

2019 -- H 5145 SUBSTITUTE A

LC000164/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS

Introduced By: Representatives Ruggiero, Shekarchi, Marszalkowski, Blazejewski, and Craven

Date Introduced: January 17, 2019

Referred To: House Small Business

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"
2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 89

4 TRANSPARENCY AND SUSTAINABILITY STANDARDS FOR RHODE ISLAND

5 BUSINESSES ACT

6 **5-89-1. Purpose.**

7 The purpose of this chapter is to support Rhode Island business entities in their global
8 sustainability efforts by providing this enabling legislation that permits a Rhode Island entity to
9 signal its commitment to global sustainability. This chapter does not purport to prescribe which
10 sustainability standards an entity chooses to adopt. Thus, a Rhode Island entity is free to choose
11 standards promulgated or developed by any entity.

12 **5-89-2. Legislative findings.**

13 The legislature finds that:

14 (1) The state of Rhode Island is committed to initiatives designed to support
15 sustainability practices by providing a platform for manufacturers and businesses to demonstrate
16 their corporate commitment to social responsibility and sustainability.

17 (2) The Rhode Island department of environmental management has a suite of voluntary
18 green certification programs for the hospitality and tourism industry, landscapers, golf courses,
19 and other industries.

1 (3) In recognition of the increasing interest from investors, customers and employees for
2 greater transparency in sustainability practices, this legislation provides Rhode Island businesses
3 a means to demonstrate to their customers, investors, and employees that they are committed to
4 sustainability that embodies business practices and systems that are designed to foster innovation
5 and long-term profits as well as environmental and societal benefits.

6 (4) Rhode Island's program shall be implemented by way of voluntary enabling
7 legislation and applies only to those who seek to become certified as reporting entities. There is
8 no single blueprint for best practices in sustainability among or within industries, and this
9 legislation shall allow businesses to craft a sustainability blueprint that meets their specific needs
10 provided that the entity's governing body approves its standards and assessment measures and
11 that they are made publicly available.

12 **5-89-3. Definitions.**

13 As used in this chapter only, the following terms shall have the following meanings:

14 (1) "Acknowledged" means with respect to any document or instrument required to be
15 executed by an authorized person pursuant to this chapter, the authorized person executing such
16 document or instrument has certified, under penalty of perjury, that the information set forth in
17 such document or instrument is accurate and complete to the best of such authorized person's
18 actual knowledge after due inquiry.

19 (2) "Assessment measures" means with respect to any entity, the policies, procedures or
20 practices adopted by such entity to adduce objective factual information to assess the entity's
21 performance in meeting its standards, including any procedures for internal or external
22 verification of such information.

23 (3) "Authorized person" means, with respect to any entity, any person or entity who has
24 been duly authorized in accordance with the organizational documents of the entity and the laws
25 of this state (whether statutory, common law or otherwise) under which the entity is incorporated,
26 formed or organized to execute such documents and instruments and make such
27 acknowledgments as are required by this chapter.

28 (4) "Certification of adoption of transparency and sustainability standards" means a
29 certificate, issued by the department of environmental management, attesting that a reporting
30 entity has fulfilled sustainability metrics and filed with the secretary of state a standards statement
31 pursuant to this chapter. Such certificate shall state on its face that the state has not reviewed the
32 contents or implementation of the matters referenced in the standards statement, nor verified any
33 reports made by the reporting entity.

34 (5) "Control," including the terms "controlling," "controlled by" and "under common

1 control with," means the possession, directly or indirectly, of the power to direct or cause the
2 direction of the management and policies of a person or entity, whether through the ownership of
3 equity or other voting securities, by contract or otherwise.

4 (6) "Entity" means any corporation (stock or nonstock), or a limited liability company,
5 existing under the applicable laws of this state.

6 (7) "Governing body" means the board of directors or equivalent governing body, person
7 or entity having the power to manage and direct the business and affairs of the entity, and shall
8 include any duly authorized and empowered committee of the board of directors or equivalent
9 governing body.

10 (8) "Nonreporting entity" means any person or entity (including any entity) that is not a
11 reporting entity.

12 (9) "Organizational documents" means the certificate of incorporation, bylaws,
13 partnership agreement, limited liability company agreement, articles of association or other
14 agreement, document or instrument containing the provisions by which an entity is formed or
15 organized and by which its internal affairs are governed, in each case as amended, modified,
16 supplemented and/or restated and in effect as of any date of determination.

17 (10) "Provider" means, as to any entity, any third party that is engaged to provide
18 professional consulting services or advice to assist entities or enterprises in measuring, managing
19 or reporting the impact of their business and operations on issues of social and environmental
20 impact.

