

2018 -- H 7813

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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 STATE AFFAIRS AND GOVERNMENT - RHODE ISLAND PUBLIC RAIL
CORPORATION ACT

Introduced By: Representatives Tobon, Barros, Maldonado, Diaz, and Johnston

Date Introduced: February 28, 2018

Referred To: House Finance

(Dept. of Transportation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-64.2-4 and 42-64.2-5 of the General Laws in Chapter 42-64.2
2 entitled "Rhode Island Public Rail Corporation Act" are hereby amended to read as follows:

3 **42-64.2-4. General powers.**

4 Except to the extent inconsistent with any specific provision of this chapter, the Rhode
5 Island public rail corporation shall have power:

6 (1) To sue and be sued, complain and defend, in its corporate name;

7 (2) To have a seal, which may be altered at pleasure and to use the seal by causing it, or a
8 facsimile thereof, to be impressed or affixed or in any other manner reproduced;

9 (3) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and
10 otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

11 (4) To re-convey, lease, or sell real property acquired. Upon the sale of any real property
12 or interest therein which is held by the corporation, the proceeds from the sale shall be transferred
13 to the general fund of the state.

14 (5) To make contracts and guarantees and incur liabilities, and borrow money at any rates
15 of interest that the corporation may determine;

16 (6) To make and execute agreements of lease, conditional sales contracts, installment
17 sales contracts, loan agreements, mortgages, construction contracts, operation contracts, and other
18 contracts and instruments necessary or convenient in the exercise of the powers and functions of

1 the corporation granted by this chapter;

2 (7) To lend money for its purposes, invest and reinvest its funds, and at its option to take
3 and hold real and personal property as security for the payment of funds so loaned or invested;

4 (8) To acquire, or contract to acquire, from any person, firm, corporation, municipality,
5 the federal government or the state, or any agency of either the federal government or state, by
6 grant, purchase, lease, gift, condemnation or otherwise, or to obtain options for the acquisition of
7 any property, real or personal, improved or unimproved, and interests in land less than the fee
8 thereof; and to own, hold, improve, develop, and rehabilitate, and to sell, assign, exchange,
9 transfer, convey, lease, mortgage, or otherwise dispose or encumber the property for the purposes
10 of carrying out the provisions and intent of this chapter, for any consideration the corporation
11 shall determine;

12 (9) To conduct its activities, carry on its operations, and have offices, and exercise the
13 powers granted by this chapter, within or without the state;

14 (10) To elect or appoint officers and agents of the corporation, and define their duties and
15 fix their compensation;

16 (11) To make and alter by-laws, not inconsistent with this chapter, for the administration
17 and regulation of the affairs of the corporation; those by-laws may contain provisions
18 indemnifying any person who is or was a director, officer, employee, or agent of the corporation,
19 or is or was serving at the request of the corporation as a director, officer, employee, or agent of
20 another corporation, partnership, joint venture, trust, or other enterprise, in the manner and to the
21 extent provided in § 7-1.2-814;

22 (12) To be a promoter, partner, member, associate, or manager of any partnership,
23 enterprise, or venture; ~~and~~

24 (13) To have and exercise all powers necessary or convenient to effect its purposes;:

25 (14) To defend, indemnify and save harmless the National Railroad Passenger
26 Corporation ("Amtrak") and third parties for all damage or liability for personal injury or property
27 damages which would not have occurred or would not have been incurred but for the existence of
28 commuter rail service ~~south of Providence~~ [in Rhode Island](#) or the presence on Amtrak's properties
29 of any trains, passengers, employees, contractors, or invitees of the state or its designated
30 operator;: ~~and~~

31 (15) To defend, indemnify and save harmless its designated operator for all damage or
32 liability for personal injury or property damages which would not have occurred or would not
33 have been incurred but for the existence of commuter rail service ~~south of Providence~~ [in Rhode](#)
34 [Island](#) or the designated operator's activities pursuant to the terms and conditions set forth in the

1 designated operator's agreement for commuter rail service ~~south of Providence~~ [in Rhode Island](#).

2 **42-64.2-5. Additional general powers.**

3 In addition to the powers enumerated in § 42-64.2-4, except to the extent inconsistent
4 with any specific provisions of this chapter, the Rhode Island public rail corporation shall have
5 the power to:

6 (1) Receive from the state title to certain real estate situated in Providence, Rhode Island,
7 more specifically described as: all of the right, title and interest, to the railroad right of way
8 known as the Bristol Secondary, identified as Line Code 4165 in the records of the United States
9 railway association and situated in the city of Providence and city of East Providence, county of
10 Providence and state of Rhode Island, as extends in a general eastwardly direction from the
11 westerly side of Canal Street in the city of Providence and to the Harbor Line of the Seekonk
12 River in the city of East Providence on the East; the railroad right of way is set out and designed
13 by -- PS -- on case plan no. 66190, together with all the real property in the cities lying in, under,
14 above, along, and immediately contiguous to those lines as herein designated.

