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# ARTICLE 6 AS AMENDED

## RELATING TO HOUSING

SECTION 1. Section 42-55-5.1 of the General Laws in chapter 42-55 entitled "Rhode Island Housing and Mortgage Finance Corporation" is hereby amended to read as follows:

**42-55-5.1. Subsidiary corporations.**

(a) To further its purposes, the corporation shall have the power to form one or more subsidiary corporations under either § 7-1.2-1 et seq. or § 7-6-1 et seq. in accordance with the procedures therein contained. Each subsidiary corporation shall be governed by the section under which it is formed, provided that each shall be subject to the same restrictions and limitations as to its powers and purposes to which the corporation is subject under this chapter and shall be deemed a state agency only for the purposes of § 42-46-1 et seq. and § 38-2-1 et seq. The corporation may delegate any of its powers, obligations, and duties under this chapter to any subsidiary corporation by inclusion of its powers, obligations and duties in the articles of incorporation of the subsidiary corporation. Subsidiary corporations so formed shall constitute legal entities separate and distinct from each other, the corporation, and the state. The corporation shall not be liable for the debts or obligations or for any actions or inactions of its subsidiary corporations unless the corporation expressly agrees otherwise in writing. The corporation may make loans or grants to a subsidiary corporation from time to time to enable the subsidiary corporation to carry out its purposes. The commissioners of the corporation shall constitute all of the directors of each subsidiary corporation.

(b) The state, any municipality or any state commission, public authority, agency, officer, department, board, or division authorized and empowered to enter into agreements with, to grant, convey, lease, or otherwise transfer any property to, or to otherwise transact business with the corporation, shall have the same authorization and power to engage in these activities with each subsidiary corporation of the corporation.

(c) Any subsidiary entity of the corporation whose principal purpose is the acquisition or betterment of real property is, subject to the period of limitations set forth in § 9-1-25, liable in actions of tort only to the extent that those actions do not arise from the performance of any functions found or deemed to be essential or discretionary governmental functions. Any recovery in an action or any recovery by any person in one or more of any actions against the subsidiary entity, its directors, employees, or agents, shall not exceed one hundred thousand dollars (\$100,000)

1 per plaintiff in the absence of fraud or willful misconduct. In the absence of fraud or willful  
2 misconduct, the directors are not personally liable to any party on account of any action (whether  
3 tort or otherwise) arising from or related to the manner or terms of the disposition of the subsidiary's  
4 assets, nor shall the manner or terms of the disposition constitute a defense to any obligation owed  
5 to the corporation.

6 SECTION 2. Section 42-55-24 of the General Laws in chapter 42-55 entitled "Tax  
7 exemption" is hereby amended to read as follows:

8 **42-55-24. Tax exemption.**

9 The exercise of the powers granted by this chapter will be in all respects for the benefit of  
10 the people of the state, for their wellbeing and prosperity and for the improvement of their social  
11 and economic conditions, and the corporation, or any subsidiary thereof created or authorized  
12 pursuant to § 42-55-5.1, shall not be required to pay any tax or assessment on any property owned  
13 by the corporation or by any subsidiary thereof under the provisions of this chapter or upon the  
14 income from the property; nor shall the corporation or any subsidiary thereof be required to pay  
15 any recording fee or transfer tax of any kind on account of instruments recorded by it or on its  
16 behalf. Any bonds, notes, or other obligations issued by the corporation or any subsidiary thereof  
17 under the provisions of this chapter, their transfer, and the income from them (including any profits  
18 made on their sale), shall at all times be free from taxation by the state or any political subdivision  
19 or other instrumentality of the state, excepting inheritance, estate, and gift taxes.

20 SECTION 3. Section 42-64.34-2 of the General Laws in chapter 42-64.34 entitled "The  
21 Department of Housing" is hereby amended to read as follows:

22 **42-64.34-2. Powers and duties.**

23 ~~The secretary of housing shall have all powers and duties pursuant to § 42-64.19-3(a)(4).~~

24 (a) The department of housing shall be the state's lead agency for housing, homelessness,  
25 and community development in the state of Rhode Island.

