STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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:


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

SECTION 2. The purpose of the trust shall be to preserve open space, protect wetlands,
water bodies, ground and surface water resources, farm lands, historical or cultural places of
interest, scenic views, unusual, exceptional or exemplary natural habitats, provide opportunities
for research and education on natural resources on land trust held properties and to secure for the
town the goals and objectives established in the comprehensive plan.

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

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

SECTION 5. The trustees shall adopt rules and regulations governing the conduct of trust
affairs, including the acquisition and management of its holdings, not inconsistent with the
provisions of this act. All rules and regulations of the trust are subject to the approval of the town
council. Decisions of the trustees shall be by majority of those present and voting, excepting in
decisions of the acquisition of land, easements, rights of way and other uses referred to in section
1 of this trust, which must be by majority vote of all trustees and no business shall be transacted
without four (4) trustees present with three (3) voting. The trustees shall prepare an operating
budget to be sent to the town manager to be incorporated into the town manager's budget for town
council review and consideration. Upon adoption of the budget it will be presented to the
financial town meeting for final approval. The funds authorized in this budget will be paid by the
town treasurer in accordance with the accepted accounting procedures that are in place in the
town at that time. All funds that are released for land acquisition referred to in section 1 of this
trust, can only be released after approval by the town council. The trustees shall keep accurate
records of their meetings and actions and shall file an annual report which shall be printed in the
annual town report. All meetings of the trusts shall be open to the public in accordance with the Rhode Island open meetings act, chapter 46 of title 42 of the general laws.

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

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

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

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

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

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

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

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

SECTION 7. All funds collected by virtue of the town’s bonding authority for the purpose of financing the activities of the trust under this act shall be deposited in a reserve fund by the
town treasurer. Additional moneys or other liquid assets received as voluntary contributions, grants or loans, funds appropriated to the trust by vote of the annual town meeting or special appropriation process, or proceeds from disposal of real property or interests shall be deposited into said account. All operating expenses lawfully incurred by the trust in carrying out the provisions of this act shall be evidenced by proper vouchers and shall be paid by the treasurer of the town only upon submission of invoices approved by the trust and by the town manager. The treasurer of the town shall prudently invest available assets of the funds, and all income thereon shall accrue to the fund.

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

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

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

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

SECTION 10. Severability. The provisions of this act and any ordinance thereunder are severable, and if any provision thereof shall be held invalid in any circumstances such invalidity shall not affect any other provisions or circumstances. This act and any ordinance thereunder shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act and any ordinance thereunder, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by
SECTION 2. There are hereby transferred to the town council of the town of Smithfield all functions formerly performed or administered by the Smithfield Land Trust and all grants or funds, received or held by the Smithfield Land Trust.

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

SECTION 4. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
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
estate held by the Smithfield Land Trust to the town of Smithfield and Smithfield town council.

2 This act would take effect upon passage.

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