

2012 -- H 7637

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO AUTHORIZING THE ECONOMIC DEVELOPMENT CORPORATION TO
CREATE THE JOB GUARANTY PROGRAM

Introduced By: Representatives Jackson, O'Neill, Gallison, Lally, and Keable

Date Introduced: February 16, 2012

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 1 of Chapter 26 of the 2010 Public Laws entitled "An Act Relating
2 to Economic Development" is hereby amended to read as follows:

3 SECTION 1. WHEREAS, The Rhode Island Economic Development Corporation was
4 created by the general assembly pursuant to chapter 64 of title 42 of the general laws in order to,
5 among other things, promote the retention and expansion of businesses and the creation of jobs in
6 Rhode Island; and

7 WHEREAS, One of the methods utilized by the Rhode Island Economic Development
8 Corporation to help promote and expand businesses in Rhode Island is the use of its quasi-public
9 corporation powers to issue bonds and debt and guarantees of debt; and

10 WHEREAS, Rhode Island continues to suffer from continuing high unemployment and
11 other ill effects from the most recent national recession; and

12 WHEREAS, One of Rhode Island's economic development's strategies of continuing to
13 optimize its knowledge economy assets, such as the sciences, technology, digital media,
14 innovative manufacturing and other technologies, requires adequate access to capital; and

15 WHEREAS, Rhode Island companies in growth phases are limited in their ability to
16 obtain reasonable credit without access to credit enhancement; and

17 WHEREAS, The Rhode Island Economic Development Corporation desires to create a
18 loan guarantee and bond program pursuant to which it will be able to guarantee loan repayments

1 either directly or through the issuance of its bonds in order to induce lending to companies
2 growing their employment in Rhode Island;

3 WHEREAS, The Rhode Island Economic Development Corporation seeks to have
4 authority pursuant to chapter 18 of title 35 of the general laws to guarantee debts or otherwise
5 issue its bonds for this purpose not to exceed ~~one hundred twenty-five million dollars~~
6 ~~(\$125,000,000)~~ one hundred thirty-five million dollars (\$135,000,000) in the aggregate of unpaid
7 principal, thereby limiting the contingent long-term cost of such program to the state; and

8 WHEREAS, The Rhode Island Economic Development Corporation requests the
9 approval of the general assembly prior to undertaking such program; now, therefore be it

10 RESOLVED, That the Rhode Island Economic Development Corporation (the
11 "corporation") is hereby empowered and authorized pursuant to chapter 18, title 35 of the general
12 laws, and notwithstanding any provisions of chapter 64, title 42 of the general laws to the
13 contrary, to create the corporation's Job Creation Guaranty Program (the "program"). Under the
14 program, the corporation may from time to time issue its bonds, guaranty debt service thereon or
15 on bonds issued by the Rhode Island industrial facilities corporation, or guaranty the debt service
16 of another provided that the principal amount of bonds or other obligations guaranteed pursuant
17 to the program shall not at any time exceed ~~one hundred twenty-five million dollars~~
18 ~~(\$125,000,000)~~; one hundred thirty-five million dollars (\$135,000,000); provided, that at least ten
19 million dollars (\$10,000,000) shall be reserved exclusively for small employers. As used herein
20 the term "small employer" means any person, firm or corporation, partnership, association,
21 political subdivision or self-employed individual that is actively engaged in business, including
22 but not limited to, a business or corporation organized under the Rhode Island Non-Profit
23 Corporation Act, chapter 6 of title 7, or a similar act of another state that, on at least fifty percent
24 (50%) of its working days during the preceding calendar quarter, employed no more than fifty (50)
25 eligible employees, with a normal work week of thirty (30) or more hours, the majority of whom
26 were employed within this state, and in which a bona fide employer-employee relationship exists.
27 In determining the number of eligible employees, companies that are affiliated companies, or that
28 are eligible to file a combined tax return for purposes of taxation by this state, shall be considered
29 one employer. The term "small employer" also includes a self-employed individual. The
30 guaranty of any bond or other obligation may extend to repayment of the principal thereof,
31 sinking payments therefore, interest thereon, and payment of any redemption price or premium in
32 connection with the redemption thereof prior to maturity;

33 RESOLVED, That guaranties or bonds issued by the corporation shall be approved by its
34 board of directors, or a committee of the board as so designated by the board, and shall be

1 executed by its executive director or any authorized officer of the corporation as authorized in a
2 resolution approved by the board of directors of the corporation from time to time in a form the
3 corporation may prescribe. The board of directors of the corporation in authorizing any such
4 guaranty or bond obligations shall consider and be guided by the following objectives:

5 (a) Priority will be given to projects that promptly create permanent, full-time jobs with
6 annual wages in excess of two hundred fifty percent (250%) of the then current minimum wage
7 earned annually with industry comparable benefits. A full-time job shall mean one in which the
8 employee works a minimum of thirty (30) hours per week within this state.

