

2018 -- S 2068

LC003463

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- MICRO ZONE ECONOMIC
REVITALIZATION ACT

Introduced By: Senators Satchell, Metts, Cote, Conley, and Picard

Date Introduced: January 18, 2018

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 64.33

4 MICRO ZONE ECONOMIC REVITALIZATION ACT

5 **42-64.33-1. Short title.**

6 This chapter shall be known and may be cited as the "Micro Zone Economic
7 Revitalization Act."

8 **42-64.33-2. Legislative findings.**

9 The general assembly finds and declares:

10 (1) That there are certain distressed areas in this state which are characterized by
11 substantial and persistent levels of unemployment; blighted areas; obsolete, dilapidated, and
12 abandoned industrial and commercial structures; and, as a consequence, continually shrinking tax
13 bases which strain the resources of the communities in which such distressed areas are located;

14 (2) That the numerous programs undertaken by the federal government and the state
15 during the past two (2) decades to stop the deterioration and stimulate economic activity in these
16 distressed areas have, in large part, failed; and

17 (3) That it is the public policy of this state to undertake an experimental program in
18 distressed areas to stimulate economic revitalization, promote employment opportunities,

1 encourage business development and expansion through the redevelopment of obsolete,
2 dilapidated, and abandoned industrial and commercial structures.

3 **42-64.33-3. Definitions.**

4 As used in this chapter:

5 (1) "Abandoned structure" means a building that has been forsaken or deserted in whole,
6 or in part, for at least two (2) years.

7 (2) "Building owner" means an individual, partnership, corporation, limited liability
8 company or other entity which is listed in the appropriate municipal records of land evidence as
9 the owner of a building, and may include the owner of a leasehold interest with a minimum term
10 of fifty (50) years, with respect to which a memorandum of lease has been recorded in the land
11 evidence records.

12 (3) "Certifiable building" means a building:

13 (i) That is either an obsolete structure, dilapidated structure or abandoned structure as
14 defined in this chapter;

15 (ii) For which no less than forty percent (40%) of the gross square footage shall be used
16 for manufacturing or other commercial purposes that are not related to or ancillary to any
17 residential use of the building;

18 (iii) The use of which conforms to the comprehensive plan and local land use
19 management ordinances of the municipality in which the building is located;

20 (iv) That is proposed for substantial rehabilitation;

21 (v) That has been at a minimum fifty percent (50%) vacant for a minimum of twenty-four
22 (24) months at the time of submission by a municipality to the commerce corporation; and

23 (vi) That is located within a micro zone.

24 (4) "Certified building" means a building with respect to which the commerce
25 corporation has issued a written notice of designation as a certified building pursuant to the
26 provisions of § 42-64.33-5.

27 (5) "Certified building owner" means an individual, partnership, corporation, limited
28 liability company or other entity which is listed in the appropriate municipal records of land
29 evidence as the owner of a certified building, and may include one or more successors in title to
30 the owner of the building at the time the building received written notice of designation as a
31 certified building pursuant to § 42-64.33-5. A certified building owner may include the owner of
32 a leasehold interest with a minimum term of fifty (50) years, with respect to which a
33 memorandum of lease has been recorded in the land evidence records.

34 (6) "Commerce corporation" means the Rhode Island commerce corporation created

1 pursuant to § 42-64-4.

2 (7) "Dilapidated structure" means a building that has fallen into partial ruin or decay from
3 age, wear or neglect.

4 (8) "Division of taxation" means the division of taxation of the department of revenue for
5 the state.

