

LC01985

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

A N A C T

RELATING TO REDEVELOPMENT OF BROWNFIELDS

Introduced By: Representatives Fleury, Watson, Savage, Story, and WH Murphy

Date Introduced: February 05, 2002

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Title 44 of the General Laws entitled "Taxation" is hereby amended by adding thereto the following chapter:

CHAPTER 33.3

BROWNFIELD REDEVELOPMENT TAX CREDIT

44-33.3-1. Purpose. -- Whereas, a strong and positive Brownfield redevelopment program and strategy is vital to maintain the attractiveness of Rhode Island as a business location choice, and a revitalization program is the key to the rebirth of the urban core and to "smart" economic expansion; and whereas the 2002 Brownfield redevelopment tax credit act reflects the significant commitment by the state of Rhode Island to effect permanent solutions for those areas and economic assets left behind in the course of business cycles and in the transition to a new economy; therefore the Brownfield redevelopment tax credit is hereby established.

44-33.3-2. Definitions. -- As used in this chapter:

(1) "Brownfield" shall mean a property that is located in the state of Rhode Island, which is not a residential property with four (4) or fewer units; and

(i) is the subject of a settlement agreement as contemplated under chapter 19.14 of title 23; or

(ii) is an historic structure certified under chapter 33.2 of title 44 which has asbestos, lead, or other environmental contamination, the remediation of which will cost in excess of fifty thousand dollars (\$50,000); or

1 (iii) is a mill building certified under chapter 64.7 of title 42 which has asbestos, lead, or  
2 other environmental contamination, the remediation of which will cost in excess of fifty thousand  
3 dollars (\$50,000).

4 (2) "Placed in service" shall mean the point in time at which the substantial rehabilitation  
5 of the Brownfield property has been completed in full compliance with the laws, regulations, and  
6 agreements administered by the Rhode Island department of environmental management, and the  
7 property or some identifiable portion thereof is suitable for occupancy under the terms of the  
8 Rhode Island state building code, has otherwise been brought back to beneficial reuse as certified  
9 by the Rhode Island economic development corporation, or some date thereafter as selected by  
10 the taxpayer.

11 (3) "Rehabilitation expenditures" shall mean all costs incurred and paid in furtherance of  
12 the analysis, investigation, design, remediation, redevelopment, and reuse of a Brownfield  
13 property, including, but not limited to, architectural, engineering, legal, and other professional  
14 fees, material and labor costs, demolition and disposal costs, remediation of hazardous materials  
15 or petroleum products, lead, and asbestos, environmental liability or cost-cap insurance  
16 premiums, and short or long-term environmental monitoring.

17 (4) "Substantial rehabilitation" shall mean that the rehabilitation expenditures of the  
18 Brownfield property, during the thirty-six (36) month period prior to the date the property is  
19 placed in service, exceed one hundred thousand dollars (\$100,000).

20 **44-33.3-3. Tax credit.** -- (a) Any person, firm, partnership, trust, estate, limited liability  
21 company, corporation (including both business and nonprofit corporations) or other business  
22 entity that is not a responsible party and incurs expenditures for the rehabilitation of a Brownfield  
23 property or properties, shall be entitled to a credit against payment of tax liability of such person  
24 or entity pursuant to chapter 11, 12, 14, 17, or 30 of title 44 in an amount equal to thirty percent  
25 (30%) of the rehabilitation expenditures. If the same substantial rehabilitation of a property has  
26 been qualified as a certified rehabilitation of that property for purposes of the historic structures  
27 tax credit under chapter 33.2 of this title 44, and that property is fully qualified to receive that  
28 historic structures tax credit, this Brownfield credit shall be calculated based solely upon those  
29 rehabilitation expenditures arising from or attributable to the environmental contamination on the  
30 property or properties.

31 (b) Tax credits allowed pursuant to this chapter shall be allowed in the same taxable year  
32 as the date the property or properties, or an identifiable portion thereof, are placed in service.

33 (c) If the amount of the tax credit exceeds a taxpayer's total tax liability for the year in  
34 which the property or properties, or an identifiable portion thereof, are placed in service, the

1 amount that exceeds the taxpayer's tax liability may be carried forward for credit against the taxes  
2 imposed for the succeeding ten (10) years, or until the full credit is used, whichever occurs first.

3 (d) Credits allowed to a partnership, a limited liability company taxed as a partnership, or  
4 multiple owners of property shall be passed through to the persons designated as partners,  
5 members, or owners respectively pro rata or pursuant to an executed agreement among such  
6 persons designated as partners, members, or owners documenting an alternate distribution method  
7 without regard to their sharing of other tax or economic attributes of such entity.