21 (11) "Report" means a report with respect to a reporting period for a reporting entity
22 containing the following:

23 (i) A summary of the standards and assessment measures in effect during the applicable
24 reporting period, which summary shall include the third-party criteria and any other source used
25 to develop the entity's standards and assessment measures and the process by which they were
26 identified, developed and approved by the entity;

27 (ii) A summary of the actions or activities by which the entity has sought to meet the
28 standards during the applicable reporting period, including engagement with and disclosure to
29 stakeholders, if any;

30 (iii) The most recent available objective and factual information developed pursuant to
31 the assessment measures, if any, with respect to the entity's performance in meeting its standards
32 during the reporting period, and an assessment by the governing body whether the entity has been
33 successful in meeting the standards, and in the case of any failure to meet such standards, a
34 summary of any additional efforts the governing body has determined the entity will undertake to

1 improve its performance in respect thereof, or its determination not to undertake such additional
2 efforts;

3 (iv)(A) The identity of any provider assisting the entity in measuring, managing or
4 reporting the impact of the entity's business and operations in light of its standards; or

5 (B) A statement that the entity has not engaged the services of any provider for such
6 purposes;

7 (v) A summary of any changes to the standards, assessment measures or reporting period,
8 the process by which such changes were identified, developed and approved by the entity, and the
9 third-party criteria used to develop any changes to the standards;

10 (vi) A summary of the actions or activities planned for the next succeeding reporting
11 period with respect to measuring, managing and reporting with respect to the standards if such
12 actions and activities are materially different from those described for the applicable reporting
13 period; and

14 (vii) Notwithstanding the foregoing, no entity shall be required to include in any report
15 any information that such entity determines in good faith is subject to an attorney-client or other
16 applicable privilege or would result in the disclosure of trade secrets or other competitively
17 sensitive information.

18 (12) "Reporting entity" means an entity that has been issued a certificate of adoption of
19 transparency and sustainability standards and that has not become and continues to be a
20 nonreporting entity pursuant to § 5-89-6.

21 (13) "Reporting period" means a period of one year, the initial such period to begin not
22 more than one year following the filing of the standards statement, and subsequent reporting
23 periods to begin on the day following the last date of the prior reporting period, unless a
24 governing body elects to shorten the duration of a reporting period that has not begun in order to
25 change the start date for subsequent reporting periods.

26 (14) "Standards" means, with respect to an entity, the principles, guidelines or standards
27 adopted by the entity to assess and report the impacts of its activities on society and the
28 environment, which principles, guidelines or standards shall be based on or derived from third-
29 party criteria. The Rhode Island department of environmental management green certification
30 standards may be used as initial guidelines for all applicants in businesses covered by the
31 certification program.

32 (15) "Standards statement" means the filing described in § 5-89-5.

33 (16) "Third party" means, with respect to any entity, any person or entity other than any
34 person or entity that controls, is controlled by or under common control with such entity,

1 including any governmental or nongovernmental organization that provides services, standards,
2 or criteria with respect to measuring, managing or reporting the social and environmental impact
3 of businesses or other enterprises.

4 (17) "Third-party criteria" means any principles, guidelines or standards developed and
5 maintained by a third party (including a provider) that are used to assist businesses or other
6 enterprises in measuring, managing or reporting the social and environmental impact of
7 businesses or other entities.

8 **5-89-4. Certificate of adoption of transparency and sustainability standards.**

9 (a) The secretary of state, in coordination with the director of the department of
10 environmental management, shall issue a certificate of adoption of transparency and sustainability
11 standards to any entity if the secretary of state shall have determined that the following conditions
12 have been satisfied:

13 (1) Such entity shall have executed and acknowledged, and delivered to the secretary of
14 state, a standards statement;

15 (2) Such entity shall have paid all fees and costs assessed by the secretary of state; and

16 (3) Such entity remains a reporting entity, and if such entity is registered or formed with
17 the secretary of state, it is in good standing upon the records of the secretary of state.

18 (b) Each reporting entity shall, for all purposes of the laws of this state, be authorized and
19 permitted to disclose, publicly or privately, that it is a reporting entity.

20 (c) The secretary of state is hereby authorized to promulgate rules and regulations
21 necessary to implement this chapter and shall issue any such certificate required pursuant to this
22 chapter and shall further be permitted to charge a reasonable fee for any certificates issued and /or
23 renewed.

24 **5-89-5. Statement of adoption of transparency and sustainability standards.**

25 If the governing body of an entity has adopted resolutions setting forth the entity's
26 standards and assessment measures, the entity may file a standards statement that:

27 (1) Acknowledges that the governing body of the entity has adopted resolutions setting
28 forth the entity's standards and assessment measures;

29 (2) Identifies an Internet link on the principal website maintained by or on behalf of the
30 entity at which the standards and assessment measures, the third-party criteria used to develop the
31 standards, a description of the process by which such standards were identified, developed and
32 approved and any report filed or to be filed by the entity are and will be readily available at no
33 cost and without the requirement of the provision of any information, and will remain available
34 for so long as the entity remains a reporting entity (the "website");