6 (9) "Eligible business" means any for-profit business corporation, sole proprietorship,
7 partnership, or limited partnership or limited liability company:

8 (i) That is not yet operating or located within the state at the time it submits its initial
9 application for certification to the commerce corporation under § 42-64.33-8;

10 (ii) That is not substantially similar in operation and in ownership to a business entity
11 located within the state that ceased operations within the prior three (3) years or reduced
12 employment within the prior year;

13 (iii) That has not caused individuals to transfer from existing employment with a related
14 person located within the state to similar employment with the business;

15 (iv) That is not comprised in whole or in part of the tangible or intangible assets of a
16 business entity located within the state that was operating within the prior three (3) years;

17 (v) That is located in a certified building after the building has undergone substantial
18 rehabilitation;

19 (vi) That is engaged principally in manufacturing or other commercial enterprise
20 designated by regulation of the commerce corporation as eligible for the benefits of this chapter
21 other than the following:

22 (A) Retail trade as defined in NAICS codes 44 and 45;

23 (B) Wholesale trade as defined in NAICS code 42;

24 (C) Accommodations and food services as defined in NAICS code 42;

25 (D) Real estate rental and leasing as defined in NAICS code 531110 through 531390;

26 (E) Law firms as defined in NAICS codes 541110 through 541199;

27 (F) Medical or dental practices as defined in NAICS codes 621111;

28 (G) Businesses with less than one hundred (100) employees, providing business
29 administrative or support services as defined in NAICS code 41;

30 (H) Businesses providing utilities as defined in NAICS code 22;

31 (I) Energy production and distribution companies as defined in NAICS code 21;

32 (J) Accounting firms as defined in NAICS codes 541211 through 541219;

33 (K) Credit intermediation and related activities as defined in NAICS code 522110
34 through 522390; and

1 (L) Businesses providing personal services as defined in NAICS code 81.

2 (vii) That obtains certificates of good standing from the division of taxation, the
3 corporations division of the Rhode Island secretary of state and a municipal lien certificate
4 indicating that all local taxes are current at the time of certification; and

5 (viii) That provides the commerce corporation with an affidavit stating under oath that
6 the entity seeking certification as a qualified business has not within the preceding twelve (12)
7 months from the date of application for certification changed its legal status for the purpose of
8 gaining favorable treatment under the provisions of this chapter.

9 (10) "Micro zone" means an area of land that is located in and designated by a micro zone
10 community as a micro zone subject to the benefits of this chapter.

11 (11) "Micro zone community" means a municipality that meets the criteria for eligibility
12 in the distressed communities relief fund as set forth in § 45-13-12, at any time during the
13 applicability of this chapter without regard to whether the community subsequently does not meet
14 such criteria.

15 (12) "Municipality" means any city or town within the state, whether now existing or
16 hereafter created.

17 (13) "NAICS code" means the North American Industrial Classification System code of
18 2012.

19 (14) "Obsolete structure" means a building that is outmoded or out of date with respect to
20 the building's construction, design or use.

21 (15) "Rehabilitation and reconstruction costs" means and includes only those amounts
22 incurred and paid by a certified building owner, after issuance of the notice of designation of the
23 building, solely and exclusively for the rehabilitation of the certified building and which are
24 incurred and paid by the certified building owner to acquire tangible personal property and
25 structural components of the certified building which:

26 (i) Are depreciated pursuant to 26 U.S.C. 167;

27 (ii) Have a useful life of three (3) years or more as evidenced by the tax depreciation
28 method taken and shown on the federal tax return of the certified building owner;

29 (iii) Are acquired by purchase as defined in 26 U.S.C. 179(d). Rehabilitation and
30 reconstruction costs do not include amounts incurred or paid with respect to tangible personal
31 property and structural components of the certified building which the certified building owner
32 leases from any other person or corporation. For the purposes of the preceding sentence, any
33 contract or agreement to lease or rent or for a license to use the property shall be considered a
34 lease unless the contract or agreement is treated for the federal income tax purposes of the

1 certified building owner as an installment purchase rather than a lease; and

2 (iv) Are certified to the commerce corporation as meeting the foregoing criteria by a
3 Rhode Island licensed certified public accountant.

4 (16) "Related person" means a "related person" pursuant to 465(b)(3)(c) of the internal
5 revenue code.

6 (17) "Substantial rehabilitation" means rehabilitation or reconstruction costs of a certified
7 building in a dollar amount that equals or exceeds fifty percent (50%) of the market value of the
8 certified building prior to rehabilitation or reconstruction, as said prior market value is determined
9 by a Rhode Island licensed and certified appraiser who is independent of the certified building
10 owner or owners and their affiliated corporations, and/or any tenants of the certified building and
11 their affiliated corporations and who has been approved by the commerce corporation to issue an
12 appraisal under this chapter in respect to a particular project.

