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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- QUALIFIED DATA CENTERS
LOCATION INCENTIVE

Introduced By: Representative Scott Slater

Date Introduced: June 25, 2021

Referred To: House 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 64.34

4 QUALIFIED DATA CENTERS LOCATION INCENTIVE

5 **42-64.34-1. Definitions.**

6 (a) As used in this section:

7 (1) "Colocation Tenant" means a person that contracts with the owner or operator of a
8 qualified data center to use or occupy all or part of a qualified data center for a period of at least
9 two (2) years;

10 (2) "Eligible qualified data center costs" means expenditures made on or after July 1, 2021,
11 for the development, acquisition, construction, rehabilitation, renovation, repair or operation of a
12 facility to be used as a qualified data center, including the cost of land, buildings, site
13 characterization and assessment, engineering services, design services and data center equipment
14 acquisition and permitting related to such data center equipment acquisitions. "Eligible qualified
15 data center costs" does not include expenditures made in connection with real or personal property
16 that is located outside the boundaries of the facility to be used as a qualified data center;

17 (3) "Enterprise information technology equipment" means:

18 (i) Hardware that support computing, networking or data storage functions, including

1 servers and routers;

2 (ii) Networking systems equipment that support computing, networking or data storage
3 functions and have an industry designation as equipment within the enterprise class or data center
4 class of networking systems; and

5 (iii) Generators and other equipment used to ensure an uninterrupted power supply for the
6 hardware and networking systems equipment under subsection (a)(3)(i) or (a)(3)(ii) of this section;

7 (4) "Facility" means one or more contiguous tracts of land in the state and any structure
8 and personal property contained on such land;

9 (5) "Operator" means a person that contracts with the owner of a qualified data center to
10 operate such a qualified data center;

11 (6) "Owner" means a person that holds a leasehold estate in excess of fifty (50) years or a
12 fee title to a facility;

13 (7) "Person" means an individual, an estate, a trust, a receiver, a cooperative association, a
14 corporation, a company, a firm, a partnership, a limited partnership, a limited liability company, a
15 limited liability partnership or a joint venture;

16 (8) "Qualified data center" means a facility that is developed, acquired, constructed,
17 rehabilitated, renovated, repaired or operated, to house a group of networked computer services in
18 one physical location or multiple contiguous locations to centralize the storage, management and
19 dissemination of data and information pertaining to a particular business or classification or body
20 of knowledge;

21 (9) "Qualified data center equipment" means computer equipment, software and hardware
22 purchased or leased for the processing, storage, retrieval or communication of data including:

23 (i) Computer servers, routers, connections, chassis, networking equipment, switches, racks,
24 fiber optics and copper cables, trays, conduits and other enabling machinery, equipment and
25 hardware, regardless of whether such personal property is affixed to or incorporated into real
26 property;

27 (ii) Equipment used in the operation of computer equipment or software for the benefit of
28 a qualified data center, including component parts, replacement parts and upgrades, regardless of
29 whether the personal property is affixed to or incorporated into real property;

30 (iii) Equipment necessary for the transformation, generation, distribution or management
31 of electricity that is required to operate computer servers and related equipment, including
32 substations, generators, uninterrupted energy equipment, supplies, conduits, fuel piping and
33 storage, cabling, duct banks, switches, switchboards, batteries and testing equipment;

34 (iv) Equipment necessary to cool and maintain a controlled environment for the operation

1 of computer servers and other equipment of a qualified data center, including chillers, mechanical
2 equipment, refrigerant piping, fuel piping and storage, adiabatic and free cooling systems, cooling
3 towers, water softeners, air handling units, indoor direct exchange units, fans, ducting and filters;

4 (v) Water conservation systems, including equipment designated to collect, conserve and
5 reuse water;

6 (vi) Conduit, ducting and fiber optic and copper cables located outside the qualified data
7 center, that are directly related to connecting one or more qualified data center locations;

8 (vii) Monitoring equipment and security systems;

9 (viii) Modular data centers and preassembled components of any item described in this
10 subsection, including components used in the manufacturing of modular data centers; and

11 (ix) Any other personal property, exclusive of motor vehicles, that is essential to the
12 operations of a qualified data center or that is acquired for incorporation into or used or consumed
13 in the operation of the qualified data center; and

14 (10) "Qualified investment" means the aggregate, nonduplicative eligible data center costs
15 expended by an owner, operator and colocation tenant of a qualified data center.