26 (b) The secretary of housing shall have the following powers and duties:

27 (1) All powers and duties pursuant to § 42-64.19-3(a)(4);

28 (2) To supervise the work of the department of housing and to act as its chief administrative  
29 officer;

30 (3) To coordinate the administration and financing of various departments or offices within  
31 the department of housing;

32 (4) To serve as the governor's chief advisor and liaison to federal policymakers on housing,  
33 homelessness, and community development as well as the principal point of contact on any such  
34 related matters;

1           (5) To coordinate the housing, homelessness, and community development programs of  
2 the state of Rhode Island and its departments, agencies, commissions, corporations, and  
3 subdivisions;

4           (6) To employ such personnel and contracts for such consulting services as may be required  
5 to perform the powers and duties conferred upon the secretary of housing;

6           (7) To oversee and direct the administration of funds that may be appropriated from time  
7 to time to the department of housing;

8           (c) In addition to such other powers as may otherwise be delegated elsewhere to the  
9 department of housing, the department is hereby expressly authorized, by and through the secretary  
10 of housing;

11           (1) To purchase, receive, lease, or otherwise acquire, own, hold, improve, use, and  
12 otherwise deal in and with, real or personal property, or any interest in real or personal property,  
13 wherever situated.

14           (2) To accept any gifts or grants or loans of funds or property or financial or other aid in  
15 any form from the federal government or any agency or instrumentality of the federal government,  
16 or from the state or any agency or instrumentality of the state, or from any other source and to  
17 comply, subject to the provisions of this chapter, with the terms and conditions of the gifts, grants,  
18 or loans.

19           (3) Subject to the provisions of § 37-2-1 et seq., to negotiate and to enter into contracts,  
20 agreements, and cooperative agreements with agencies and political subdivisions of the state, not-  
21 for-profit corporations, for-profit corporations, and other partnerships, associations, and persons  
22 for any lawful purpose necessary and desirable to effectuate the purposes of the department of  
23 housing; and

24           (4) To carry out this chapter and perform the duties of the general laws and public laws  
25 insofar as those provisions relate to any regulatory areas within the jurisdiction of the department  
26 of housing.

27           SECTION 4. Chapter 42-64.34 of the General Laws entitled "The Department of Housing"  
28 is hereby amended by adding thereto the following sections:

29           **42-64.34-3. Rules and regulations.**

30           The secretary of housing may promulgate such rules and regulations in accordance with  
31 the provisions of chapter 35 of title 42 as are necessary and proper to carry out the duties assigned  
32 to him or her or to the department of housing by this title or any other provision of law.

33           **42-64.34-4. Severability.**

34           If any provision of this chapter or the application thereof to any person or circumstance is

1 held invalid, such invalidity shall not affect other provisions or applications of the chapter; which  
2 can be given effect without the invalid provision or application, and to this end the provisions of  
3 this chapter are declared to be severable.

4 SECTION 5. Title 44 of the General Laws entitled "Taxation" is hereby amended by adding  
5 thereto the following chapter:

6 CHAPTER 44-71

7 LOW-INCOME HOUSING TAX CREDITS

8 **44-71-1. Short Title.**

9 This chapter shall be known and may be cited as the "Low-Income Housing Tax Credit  
10 Act."

11 **44-71-2. Findings and declarations.**

12 It is hereby found and declared that the state is facing significant housing challenges, which  
13 must be addressed for the welfare of the State's residents. The purpose of the Rhode Island low-  
14 income housing tax credit established pursuant to this chapter is to increase the development and  
15 availability of affordable housing in the state.

16 **44-71-3. Definitions.**

17 As used in this chapter:

18 (1) "Applicant" means a developer applying for a Rhode Island low-income housing tax  
19 credit.