13 **42-64.33-4. Designation of micro zones.**

14 (a) The legislative body of a micro zone community may designate by ordinance one or
15 more areas within the community as a micro zone. Each ordinance shall include a description of
16 the boundaries of the area or areas designated as a micro zone. Before passing an ordinance, the
17 legislative body, or the committee thereof to which the proposed ordinance has been referred,
18 shall give notice of the date, time, place, and purpose of a public hearing or hearings with
19 reference to the ordinance. The notice shall be published not less than once a week for three (3)
20 successive weeks prior to the hearing in a newspaper of general circulation published in the
21 community, or if no newspaper is published in the community, then in a newspaper of general
22 circulation in the community. At the public hearing all interested persons or agencies shall have
23 an opportunity to be heard and to submit communications in writing.

24 (b) Any person, group, association, or corporation may, in writing, petition the legislative
25 body to designate one or more areas within the community as a micro zone, and may submit, with
26 their petition, plans, showing the proposed redevelopment of those areas or any part or parts of
27 the areas.

28 **42-64.33-5. Building certification process.**

29 (a) Subsequent to the creation of a micro zone, any building within such zone shall be
30 eligible for consideration by the commerce corporation as a certifiable building, provided that the
31 micro zone community has:

32 (1) Promulgated local regulations and ordinances to expedite the building permit review
33 and approval process required in the municipality for the rehabilitation of certified buildings;

34 (2) Promulgated local regulations and ordinances waiving all building permit fees of the

1 municipality for the rehabilitation of certified buildings;

2 (3) Entered into a tax stabilization agreement with the building owner applicable to the
3 proposed project providing for, at a minimum, stabilization of real property taxes for a period of
4 not less than ten (10) years and an exemption for any eligible business occupying a certified
5 building from payment of personal property taxes for a ten (10) year period commencing from the
6 substantial completion of a certified building or for any project completed in phases, for a ten
7 (10) year period from substantial completion of each phase of a certified building; and

8 (4) Provided notice to the commerce corporation that the municipality has satisfied the
9 requirements of this chapter and designated the building(s) for consideration by the corporation.

10 (b) Upon receipt of notice by the commerce corporation from a micro zone community
11 that the conditions of § 42-64.33-4(a) have been satisfied, the commerce corporation shall accept
12 the application from any building owner(s) designated by the community for determination of a
13 project as a certified building.

14 (c) Upon receipt of a complete application from a building owner designated by a
15 community as provided in this section, the commerce corporation shall undertake consideration
16 of such application and if the project meets the criteria of this chapter and such rules or
17 regulations promulgated by the commerce corporation in accordance with § 42-64.33-19, the
18 corporation, acting by and through its board of directors, shall issue a notice of designation
19 qualifying the project as a certified building, and the corporation shall enter into an agreement
20 with the building owner to ensure compliance with the requirements of this chapter and related
21 rules and regulations promulgated in relation to this chapter. The commerce corporation may
22 require such terms and conditions in an agreement with a building owner as it deems advisable in
23 its sole discretion, provided that the agreement shall require that a building owner obtain an
24 independent appraisal in order to comply with the requirements of § 42-64.33-6. The commerce
25 corporation may also impose necessary fees and charges as part of any agreement with a building
26 owner to aid in the administration of the provisions of this chapter.

27 (d) Notwithstanding anything to the contrary contained in this chapter, the certified
28 buildings within any micro zone community shall be limited in accordance with the following:

29 (1) In any municipality with a population less than one hundred twenty five thousand
30 (125,000) according to the most recent federal census, the total combined land area of all micro
31 zones shall not exceed twenty (20) acres and the aggregate square footage of all certified
32 buildings within a municipality shall not exceed five hundred thousand (500,000) gross square
33 feet.