15 Being a part or portion of that same premises which Robert W. Blanchett, Richard C.
16 Bond and John H. McArthur, as trustees of the property of Penn Central transportation company,
17 debtor, by conveyance document no. PC-CRC-RP-223, dated March 30, 1976 and recorded in
18 East Providence, Rhode Island on October 18, 1978 in book 372, page 244 etc., and conveyance
19 document no. PC-CRC-RP-227, recorded in the city of Providence, Rhode Island on October 18,
20 1978 in book 1208, page 752 etc., granted and conveyed into the consolidated rail corporation.

21 (2) To acquire property and railroad operating rights from the Providence and Worcester
22 railroad including that property and those rights relating to the railroad lines known as:

- 23 (i) Washington secondary branch;
- 24 (ii) Warwick industrial track;
- 25 (iii) Wrentham industrial track;
- 26 (iv) Pontiac secondary branch;
- 27 (v) Moshassuck Valley industrial track;
- 28 (vi) East Providence secondary branch.

29 (3) To transfer property rights and railroad operator's rights as it deems proper to achieve
30 the purposes of this chapter to the state.

31 (4) Upon notification to the director of the department of transportation, to defend,
32 indemnify and save harmless the national railroad passenger corporation (Amtrak) and third-
33 parties to the extent that Amtrak is required to defend and indemnify third-parties, for all claims,
34 damages, losses, liabilities, and expenses for personal injury, bodily injury, death, or property

1 damage (including, but not limited to, environmental conditions and pre-existing environmental
2 conditions) and interference with the use of Amtrak's property which would not have occurred,
3 would not have been discovered, or would not have been incurred but for the existence of any
4 platform, structure, building, road, ~~or~~ bridge or appurtenance to any of the foregoing ~~thereto~~,
5 located or to be located on, above, under or within the boundary of any property owned or
6 controlled by Amtrak, or within the boundary of any railroad safety envelope established pursuant
7 to a federal program of safety regulations, and owned or used by the State of Rhode Island or any
8 municipality, public corporation or instrumentality of the State of Rhode Island, or but for the
9 activities of any employee, agent, contractor, subcontractor or invitee of the state or any
10 municipality, public corporation or instrumentality of the state relating to any platform, structure,
11 building, road, ~~or~~ bridge or appurtenance to any of the foregoing, thereto located or to be located
12 on, above, under or within the boundary of any property owned or controlled by Amtrak, or
13 within the boundary of any railroad safety envelope established pursuant to a federal program or
14 safety regulations. The indemnity authorized by this section shall extend to any existing
15 agreements between the State of Rhode Island and Amtrak without any further act.

16 SECTION 2. Section 9-31-2.1 of the General Laws in Chapter 9-31 entitled
17 "Governmental Tort Liability" is hereby amended to read as follows:

18 **9-31-2.1. Limitation of damages -- State -- Commuter rail service.**

19 (a) Agreements between the state and a railroad for the provision of commuter rail
20 service shall provide that the state shall secure and maintain a liability insurance policy covering
21 the liability of the state and the railroad for property damage, personal injury, bodily injury and
22 death arising out of such commuter rail service. Such policy shall name the state as named
23 insured, and the railroad as an additional insured, shall have policy limits of not less than seventy-
24 five million dollars (\$75,000,000) per occurrence annually and seventy-five million dollars
25 (\$75,000,000) in the aggregate annually, and shall be subject to self-insured retention in an
26 amount ~~not less than~~ up to seven million five hundred thousand dollars (\$7,500,000). In no event
27 shall the state or the railroad be liable in excess of the coverage limits of such insurance policy for
28 any and all claims for damage, whether compensatory or punitive, for property damage, personal
29 injury, bodily injury and death arising out of such commuter rail service.

30 (b) For the purposes of this section, the term "railroad" shall include any person, railroad
31 corporation or other legal entity in the business of providing rail transportation which contracts
32 with the state for the provision of commuter rail services and the term "commuter rail service",
33 shall include all services performed by a railroad pursuant to a contract with the state in
34 connection with the transportation of rail passengers including, but not limited to, the operation of

1 trains, trackage and equipment, or the construction, reconstruction or maintenance of railroad
2 equipment, tracks and any appurtenant facilities or the provision of trackage rights over lines
3 owned by any such railroad.

4 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - RHODE ISLAND PUBLIC RAIL
CORPORATION ACT

- 1 This act would enable the Rhode Island Public Rail Corporation to lower the self-insured
- 2 retention amount required of the state and would provide indemnification statewide.
- 3 This act would take effect upon passage.

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