16 **42-64.34-2. Qualified data center location incentive.**

17 (a) Any person that anticipates it will own, operate or be a colocation tenant in a qualified
18 data center in this state may apply to the Rhode Island commerce corporation to enter into an
19 agreement in accordance with the provisions of subsection (b) of this section, for an exemption
20 from taxes imposed under chapter 3 of title 44 and chapter 18 of title 44 as set forth in subsections
21 (c) and (d) of this section.

22 (b)(1) Any person described in subsection (a) of this section that seeks an exemption under
23 subsection (a) of this section shall submit an application to the Rhode Island commerce corporation,
24 in a manner and form prescribed by the secretary of commerce. If the Rhode Island commerce
25 corporation approves such an application, the secretary of commerce shall enter into an agreement
26 with such persons, provided such person demonstrates to the satisfaction of the secretary of
27 commerce that:

28 (i) The facility to be developed, acquired, constructed, rehabilitated, renovated, repaired or
29 operated will be used as a qualified data center; and

30 (ii) The qualified data center will make, on or before the fifth anniversary of the date an
31 agreement entered into pursuant to this section becomes effective, a qualified investment of at least:

32 (A) Fifty million dollars (\$50,000,000) in such qualified data center is located in an
33 enterprise zone designated pursuant to chapter 64.3 of title 42 or a federal qualified opportunity
34 zone designated pursuant to the Tax Cuts and Jobs Act of 2017, Pub .L.115-97, as amended from

1 time to time, or

2 (B) Two hundred million dollars (\$200,000,000) if such qualified data center is not located
3 in an enterprise zone or federal qualified opportunity zone.

4 (2) Any agreement entered into pursuant to this subsection shall:

5 (i) Be for a period of no less than thirty (30) years and no greater than fifty (50) years from
6 the date an agreement entered into pursuant to this section becomes effective, which may be in the
7 year in which the construction, rehabilitation, renovation or repair of a qualified data center
8 commences;

9 (ii) Include a five-year (5) qualifying period, from the date an agreement entered into
10 pursuant to this section becomes effective, for the applicable qualified investment amount set forth
11 in subsection (b)(1)(ii) of this section to be reached;

12 (iii) Include the payment of an annual fee by the qualified data center, to be determined
13 annually by the Rhode Island commerce corporation and not to exceed twenty-five thousand dollars
14 (\$25,000.00), for the administrative and operational costs of the Rhode Island commerce
15 corporation for the administration of this chapter. Such fee shall be paid by the qualified data center
16 to the secretary of commerce during each year of such qualifying period or until the applicable
17 qualified investment amount set forth in subsection (b)(1)(ii) of this section is reached, whichever
18 is sooner;

19 (iv) Include a detailed description of the capital project that is the subject of the agreement;

20 (v) Provide that the provisions of the agreement are applicable, within the time period such
21 agreement is effective and for the remaining duration of such time period, to any:

22 (A) Subsequent owner of the qualified data center;

23 (B) Operator or affiliate of the operator of the qualified data center, or

24 (C) Colocation tenant, provided the facility continues to be used as a qualified data center;

25 and

26 (vi) Include provisions for the assessment and payment of the taxes exempted pursuant to
27 such agreement and the rates or amounts of penalties and interest to be imposed thereon, if the
28 Rhode Island commerce corporation determines that the requirements of the agreement or of a
29 qualified data center are not being met or have not been met.

30 (3) If a qualified data center makes a qualified investment of at least:

31 (i) Two hundred million dollars (\$200,000,000) if such qualified data center is located in
32 an enterprise zone designated pursuant to section chapter 64.3 of title 42 or a federal qualified
33 opportunity zone designated pursuant to the Tax Cuts and Jobs Act of 2017, Pub. L. 115-97, as
34 amended from time to time; or

1 (ii) Four hundred million dollars (\$400,000,000) if such qualified data center is not located
2 in an enterprise zone or federal qualified opportunity zone, the agreement entered into with the
3 Rhode Island commerce corporation pursuant to this section shall be effective for no less than thirty
4 (30) years and not more than to fifty (50) years.