34 (2) In any municipality with a population equal to or greater than one hundred twenty

1 five thousand (125,000) according to the most recent federal census, the total combined land area
2 of all micro zones shall not exceed forty (40) acres and the aggregate square footage of all
3 certified buildings within a municipality shall not exceed one million (1,000,000) gross square
4 feet.

5 **42-64.33-6. Certified building rehabilitation.**

6 (a) A certified building shall be treated as having been substantially rehabilitated only if
7 the reconstruction and rehabilitation expenditures incurred during the twenty-four (24) month
8 period selected by the certified building owner and ending with or within the taxable year in
9 which the rehabilitated certified building is first placed in service by the certified building owner
10 meet the definition of "substantial rehabilitation" set forth in § 42-64.33-3(17). For purposes of
11 determining whether the requirements of § 42-64.33-3(17) have been met, the market value of the
12 certified building shall be determined at the beginning of the first day of such twenty-four (24)
13 month period. The certified building owner shall submit to the commerce corporation such
14 information as the corporation may require, evidencing to its satisfaction the substantial
15 rehabilitation, in accordance with the provisions of this chapter.

16 (b) Special rule for phased rehabilitation. In the case of any rehabilitation which may
17 reasonably be expected to be completed in phases set forth in architectural plans and
18 specifications completed before the rehabilitation begins, the commerce corporation may
19 specifically indicate in its notice of designation and agreement with the building owner that the
20 project is approved to be completed in phases and in such event, subsection (a) of this section
21 shall be applied by substituting "sixty (60) month period" for "twenty-four (24) month period."

22 **42-64.33-7. Impact analysis.**

23 (a) The commerce corporation shall not designate any building as a certified building
24 under this chapter until it has first prepared and publicly released an analysis of the impact the
25 proposed investment will or may have on the state. The analysis shall be supported by appropriate
26 data and documentation and shall consider, but not be limited to, the following factors:

27 (1) The impact on the industry or industries in which the applicant will be involved;

28 (2) State fiscal matters, including the state budget (revenues and expenses);

29 (3) The financial exposure of the taxpayers of the state under the plans for the proposed
30 investment and negative foreseeable contingencies that may arise therefrom;

31 (4) The approximate number of full-time, part-time, temporary, seasonal and/or
32 permanent jobs projected to be created, construction and non-construction;

33 (5) Identification of geographic sources of the staffing for identified jobs;

34 (6) The projected duration of the identified construction jobs;

- 1 (7) The approximate wage rates for each category of the identified jobs;
2 (8) The types of fringe benefits to be provided with the identified jobs, including health
3 care insurance and any retirement benefits;
4 (9) The projected fiscal impact on increased personal income taxes to the state of Rhode
5 Island; and
6 (10) The description of any plan or process intended to stimulate hiring from the host
7 community, training of employees or potential employees, and outreach to minority job
8 applicants and minority businesses.

9 (b) Upon its preparation and release of the analysis required by subsection (a) of this
10 section, the commerce corporation shall provide copies of that analysis to the chairpersons of the
11 house and senate finance committees, the house and senate fiscal advisors, the department of
12 labor and training and the division of taxation. Any such analysis shall be available to the public
13 for inspection by any person and shall be published by the tax administrator on the tax division
14 website.

15 **42-64.33-8. Certification of an eligible business.**

16 (a) Upon application from a business, the commerce corporation shall make a
17 determination as to whether a business meets the criteria set forth in § 42-64.33-3(9) and upon
18 determination that such criteria have been satisfied, the commerce corporation shall issue a
19 certification designating the applicant as an eligible business under this chapter and may require
20 the applicant, upon approval, to enter into an agreement with the commerce corporation to ensure
21 compliance with the provisions of this chapter. The commerce corporation may require such
22 terms and conditions in an agreement with an eligible business as it deems advisable in its sole
23 discretion. The commerce corporation may also impose necessary fees and charges as part of any
24 agreement with an eligible business to aid in the administration of the provisions of this chapter.

25 (b) Annually, an eligible business shall submit a renewal application to the commerce
26 corporation for the purposes of allowing the corporation to confirm the continuing eligibility of
27 such business for the benefits of this chapter.