9 (b) Any guaranty or bond obligations hereby authorized should leverage capital
10 formation to facilitate business development with new and existing companies that will create or
11 retain jobs in this state. The documentation reflecting guaranty and bond obligations authorized
12 hereby shall contain adequate legal provisions for assuring performance by the borrower of
13 creating and retaining new jobs within this state.

14 (c) Priority shall be given to guarantees that align with the State's economic development
15 strategy to expand high-wage jobs in knowledge industry growth clusters or with respect to assets
16 related thereto.

17 (d) Guarantees or loan obligations from the program's borrower will be collateralized by
18 any and all available assets of the borrower and guarantors, where applicable, including
19 subordinate collateral positions, cross collateralization with other lenders and collateralized
20 guarantees as appropriate.

21 (e) Insurances, including hazard and key person life, may be required where appropriate.

22 (f) The corporation may utilize such data and retain experts as necessary to assess and
23 validate associated guaranty risk, and the corporation may charge borrower reasonable fees for
24 the corporation's guaranty and reimbursement of expenses;

25 RESOLVED, that in order assure any payments due on guarantees or bond obligations
26 issued by the corporation in connection with the program pursuant to this authorization are made,
27 to assure the continued operation and solvency of the corporation for the carrying out of its
28 corporate purposes, and except as otherwise set forth in these authorizing resolutions in
29 accordance with the provisions of chapter 64, title 42 of the general laws: (i) The corporation
30 shall create a reserve fund from which shall be charged any and all expenses of the corporation
31 with respect to guarantee or bond obligations of the corporation pursuant to these resolutions
32 resulting from a program borrower's default; and (ii) The corporation shall credit to the reserve
33 fund no less than fifty percent (50%) of all program receipts of the corporation including guaranty
34 fees, premiums and any other receipts or recoveries from collections received pursuant to the

1 corporation's rights to recover payments as a guarantor; and (iii) To the extent the corporation's
2 obligations as a guarantor or pursuant to its program bond obligations are not satisfied by
3 amounts in its guaranty reserve fund, the executive director of the corporation shall annually, on
4 or before December 1st, make and deliver to the governor a certificate stating the minimum
5 amount, if any, required for the corporation to make payments due on such guarantees. During
6 each January session of the general assembly, the governor shall submit to the general assembly,
7 as part of the governor's budget, the total of such sums, if any, required to pay any and all
8 obligations of the corporation under such guarantees or bond obligations pursuant to the terms of
9 this authorization. All sums appropriated by the general assembly for that purpose, and paid to the
10 corporation, if any, shall be utilized by the corporation to make payments due on such guarantees
11 or bond obligations. Any recoveries by the corporation of guarantee payments are to be returned
12 to the guarantee reserve fund and utilized to reduce any obligation of the state pursuant to any
13 guarantees entered into by the corporation;

14 RESOLVED, on or before January 1 of each year, the corporation shall issue a report on
15 all guarantees issued by the corporation pursuant to this authorization. The report shall include at
16 a minimum: a list of each guarantee issued; a description of the borrower on behalf of which the
17 guarantee was issued; the lender or lenders that made the loan, and the amount of such loan, to
18 such borrower; the amount of principal and interest on each such loan outstanding as of the date
19 of such report; a summary of the collateral securing the repayment of such loan for which the
20 guarantee was issued; and a summary of the economic impacts made by such borrower as a result
21 of the guaranteed loan, including but not limited to the number, type and wages of jobs created by
22 such borrower, any impacts on the industry in which the borrower operates and an estimate of
23 income taxes for the ~~state~~ [State](#) of Rhode Island generated by the employees of such borrower and
24 the borrower itself

25 SECTION 2. Section 1 of Chapter 29 of the 2010 Public Laws entitled "An Act Relating
26 to Authorizing the Economic Development Corporation to Create the Job Creation Guaranty
27 Program" is hereby amended to read as follows:

28 SECTION 1. WHEREAS, The Rhode Island Economic Development Corporation was
29 created by the general assembly pursuant to chapter 64 of title 42 of the general laws in order to,
30 among other things, promote the retention and expansion of businesses and the creation of jobs in
31 Rhode Island; and

32 WHEREAS, One of the methods utilized by the Rhode Island Economic Development
33 Corporation to help promote and expand businesses in Rhode Island is the use of its quasi-public
34 corporation powers to issue bonds and debt and guarantees of debt; and

1 WHEREAS, Rhode Island continues to suffer from continuing high unemployment and
2 other ill effects from the most recent national recession; and

3 WHEREAS, One of Rhode Island's economic development's strategies of continuing to
4 optimize its knowledge economy assets such, as the sciences, technology, digital media,
5 innovative manufacturing and other technologies, requires adequate access to capital; and

6 WHEREAS, Rhode Island companies in growth phases are limited in their ability to
7 obtain reasonable credit without access to credit enhancement; and

8 WHEREAS, The Rhode Island Economic Development Corporation desires to create a
9 loan guarantee and bond program pursuant to which it will be able to guarantee loan repayments
10 either directly or through the issuance of its bonds in order to induce lending to companies
11 growing their employment in Rhode Island;

12 WHEREAS, The Rhode Island Economic Development Corporation seeks to have
13 authority pursuant to chapter 18 of title 35 of the general laws to guarantee debts or otherwise
14 issue its bonds for this purpose not to exceed ~~one hundred twenty-five million dollars~~
15 ~~(\$125,000,000)~~ one hundred thirty-five million dollars (\$135,000,000) in the aggregate of unpaid
16 principal, thereby limiting the contingent long-term cost of such program to the state; and

17 WHEREAS, The Rhode Island Economic Development Corporation requests the
18 approval of the general assembly prior to undertaking such program; now, therefore be it

19 RESOLVED, That the Rhode Island Economic Development Corporation (the
20 "corporation") is hereby empowered and authorized pursuant to chapter 18, title 35 of the general
21 laws, and notwithstanding any provisions of chapter 64, title 42 of the general laws to the
22 contrary, to create the corporation's Job Creation Guaranty Program (the "program"). Under the
23 program, the corporation may from time to time issue its bonds, guaranty debt service thereon or
24 on bonds issued by the Rhode Island industrial facilities corporation, or guaranty the debt service
25 of another provided that the principal amount of bonds or other obligations guaranteed pursuant
26 to the program shall not at any time exceed ~~one hundred twenty-five million dollars~~
27 ~~(\$125,000,000)~~ one hundred thirty-five million dollars (\$135,000,000); provided, that at least ten
28 million dollars (\$10,000,000) shall be reserved exclusively for small employers. As used herein
29 the term "small employer" means any person, firm or corporation, partnership, association,
30 political subdivision or self-employed individual that is actively engaged in business, including
31 but not limited to, a business or corporation organized under the Rhode Island Non-Profit
32 Corporation Act, chapter 6 of title 7, or a similar act of another state that, on at least fifty percent
33 (50%) of it working days during the preceding calendar quarter, employed no more than fifty (50)
34 eligible employees, with a normal work week of thirty (30) or more hours, the majority of whom

1 were employed within this state, and in which a bona fide employer-employee relationship exists.
2 In determining the number of eligible employees, companies that are affiliated companies, or that
3 are eligible to file a combined tax return for purposes of taxation by this state, shall be considered
4 one employer. The term "small employer" also includes a self-employed individual. The
5 guaranty of any bond or other obligation may extend to repayment of the principal thereof,
6 sinking payments therefore, interest thereon, and payment of any redemption price or premium in
7 connection with the redemption thereof prior to maturity;

8 RESOLVED, That guaranties or bonds issued by the corporation shall be approved by its
9 board of directors, or a committee of the board as so designated by the board, and shall be
10 executed by its executive director or any authorized officer of the corporation as authorized in a
11 resolution approved by the board of directors of the corporation from time to time in a form the
12 corporation may prescribe. The board of directors of the corporation in authorizing any such
13 guaranty or bond obligations shall consider and be guided by the following objectives:

14 (a) Priority will be given to projects that promptly create permanent, full-time jobs with
15 annual wages in excess of two hundred fifty percent (250%) of the then current minimum wage
16 earned annually with industry comparable benefits. A full-time job shall mean one in which the
17 employee works a minimum of thirty (30) hours per week within this state.