1 (3) Acknowledges that the entity has agreed to acknowledge and deliver to the secretary
2 of state, its most recent report concurrently with its annual report as specified in § 7-1.2-1501, or
3 § 7-6-90, or § 7-16-66;

4 (4) Acknowledges that the entity has committed to:

5 (i) Use the assessment measures to assess the entity's performance in meeting its
6 standards;

7 (ii) Review and assess its standards and assessment measures from time to time, and
8 make such changes thereto as the governing body in good faith determines are necessary or
9 advisable in furtherance of meeting the entity's standards;

10 (iii) Prepare and make readily available to the public at no cost and without the
11 requirement of the provision of any information (by posting on the website at the identified
12 Internet link) a copy of its report within ninety (90) days of the end of each reporting period; and

13 (5) Is acknowledged by an authorized person.

14 **5-89-6. Reporting entity status - Renewal statement.**

15 (a) A reporting entity shall become a nonreporting entity on January 1 of the following
16 year if the reporting entity shall have failed to submit the renewal statement to the secretary of
17 state in accordance with this chapter without the need for further action by the secretary of state.

18 A reporting entity's renewal statement shall:

19 (1) Acknowledge that any changes since its most recent filing of a renewal statement or
20 restoration statement, or, if no renewal statement or restoration statement has been filed, since the
21 filing of its standards statement, to its address within the state or standards and assessment
22 measures, and a description of the process by which such changes were identified, developed and
23 approved by the entity and the third-party criteria used to develop any changes to the standards
24 are available on the website;

25 (2) Acknowledge that, for the most recent reporting period for which a report was
26 required to be made available, if any, a report was made available on the website in accordance
27 with this chapter within the time period provided for in § 5-89-5(4)(iii);

28 (3) Provide an Internet link to the report for the most recent reporting period, if any, on
29 the website; and

30 (4) Be acknowledged by an authorized person.

31 (b) No standards statement shall be accepted by the secretary of state for an entity if it has
32 become a nonreporting entity pursuant to subsection (a) of this section within the prior year.

33 **5-89-7. Restoration statement.**

34 (a) If any reporting entity shall become a nonreporting entity for failure to file a renewal

1 statement, it may file a restoration statement. The restoration statement shall:

2 (1) Acknowledge that any changes since its most recent filing of a renewal statement or
3 restoration statement, or, if no renewal statement or restoration statement has been filed, since the
4 filing of its standards statement, to its address within the state or standards and assessment
5 measures, and a description of the process by which such changes were identified, developed and
6 approved by the entity and the third-party criteria used to develop any changes to the standards
7 are available on the website;

8 (2) Acknowledge that a report for all the reporting periods ended more than ninety (90)
9 days prior to filing the restoration statement have been made available on the website in
10 accordance with this chapter;

11 (3) Provide an Internet link on the website to the report for the most recent reporting
12 period and any other reporting period for which an Internet link has not been previously provided
13 in a renewal statement or restoration statement; and

14 (4) Be acknowledged by an authorized person.

15 (b) Any nonreporting entity that files a restoration statement shall thereupon
16 automatically become a reporting entity, without the need for further action by the secretary of
17 state.

18 **5-89-8. Limitation of liability.**

19 Neither the failure by an entity to satisfy any of its standards, nor the selection of specific
20 assessment measures, nor any other action taken by or on behalf of the entity pursuant to this
21 chapter or any omission to take any action required by this chapter to seek, obtain or maintain
22 status as a reporting entity, shall, in and of itself, create any right of action on the part of any
23 person or entity or otherwise give rise to any claim for breach of any fiduciary or similar duty
24 owed to any person or entity.

25 **5-89-9. Fees.**

26 No document required to be filed under this chapter shall be effective until the applicable
27 fees required by this section are paid and upon the receipt of a statement under § 5-89-5, the fee
28 for which shall be one hundred dollars (\$100), or a renewal statement under § 5-89-6, the fee for
29 which shall be ten dollars (\$10.00), or a restoration statement under § 5-89-7, the fee for which
30 shall be fifty dollars (\$50.00), shall be paid to and collected by the secretary of state.

31 **5-89-10. Enabling.**

32 This act is enabling and applies only to those businesses who seek to become certified as
33 a reporting entity and, who comply with all applicable registration requirements. Reporting
34 entities are enabled to craft whatever sustainability blueprint they require that meets their specific

1 [needs as there is no single blueprint for best practices in sustainability among or within industries.](#)

2 SECTION 2. This act shall take effect on January 1, 2020.

=====
LC000164/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS

1 This act would create the Certificate of adoption of transparency and sustainability
2 standards act that would enable Rhode Island businesses to voluntarily promulgate standards to
3 guide its business activities in a sustainable and responsible manner, as well as metrics for
4 assessing whether it has met its objectives.

5 This act would take effect on January 1, 2020.

=====
LC000164/SUB A
=====