28 (c) If a business loses its eligibility for the benefits of this chapter either by reason of its
29 failure to meet the criteria set forth in this chapter or the failure to submit a renewal application,
30 the commerce corporation shall provide notice to the taxing authority of the municipality in
31 which such business is located of the loss of designation as an eligible business.

32 **42-64.33-9. Incentives for certified building owner.**

33 (a) A certified building owner shall be exempt from state sales tax of any kind on any
34 personal property, including fixtures, furnishings or equipment, which is acquired and used in the

1 construction and development of the owner's certified building.

2 (1) The total sales tax exemption benefit to a certified building owner under this chapter
3 shall be implemented through a reimbursement process as determined by the division of taxation
4 rather than an up-front purchase exemption; and

5 (2) The sales tax benefits shall only apply to materials used in the construction,
6 reconstruction or rehabilitation of the certified building and to the acquisition of furniture,
7 fixtures and equipment, except automobiles, trucks or other motor vehicles, or materials that
8 otherwise are depreciable and have a useful life of one year or more, for the project for a period
9 not to exceed six (6) months after receipt of a certificate of occupancy for any given phase of the
10 project for which sales tax benefits are utilized.

11 (b) All fees for any permit required by any state statute, rule, regulation or otherwise by
12 any department, agency or instrumentality of the state in relation to the substantial rehabilitation
13 of a certified building ordinarily due from a building owner are hereby waived.

14 (c) A certified building owner shall not be eligible for historic preservation tax credits
15 available under chapter 33.6 of title 44.

16 **42-64.33-10. Incentives for an eligible business.**

17 (a) An eligible business shall be exempt from state sales tax of any kind on any personal
18 property, including fixtures, furnishings or equipment, which is acquired and used in the
19 operation of the eligible business located in a certified building that has been substantially
20 rehabilitated.

21 (1) The total sales tax exemption benefit to an eligible business under this chapter shall
22 be implemented through a reimbursement process as determined by the division of taxation rather
23 than an up-front purchase exemption; and

24 (2) The sales tax benefits shall only apply to materials used in the outfitting of the rented
25 space occupied by the eligible business in the certified building and to the acquisition of furniture,
26 fixtures and equipment, except automobiles, trucks or other motor vehicles, or materials that
27 otherwise are depreciable and have a useful life of one year or more, for a period not to exceed
28 six (6) months after the date upon which the eligible business first occupies the rented space in
29 the certified building; provided, that an expansion of business operations by an eligible business
30 within a certified building shall entitle the eligible business to the benefit of this provision for a
31 period not to exceed six (6) months from the date upon which the eligible business first occupies
32 additional rented space in the certified building.

33 (b) The income derived by an owner from an eligible business operating within a certified
34 building that has been substantially rehabilitated shall be exempt from taxation under title 44 for a

1 period not to exceed ten (10) years commencing as of January 1 of the year in which the eligible
2 business receives a certification under § 42-64.33-8; provided, however, that the exemption
3 provided hereunder shall expire and no longer be available after December 31, 2033.

4 **42-64.33-11. Interest income.**

5 (a) The interest income derived by any person from any loan extended to a certified
6 building owner for the acquisition or reconstruction of a certified building shall be exempt from
7 taxation under title 44 until the earlier of January 1, 2034 or ten (10) years from the date upon
8 which such loan was first extended to the certified building owner.

9 (b) The interest income derived by any person from any loan extended to an eligible
10 business operating solely within a certified building that has been substantially rehabilitated shall
11 be exempt from taxation under title 44 until the earlier of January 1, 2034 or ten (10) years from
12 the date upon which such loan was first extended to the eligible business.

