest of the purposes of the dissolved trust. If in the opinion of the town council said land of the~~  
19 ~~dissolved trust no longer meet the purposes set forth in this act, the town may dispose of said~~  
20 ~~lands upon a two thirds (2/3) affirmative vote at an annual or special financial town meeting of~~  
21 ~~the town.~~

22       ~~SECTION 8. The trust and all its revenues, income, and real and personal property used~~  
23 ~~by the trust for furtherance of its public purposes, shall be exempt from taxation and special~~  
24 ~~assessments, and the trust shall not be required to pay any tax, excise or assessment to the state or~~  
25 ~~any of its political subdivisions.~~

26       ~~SECTION 9. Nothing in this act shall effect the eligibility of the town to receive funds~~  
27 ~~under chapter 4 of title 32 of the general laws or any other applicable state land acquisition~~  
28 ~~program.~~

29       ~~SECTION 10. Severability. The provisions of this act and any ordinance thereunder are~~  
30 ~~severable, and if any provision thereof shall be held invalid in any circumstances such invalidity~~  
31 ~~shall not affect any other provisions or circumstances. This act and any ordinance thereunder~~  
32 ~~shall be construed in all respects so as to meet all constitutional requirements. In carrying out the~~  
33 ~~purposes and provisions of this act and any ordinance thereunder, all steps shall be taken which~~  
34 ~~are necessary to meet constitutional requirements whether or not such steps are required by~~

1 ~~statute.~~

2 SECTION 2. There are hereby transferred to the town council of the town of Smithfield  
3 all functions formerly performed or administered by the Smithfield Land Trust and all grants or  
4 funds, received or held by the Smithfield Land Trust.

5 SECTION 3. Upon passage of this act, the Smithfield Land Trust shall transfer to the  
6 town of Smithfield any and all interest it may have in any real or personal property.

7 SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO THE SMITHFIELD LAND TRUST

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- 1           This act would disband the Smithfield Land Trust and would transfer all function and real
- 2 estate held by the Smithfield Land Trust to the town of Smithfield and Smithfield town council.
- 3           This act would take effect upon passage.

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