5 (4) Any qualified data center that enters into an agreement pursuant to this section and
6 makes the applicable qualified investment amount set forth in subsection (b)(3) of this section, and
7 any operator or affiliate of and colocation tenant of such qualified data center, shall be exempt from
8 any financial transactions tax or fee that may be imposed by the state on trades of stocks, bonds,
9 derivatives and other financial products. The exemption under this subdivision shall be effective
10 for a period of up to fifty (50) years from the date of the construction, rehabilitation, renovation or
11 repair of a facility is completed, as determined by the Rhode Island commerce corporation. The
12 Rhode Island commerce corporation may incorporate the provisions of this subdivision into the
13 agreement entered into pursuant to this section or amend an existing agreement with a qualified
14 data center to incorporate the provisions of this subdivision.

15 (5) The Rhode Island secretary of commerce, or his or her designee, shall:

16 (i) Serve as the liaison between applicants and qualified data centers and other state
17 agencies;

18 (ii) Provide assistance to applicants and qualified data centers from the preapplication
19 phase to the post-operational stage; and

20 (iii) Seek to ensure coordinated, efficient and timely responses to applicants and qualified
21 data centers.

22 (c)(1) With respect to the exemption of taxes imposed under chapter 18 of title 44, the
23 secretary of commerce shall notify the tax administrator of any person that has entered into an
24 agreement pursuant to this section. The tax administrator shall provide to such person a certificate
25 that exempts such person, and any contractor or subcontractor of such person, from taxes for:

26 (i) The sale of and the storage, use or other consumption in this state of qualified data center
27 equipment acquired for incorporation into or used and consumed in the development, acquisition,
28 construction, rehabilitation, renovation, repair or operation of a facility that is used or to be used as
29 a qualified data center;

30 (ii) The sale of and the acceptance, use or other consumption in this state of any service
31 described under subsection § 44-18-20, that is used and consumed in the development, acquisition,
32 construction, rehabilitation, renovation, repair or operation of a facility that is used or to be used as
33 a qualified data center; and

34 (iii) All electricity used by a qualified data center. Such person, and any contractor or

1 subcontractor of such person, may use such certificate for the purchase, storage, use or other
2 consumption in this state of qualified data center equipment, services and electricity as set forth in
3 this subsection and each seller of such equipment, services or electricity may rely on such
4 certificate.

5 (2) The certificate provided pursuant to subsection (c)(1) of this section shall apply, during
6 the time period the agreement is effective, to:

7 (i) Any additional building or structure at a qualified data center to be developed, acquired,
8 constructed, rehabilitated, renovated, repaired or operated, to house a group of networked computer
9 servers, regardless of whether such development, acquisition, construction, rehabilitation,
10 renovation, repair or operation was contemplated at the time of entering into the agreement; and

11 (ii) Any additional qualified data center equipment, services and electricity acquired or
12 used by such qualified data center after the date the agreement was entered into.

13 (d)(1) With respect to the exemption from the tax imposed under chapter 3 of title 44 of
14 the general laws, such exemption shall apply to:

15 (i) Real property, buildings or structures, located within or at a qualified data center; and

16 (ii) Enterprise information technology equipment used by a qualified data center.

17 (2) The exemption under this subsection shall apply, during the time period the agreement
18 entered into pursuant to subsection (b) of this section is effective to:

19 (i) Any additional building or structure at a qualified data center that is developed,
20 acquired, constructed, rehabilitated, renovated, repaired or operated, to house a group of networked
21 computer servers, regardless of whether any such development, acquisition, construction,
22 rehabilitation, renovation, repair or operation was contemplated at the time of entering into the
23 agreement;

24 (ii) Any additional enterprise information technology equipment used by a qualified data
25 center that is acquired after the date the agreement was entered into; and

26 (iii) Any additional facility acquired by the owner of a qualified data center for the
27 development, construction, rehabilitation, renovation, repair or operation of a qualified data center,
28 after the date of the agreement was entered into, provided such owner enters into a negotiated host
29 municipality fee agreement as required under subsection (d)(4) of this section for each such
30 additional facility.

31 (3) The secretary of commerce shall notify each municipality in which such facility is
32 located of any agreement entered into pursuant to this section and shall provide the identity of the
33 person with which the secretary has entered into such agreement, the date such agreement is
34 effective and the terms of the agreement with respect to the exemption from the tax imposed under

1 chapter 3 of title 44.

2 (4)(i) No developer or owner shall commence construction, rehabilitation, renovation or
3 repair of a facility that will be a qualified data center unless such owner has entered into a negotiated
4 host municipality fee agreement with the municipality in which such facility is located. Such owner
5 shall enter into a negotiated host municipality fee agreement for each additional facility that will
6 be a qualified data center that such owner acquires. If a facility is located in contiguous
7 municipalities, such owner shall enter into a negotiated host municipality fee agreement with each
8 such municipality.