13 **42-64.33-12. Exemption or stabilization of taxes.**

14 Notwithstanding the provisions of any municipal charter or any other general, special or
15 local law to the contrary, real property taxes for a certified building and tangible property taxes of
16 the owner(s) of a certified building or any owner(s) of an eligible business for tangible property
17 used in the certified building may be exempted from payment, in whole or in part,
18 notwithstanding the valuation of the property or the rate of tax, by vote of the city or town council
19 to the extent deemed appropriate by the city or town council to carry out the purposes of this
20 chapter. This section shall be construed to provide a complete, additional and alternative authority
21 for the city or town council to grant exemption or stabilization of real or tangible property taxes
22 with respect to certified buildings and the tenants thereof, and the granting of tax exemption or
23 stabilization by the city or town council under the provisions of this section does not require the
24 taking of any other proceedings or the happening of any condition, except for the vote of the city
25 or town council.

26 **42-64.33-13. Expedited permit process.**

27 Any building considered for certification under this chapter shall, at the election of the
28 building owner, receive consideration as a project of critical economic concern as that term is
29 defined in § 42-117-3(3) and shall be entitled to the benefits of chapter 117 of title 42.

30 **42-64.33-14. Expiration.**

31 This chapter shall terminate and be of no further effect on January 1, 2030, unless the
32 chapter is extended by action of the general assembly.

33 **42-64.33-15. Coordination with existing programs.**

34 To the maximum extent possible, the directors of the departments of administration,

1 business regulation, labor and training, environmental management, human services,
2 transportation, and the Rhode Island housing and mortgage finance corporation shall provide
3 special assistance to the zones. This shall include, but not be limited to:

4 (1) Expedited processing;

5 (2) Priority funding;

6 (3) Program set asides; and

7 (4) Provision of technical assistance in furtherance of the public policy enunciated in §
8 42-64.33-2.

9 **42-64.33-16. Examination of taxpayer's records.**

10 The tax administrator and their agents, for the purpose of ascertaining the correctness of
11 any tax benefit claimed under the provisions of this chapter, may examine any books, papers,
12 records, or memoranda bearing upon the matters required to be included in the return, report, or
13 other statement, and may require the attendance of the person executing the return, report, or
14 other statement, or of any officer or employee of any taxpayer, or the attendance of any other
15 person, and may examine the person under oath respecting any matter which the tax administrator
16 or their agent deems pertinent or material in determining the eligibility for the benefit claimed.

17 **42-64.33-17. Penalties.**

18 Any taxpayer or employee, officer or agent of any taxpayer that willfully fails to comply
19 with the provisions of this chapter or otherwise submits false or misleading information shall be
20 guilty of a felony and upon conviction shall be fined an amount not more than three (3) times the
21 amount of the tax benefit received by the taxpayer, or imprisoned not more than one year, or both.

22 **42-64.33-18. Revocation of certification.**

23 (a) The commerce corporation shall have the power to revoke the certification of any
24 building certified under this chapter or revoke the eligibility of any business determined as an
25 eligible business under this chapter for failure to comply with this chapter, the regulations
26 promulgated in accordance with this chapter, or any agreement entered into by any building
27 owner or eligible business with the commerce corporation.

28 (b) In the event the commerce corporation revokes any certification issued under this
29 chapter, the person or entity whose eligibility has been revoked shall be liable to the state for all
30 the tax benefits granted hereunder, plus interest, as determined in § 44-1-7, calculated from the
31 date the person or entity first received the tax benefits.

32 **42-64.33-19. Additional rules and regulations.**

33 (a) The division of taxation shall promulgate appropriate rules and regulations to ensure
34 the proper administration of the taxation provisions of this chapter.

1 (b) The commerce corporation shall promulgate appropriate rules and regulations to
2 ensure the proper administration of this chapter.

3 **42-64.33-20. Severability.**

4 If any provision of this chapter or the application of any provision of this chapter to any
5 person or circumstances is held invalid, the invalidity shall not affect the other provisions or
6 applications of the chapter which can be given effect without the invalid provision or application,
7 and to this end the provisions of this chapter are declared to be severable.

8 SECTION 2. 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 -- MICRO ZONE ECONOMIC
REVITALIZATION ACT

1 This act would create micro zones in distressed areas to stimulate economic
2 revitalization, employment opportunities, and business development through the redevelopment
3 of obsolete, dilapidated and abandoned industrial and commercial structures.

4 This act would take effect upon passage.

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