8 (e) Parties eligible for such tax credits, without regard to whether such party has any tax  
9 liability of its own in any given year, may assign, transfer, or convey the credits, in whole or in  
10 part, by sale or otherwise, to any individual or entity. The assignee of the tax credits may use  
11 acquired credits to offset up to one hundred percent (100%) of the tax liabilities otherwise  
12 imposed pursuant to chapter 11, 12, 13, 14, 17 or 30 of title 44. The assignor shall perfect such  
13 transfer by notifying the state of Rhode Island division of taxation in writing within thirty (30)  
14 calendar days following the effective date of said transfer and shall provide any information as  
15 may be required by the division of taxation to administer and carry out the provisions of this  
16 section. Such credits may be assigned, transferred, conveyed to or from, and used by the assignee  
17 without regard to the ability of the assignor to use those credits to offset tax liabilities of the  
18 assignor. For purposes of this chapter, the proceeds of any assignment, conveyance, or sale  
19 received by any taxpayer for its assignment, conveyance, or sale of the tax credits allowed  
20 hereunder shall be exempt from taxation under title 44.

21 (f) To claim the credit or credits authorized under this section, appropriate evidence of  
22 the qualification as a Brownfield property under section 33.3-2(1) of this title shall be attached to  
23 all state tax returns on which the credit is claimed. The tax administrator and his or her agents, for  
24 the purpose of ascertaining the correctness of any credit claimed under the provisions of this  
25 section, may examine any books, paper, records, or memoranda bearing upon the matters required  
26 to be included in the return, report, or other statement, and may require the attendance of the  
27 person executing the return, report, or other statement, or of any officer or employee of any  
28 taxpayer, or the attendance of any other person, and may examine the person under oath  
29 respecting any matter which the tax administrator or his or her agent deems pertinent or material  
30 in determining the eligibility for credits claimed.

31 SECTION 2. Section 23-19.14-9 of the General Laws in Chapter 23-19.14 entitled  
32 "Industrial Property Remediation and Reuse Act" is hereby amended to read as follows:

33 **23-19.14-9. Priority sites for economic development.** -- The Upon application, the  
34 executive director of the Rhode Island economic development corporation ~~may identify~~ shall

1 certify properties which are the subject of settlement agreements, as defined by section 23-19.14-  
2 10, as properties of critical economic concern, as defined by section 42-117-3(3). These  
3 properties of critical economic concern shall be entitled to the benefits of chapter 117 of title 42  
4 including, but not limited to, expedited investigation of these properties, expedited design of  
5 appropriate remedial actions for these properties and, to the greatest extent possible, expedited  
6 implementation of remedial actions at these properties. In addition, these properties shall be  
7 entitled to the benefits of chapter 33.3 of title 44. ~~The Rhode Island economic development~~  
8 ~~corporation is authorized and empowered, with the approval of the governor, to use up to one half~~  
9 ~~(1/2) of the amounts contained from time to time in the tire site remediation account created~~  
10 ~~pursuant to chapter 63 of this title as a revolving fund for the purposes of making loans for the~~  
11 ~~investigation of and/or design of remedial actions for projects of critical economic concern and~~  
12 ~~related purpose as determined by the Rhode Island economic development corporation to~~  
13 ~~recipients of certificates of critical economic concern and who are designated by the director of~~  
14 ~~the Rhode Island economic development corporation and consistent with the purposes of this~~  
15 ~~chapter. Loan repayments shall be repaid to the tire site remediation account on a schedule~~  
16 ~~established by agreement between the loan recipient and the director of the Rhode Island~~  
17 ~~economic development corporation.~~

18 SECTION 3. This act shall take effect on January 1, 2003.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO REDEVELOPMENT OF BROWNFIELDS

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1           This act would provide a tax credit to developers of environmentally challenged  
2 properties.

3           A strong and positive Brownfield redevelopment program and strategy is vital to  
4 maintain the attractiveness of Rhode Island as a business location choice, and a revitalization  
5 program is the key to the rebirth of the urban core and to "smart" economic expansion. The 2002  
6 Brownfield Redevelopment Tax Credit Act reflects the significant commitment by the state of  
7 Rhode Island to effect permanent solutions for those years and economic assets left behind in the  
8 course of business cycles and in the transition to a new economy.

9           This act would also make technical changes and clarifications within the Industrial  
10 Property Remediation and Reuse Act.

11           This act would take effect on January 1, 2003.

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