20 (2) "Compliance period" means the period of fifteen (15) taxable years beginning with the  
21 taxable year in which the Rhode Island low-income housing project is completed.

22 (3) "Department" means the Department of Housing established pursuant to § 42-64.34-1

23 (4) "Developer" means a person, firm, business, partnership, association, political  
24 subdivision, or other entity that proposes to build or builds a qualified Rhode Island project.

25 (5) "Eligibility statement" means a statement authorized and issued by the Department  
26 certifying that a given project is a qualified Rhode Island project and setting forth the annual amount  
27 of the Rhode Island low-income housing tax credit allocated to the project. The eligibility statement  
28 shall be on a form promulgated by the Department in consultation with the division of taxation.

29 (6) "Federal low-income housing tax credit" means the federal tax credit as provided in  
30 section 42 of the 1986 Internal Revenue Code, as amended and in effect for the taxable year.

31 (7) "Low-income project" means a qualified low-income housing project, as defined in  
32 section 42 of the 1986 Internal Revenue Code, as amended and in effect for the taxable year, which  
33 has restricted rents.

34 (8) "Qualified Rhode Island project" means a qualified low-income housing project, as

1 defined in section 42 of the 1986 Internal Revenue Code, as amended and in effect for the taxable  
2 year, which is located in the state of Rhode Island, which meets the requirements of this chapter,  
3 and whose owner enters into a tax credit agreement with the Department.

4 (9) "Rhode Island low-income housing tax credit" means the tax credit established pursuant  
5 to § 44-71-4.

6 (10) "Tax credit agreement" means an agreement between the owner of the qualified Rhode  
7 Island project and the Department and filed as an affordable housing restriction in the land records  
8 of the city or town where the real estate lies that requires the project to be operated in accordance  
9 with the requirements of this chapter for not less than thirty (30) years from the expiration date of  
10 the compliance period.

11 (11) "Taxpayer" means a person, firm, partnership, trust, estate, limited liability company,  
12 corporation (whether for profit or nonprofit) or other entity having an ownership interest in a  
13 qualified Rhode Island project, either directly or through one or more pass-through entities, that is  
14 subject to the taxes imposed on such person or entity pursuant to chapter 11, 13, 14, 17 or 30 of  
15 this title.

16 **44-71-4. Establishment of Rhode Island low-income housing tax credit program.**

17 The Rhode Island low-income housing tax credit program is hereby established as a  
18 program under the jurisdiction and administration of the Department. The program may provide  
19 tax credits for a period of five (5) years to applicants that are competitively selected and that meet  
20 the requirements of this chapter. The Department shall not obligate Rhode Island low-income  
21 housing tax credits that cumulatively total in excess of thirty million dollars (\$30 million) in any  
22 fiscal year.

23 **44-71-5. Rhode Island low-income housing tax credits.**

24 (1) A taxpayer owning an interest in a qualified Rhode Island project may be allowed a  
25 Rhode Island low-income housing tax credit against the taxes imposed pursuant to chapter 11, 13,  
26 14, 17 or 30 of this title with respect to that qualified Rhode Island project in an amount authorized,  
27 determined, and allocated by the Department based on the qualified Rhode Island project's need for  
28 the credit for economic feasibility, provided that the Department issues an eligibility statement for  
29 that qualified Rhode Island project.

30 (2) At the time of application to the Department for an eligibility statement, an applicant  
31 shall, through its chief executive officer or equivalent authorized officer, demonstrate to the  
32 Department that:

33 (a) The project is a qualified Rhode Island project;

34 (b) The owner of the qualified Rhode Island project has entered into a tax credit agreement

1 with the Department; and

2 (c) The applicant satisfies other additional criteria determined by the Department from time  
3 to time.