18 (b) Any guaranty or bond obligations hereby authorized should leverage capital
19 formation to facilitate business development with new and existing companies that will create or
20 retain jobs in this state. The documentation reflecting guaranty and bond obligations authorized
21 hereby shall contain adequate legal provisions for assuring performance by the borrower of
22 creating and retaining new jobs within this state.

23 (c) Priority shall be given to guarantees that align with the State's economic development
24 strategy to expand high-wage jobs in knowledge industry growth clusters or with respect to assets
25 related thereto.

26 (d) Guarantees or loan obligations from the program's borrower will be collateralized by
27 any and all available assets of the borrower and guarantors, where applicable, including
28 subordinate collateral positions, cross collateralization with other lenders and collateralized
29 guarantees as appropriate.

30 (e) Insurances, including hazard and key person life, may be required where appropriate.

31 (f) The corporation may utilize such data and retain experts as necessary to assess and
32 validate associated guaranty risk, and the corporation may charge borrower reasonable fees for
33 the corporation's guaranty and reimbursement of expenses;

34 RESOLVED, that in order assure any payments due on guarantees or bond obligations

1 issued by the corporation in connection with the program pursuant to this authorization are made,
2 to assure the continued operation and solvency of the corporation for the carrying out of its
3 corporate purposes, and except as otherwise set forth in these authorizing resolutions in
4 accordance with the provisions of chapter 64, title 42 of the general laws: (i) The corporation
5 shall create a reserve fund from which shall be charged any and all expenses of the corporation
6 with respect to guarantee or bond obligations of the corporation pursuant to these resolutions
7 resulting from a program borrower's default; and (ii) The corporation shall credit to the reserve
8 fund no less than fifty percent (50%) of all program receipts of the corporation including guaranty
9 fees, premiums and any other receipts or recoveries from collections received pursuant to the
10 corporation's rights to recover payments as a guarantor; and (iii) To the extent the corporation's
11 obligations as a guarantor or pursuant to its program bond obligations are not satisfied by
12 amounts in its guaranty reserve fund, the executive director of the corporation shall annually, on
13 or before December 1st, make and deliver to the governor a certificate stating the minimum
14 amount, if any, required for the corporation to make payments due on such guarantees. During
15 each January session of the general assembly, the governor shall submit to the general assembly,
16 as part of the governor's budget, the total of such sums, if any, required to pay any and all
17 obligations of the corporation under such guarantees or bond obligations pursuant to the terms of
18 this authorization. All sums appropriated by the general assembly for that purpose, and paid to the
19 corporation, if any, shall be utilized by the corporation to make payments due on such guarantees
20 or bond obligations. Any recoveries by the corporation of guarantee payments are to be returned
21 to the guarantee reserve fund and utilized to reduce any obligation of the state pursuant to any
22 guarantees entered into by the corporation;

23 RESOLVED, on or before January 1 of each year, the corporation shall issue a report on
24 all guarantees issued by the corporation pursuant to this authorization. The report shall include at
25 a minimum: a list of each guarantee issued; a description of the borrower on behalf of which the
26 guarantee was issued; the lender or lenders that made the loan, and the amount of such loan, to
27 such borrower; the amount of principal and interest on each such loan outstanding as of the date
28 of such report; a summary of the collateral securing the repayment of such loan for which the
29 guarantee was issued; and a summary of the economic impacts made by such borrower as a result
30 of the guaranteed loan, including but not limited to the number, type and wages of jobs created by
31 such borrower, any impacts on the industry in which the borrower operates and an estimate of
32 income taxes for the state of Rhode Island generated by the employees of such borrower and the
33 borrower itself.

1 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 AUTHORIZING THE ECONOMIC DEVELOPMENT CORPORATION TO
CREATE THE JOB GUARANTY PROGRAM

1 This act would amend Chapters 26 and 29 of the 2010 Public Laws in regard to economic
2 development. The act would also increase the amount of money for which the Job Creation
3 Guaranty Program of the Rhode Island Economic Development Corporation may issue bonds or
4 guaranty debt service thereon, from \$125,000,000 to \$135,000,000. This act would further
5 provide that at least \$10,000,000 would be reserved for small employers.

6 This act would take effect upon passage.

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