9 (ii) Each negotiated host municipality fee agreement shall include provisions for the
10 assessment and payment of the tax under chapter 3 of title 44 exempted pursuant to the agreement
11 entered into pursuant to subsection (b) of this section, and the rates or amounts of penalties and
12 interest to be imposed thereon, if the legislative body of the municipality in which the qualified
13 data center is located determines that the requirements of the negotiated host municipality fee
14 agreement are not being met or have not been met.

15 (5) The chief elected official of the municipality in which a qualified data center is located
16 shall notify the qualified data center if the legislative body of such municipality determines the
17 requirements of a negotiated host municipality fee agreement entered into pursuant to subsection
18 (d)(4) of this section are not being met or have not been met. The qualified data center shall cure
19 such noncompliance not later than one hundred eighty (180) days after the date of such notification.
20 If the legislative body of such municipality determines the noncompliance has not been cured, the
21 negotiated host municipality fee agreement shall be terminated.

22 (6) Upon termination of a negotiated host municipality fee agreement pursuant to
23 subsection (d) or subsection (e)(2) of this section, the qualified data center, the owner of the
24 property on which such qualified data center is located or such owner's successors or assigns shall
25 be subject to the tax imposed under chapter 3 of title 44 and shall be liable for the payment of such
26 taxes on the property that was exempted from such tax, from the date of noncompliance under
27 subsection (d)(5) of this section or the date of termination under subsection (e)(2) of this section,
28 as applicable. Such liability shall attach to the property as a charge thereon. Such tax and any related
29 penalty and interest shall be due, payable and collectible as other municipal taxes and subject to
30 the same liens and processes of collection.

31 (e)(1) If the Rhode Island commerce corporation terminates an agreement entered into
32 pursuant to subsection (b) of this section due to making the determination that the requirements of
33 such agreement or of a qualified data center are not being met or have not been met the secretary
34 of commerce shall notify the tax administrator and the chief elected official of the municipality in

1 which the applicable qualified data center is located of such termination.

2 (2) Any negotiated host municipality fee agreement entered into pursuant to subsection
3 (d)(4) of this section by such qualified data center shall be terminated as of the date of the agreement
4 entered into pursuant to subsection (b) of this section is terminated. The municipality in which such
5 qualified data center is located may use any remedy authorized by the general laws to secure the
6 interest of the municipality and recover the amount of any fee, tax, penalty and interest that become
7 due and owing to such municipality due to such termination.

8 (3) The amount of taxes under chapter 18 of title 44, penalty or interest that become due
9 and owing pursuant to the termination by the Rhode Island commerce corporation of an agreement
10 entered into pursuant to subsection (b) of this section may be collected by the tax administrator
11 under the provisions of chapter 1 of title 44. The amount of any such tax, penalty or interest shall
12 be a lien on the real estate of the qualified data center from the last day of the month next proceeding
13 the due date of such tax until such tax is paid. The tax administrator may record such lien in the
14 records of any municipality in which the real estate of such qualified data center is located but no
15 such lien shall be enforceable against a bona fide purchaser or qualified encumbrancer of such real
16 estate. When any tax with respect to which a lien has been recorded under the provisions of this
17 subsection has been satisfied, the tax administrator shall, upon request of any interested party, issue
18 a certificate discharging such lien, which certificate shall be recorded in the same office in which
19 the lien was recorded. Any action for the foreclosure of such lien shall be brought by the attorney
20 general in the name of the state in the superior court for the county in which the real estate subject
21 to the lien is located, or, of such property is located in two or more counties, in the superior court
22 for one such county, and the court may limit the time for redemption or order the sale of such real
23 estate or make such other or further decree as it judges equitable.

24 SECTION 2. This act shall take effect on July 1, 2021.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- QUALIFIED DATA CENTERS
LOCATION INCENTIVE

1 This act would establish property, tangible, sales and use tax exemptions as incentives for
2 the location of qualified data centers in Rhode Island upon a minimum qualified investment of two
3 hundred million dollars (\$200,000,000) in a designated enterprise zone and four hundred million
4 dollars (\$400,000,000) in a non-enterprise zone. The application requirements and approval process
5 shall be in a form and manner prescribed by the Rhode Island commerce corporation.

6 This act would take effect on July 1, 2021.

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