4 (3) The Rhode Island low-income housing tax credit allocated to a taxpayer with respect  
5 to a qualified Rhode Island project shall be taken against the taxpayer's taxes imposed pursuant to  
6 chapters 11, 13, 14, 17 or 30 of this title. The amount of a tax credit allowed under this chapter  
7 shall be allowable to the taxpayer in five equal annual increments. If the portion of the tax credit  
8 allowed under this chapter exceeds the taxpayer's total tax liability for the year in which the relevant  
9 portion of the credit is taken, the amount that exceeds the taxpayer's tax liability may be carried  
10 forward for credit against the taxes imposed for the succeeding four (4) years, or until the full credit  
11 is used, whichever occurs first.

12 (4) A qualified Rhode Island project that receives other incentives or tax credits available  
13 under the general laws of this state is also eligible to receive an allocation of Rhode Island low-  
14 income housing tax credits pursuant to this chapter.

15 (5) Upon request of a taxpayer and subject to annual appropriation, the state shall redeem  
16 this credit, in whole or in part, for ninety percent (90%) of the value of the tax credit. The division  
17 of taxation, in consultation with the department, shall establish by regulation a redemption process  
18 for tax credits.

19 **44-71-6. Administration.**

20 (1) Upon issuance of the eligibility statement the Department shall, on behalf of the State  
21 of Rhode Island, award tax credits and issue tax credit certificates in the amount authorized and  
22 allocated in accordance with the eligibility statement and the tax credit agreement. The Department  
23 shall provide copies of eligibility statements and tax credit certificates to the division of taxation  
24 within thirty (30) days of issuance, including copies of all eligibility statements and tax credit  
25 certificates that are reissued, transferred, sold, or assigned.

26 (2) The owner of a qualified Rhode Island project eligible for the Rhode Island low-income  
27 housing tax credit shall submit, at the time of filing the project owner's state tax return, the original  
28 tax credit certificate issued by the Department with respect to such qualified Rhode Island project.  
29 In the case of failure to attach the tax credit certificate, a credit under this section shall not be  
30 allowed with respect to such qualified Rhode Island project for that year until the original tax credit  
31 certificate is provided to the division of taxation.

32 **44-71-7. Recapture.**

33 (1) If under Section 42 of the 1986 Internal Revenue Code, as amended, a portion of any  
34 federal low-income housing tax credits taken on a low-income project is required to be recaptured,

1 the Rhode Island low-income housing tax credit authorized with respect to such qualified Rhode  
2 Island project shall also be recaptured. The state recapture amount shall be equal to the amount of  
3 the Rhode Island low-income housing tax credits previously claimed times a fraction, the numerator  
4 of which shall be the amount of recaptured federal low-income housing tax credits and the  
5 denominator of which shall be the amount of federal low-income housing tax credits previously  
6 claimed.

7 (2) The Department shall provide notification of recapture determinations to the division  
8 of taxation within thirty (30) days. Such notifications shall include the proportion of the Rhode  
9 Island low-income housing tax credit to be recaptured, the identity of each taxpayer subject to the  
10 recapture and the amount of credit previously allocated to such taxpayer.

11 **44-71-8. Transferability.**

12 All or any portion of unused tax credits issued in accordance with the provisions of this  
13 chapter may be transferred, sold, or assigned to taxpayers eligible under the provisions of this  
14 chapter.

15 **44-71-9. Rules and regulations.**

16 The Department, in consultation with the division of taxation, shall adopt guidelines,  
17 directives, criteria, and rules and regulations pursuant to § 42-35-1 et seq. to implement the  
18 purposes of the Rhode Island low-income housing tax credit program.

19 **44-71-10. Reporting.**

20 By November 1, 2024, and each year thereafter, the Department shall report to the  
21 governor, the chairpersons of the house and senate finance committees, and the house and senate  
22 fiscal advisors, the amount of Rhode Island low-income housing tax credits that were approved  
23 during the prior fiscal year. A summary of any tax credit agreements entered into under this chapter  
24 by the Department and applicants shall be sent to the division of taxation and shall be public and  
25 shall be published by the tax administrator on the tax division website.

26 **44-71-11. Low Income Housing Tax Credit Fund.**

27 There is hereby established at the department of housing a restricted account known as the  
28 low income housing tax credit fund (the "fund") in which all amounts appropriated for the program  
29 authorized in this chapter shall be deposited. The fund shall be used for the purpose of securing  
30 payment for the redemption of tax credits or to reimbursement to the state for tax credits applied  
31 against a taxpayer's liability.

32 **44-71-12. Sunset.**

33 No credits shall be authorized to be reserved pursuant to this chapter after June 30, 2028.

34 SECTION 6. Section 45-24-76 of the General Laws in Chapter 45-24 entitled "Zoning

1 Ordinances” is hereby amended to read as follows:

2 **45-24-76. Accessory dwelling units annual reporting.**

3 (a) Each municipality within the state shall furnish to the ~~division of statewide planning~~  
4 [Department of Housing](#) information on:

5 (1) Any ordinances enacted related to accessory dwelling units, including those that  
6 implement this section of law during the previous calendar year;

7 (2) All accessory dwelling units permitted during each of the two (2) previous calendar  
8 years; and

9 (3) All accessory dwelling units issued a certificate of occupancy during each of the two  
10 (2) previous calendar years.

11 (b) Municipalities shall provide the information in subsection (a) annually by February 1.  
12 ~~Statewide planning~~ [The Department of Housing](#) shall produce an annual report of municipal  
13 activity related to accessory dwelling units, with the information identified in subsection (a) on a  
14 statewide basis and disaggregated by municipality and shall provide a copy of the report to the  
15 speaker of the house, the president of the senate and the secretary of housing by March 1.

16 SECTION 7. Section 45-53-11 of the General Laws in Chapter 45-53 entitled “Low and  
17 Moderate Income Housing” is hereby amended to read as follows:

18 **45-53-11. Annual comprehensive permit report.**

19 (a) ~~The division of statewide planning (the “division”) established pursuant to chapter 11~~  
20 ~~of title 42~~ [The Department of Housing](#) shall maintain records and shall prepare a report (“report”)  
21 on an annual basis to be submitted to the speaker of the house, the president of the senate, and the  
22 housing resources commission, ~~and the secretary of housing~~. The report shall also be made  
23 available on the ~~division’s~~ [department’s](#) website for a period of at least three (3) years, and shall  
24 also be deemed to be a public record. The report shall be due on or before March 15, of each year,  
25 commencing in calendar year 2023.

26 (b) The report required by this section shall contain the following for the preceding twelve-  
27 month (12) calendar period covered by the report:

28 (1) The number of letters of eligibility issued for low- and moderate-income housing for  
29 applications made pursuant to this chapter and § 42-55-5.3, the federal, state, and municipal subsidy  
30 programs under which they were eligible, and the number of proposed subsidized units involved,  
31 by city and town, during the preceding calendar year, as provided by the Rhode Island housing  
32 corporation.

33 (2) The status of each comprehensive permit application for which a letter of eligibility  
34 was issued disaggregated by municipality.



1           (3) The number of comprehensive permit applications that have had building permits  
2 issued, including the number of market rate housing units, the number of low- and moderate-  
3 income housing units, and the AMI restrictions associated both pursuant to § 45-53-4, aggregated  
4 by the total number of such applications in the state and disaggregated by each municipality in the  
5 state.

6           (4) The number of comprehensive permit applications that have had certificates of  
7 occupancy issued, aggregated by the total number of such applications in the state and  
8 disaggregated by each municipality in the state.

9           (c) Each municipality shall annually provide to the ~~division~~ [department](#) the information on  
10 comprehensive permit activity described in subsection (b) of this section by February 1.

11           SECTION 8. This article shall take effect upon passage.