

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- MILL BUILDING AND
ECONOMIC REVITALIZATION ACT

Introduced By: Representative Scott P. Rabideau

Date Introduced: February 05, 2002

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-64.7-4, 42-64.7-5 and 42-64.7-6.1 of the General Laws in
2 Chapter 42-64.7 entitled "Mill Building and Economic Revitalization Act" are hereby amended to
3 read as follows:

4 **42-64.7-4. Definitions and construction.** -- As used in this chapter, unless the context
5 otherwise requires, the term:

6 (1) "Certifiable building" means a mill complex or a building:

7 (i) That was constructed prior to January 1, 1950;

8 (ii) Having at least two (2) floors, excluding a basement; and

9 (iii) Which is or will be used primarily for manufacturing, wholesale trade and other
10 commercial purposes;

11 (iv) The use of which conforms to the comprehensive plan and local land use
12 management ordinances of the municipality in which the building is located;

13 (v) That is proposed for substantial rehabilitation;

14 (vi) That has been at a minimum seventy-five percent (75%) vacant for a minimum of
15 twenty-four (24) months at the time of submission by the municipality;

16 (vii) That is designated by the municipality for consideration as a certifiable building as
17 hereinafter provided;

18 (viii) Meets other requirements as established by the council; and

19 (ix) Designated by the enterprise zone council as a certified building pursuant to the

1 requirements of section 42-64.7-5.

2 (2) "Certification of an eligible business" means an annual process taking place on a
3 calendar year basis to certify entities as eligible businesses for the purpose of this chapter.
4 Businesses certified as eligible businesses for the purpose of this chapter, and which may also be
5 eligible for certification as certified businesses under the provisions of section 42-64.3-3(4) must
6 elect certification under only one designation of each certification year. This election must be
7 made for each certification year provided that the business continues to be eligible for both
8 designations on a year-to-year basis.

9 (3) "Certified building owner" means an individual, partnership, corporation, limited
10 liability company or other entity which is listed in the appropriate municipal records of land
11 evidence as the owner of a certified building, or a portion thereof treated as a certified building
12 under sections 42-64.7-4(13)(i), (ii) and (iii) and may include one or more successors in title to
13 the owner of the building at the time the building received written notice of final designation as a
14 certified building pursuant to section 42-64.7-6. A certified building owner may include the
15 owner of a leasehold interest with a minimum term of fifty (50) years, with respect to which a
16 memorandum of lease has been recorded in the land evidence records.

17 (4) "Eligible business" means any business, corporation, sole proprietorship, partnership
18 limited partnership or limited liability company or other entity which:

19 (i) Is located in a certified building after such building has undergone substantial
20 rehabilitation as hereinafter defined;

21 (ii) Is engaged principally in manufacturing, wholesale trade, or other commercial
22 business activities;

23 (iii) Whose total Rhode Island salaries and wages exceed the total Rhode Island salaries
24 and wages paid to its employees in the prior calendar year;

25 (iv) Has received certification from the enterprise zone council pursuant to the rules and
26 regulations promulgated by the council; and

27 (v) Which, as part of its annual certification:

28 (A) Obtains certificates of good standing from the Rhode Island division of taxation, the
29 corporations division of the Rhode Island secretary of state, and the appropriate municipal
30 authority;

31 (B) Provides the enterprise zone council an affidavit stating under oath that the entity
32 seeking certification as a qualified business has not within the preceding twelve (12) months from
33 the date of application for certification changed its legal status or location solely for the purpose
34 of gaining favorable treatment under the provision of this chapter; and

1 (C) Meets certain other requirements set forth by the council.

2 (5) "Enterprise zone" means an enterprise zone established pursuant to section 42-64.3-4.

3 (6) "Enterprise zone council" or the "council" means the enterprise zone council
4 established pursuant to section 42-64.3-3.1, and empowered with the same authority and given
5 the same responsibilities under that section.

6 (7) "Municipality" means any city or town within the state, whether now existing or
7 hereafter created.

8 (8) "Qualified employee" means a full-time employee of an eligible business whose
9 business activity originates and terminates from within the eligible business and certified building
10 on a daily basis, and who is employed by the eligible business at the end of the calendar year, and
11 who is a domiciled resident of the state of Rhode Island.

12 (9) "Salaries and wages" means salaries, wages, tips and other compensation as defined
13 in the Internal Revenue Code of 1986, 26 U.S.C. section 61.

14 (10) "Substantial rehabilitation" means rehabilitation or reconstruction costs of a
15 certified building in a dollar amount that equals or exceeds twenty percent (20%) of the market
16 value of the certified building prior to rehabilitation or reconstruction, as said prior market value
17 is determined by a Rhode Island licensed and certified appraiser who is independent of the
18 certified building owner or owners and their affiliated corporations, and/or any tenants of the
19 certified building and their affiliated corporations.

20 (11) "Rehabilitation and reconstruction costs" means and includes only those amounts
21 incurred and paid by the certified building owner, after issuance of the notice of final designation
22 of the building, solely and exclusively for the rehabilitation of the certified building and which
23 are incurred and paid by the certified building owner to acquire tangible personal property and
24 structural components of the certified building which (i) are depreciated pursuant to 26 U.S.C.
25 section 167; (ii) have a useful life of three (3) years or more as evidenced by the tax depreciation
26 method taken and shown on the federal tax return of the certified building owner; and (iii) are
27 acquired by purchase as defined in 26 U.S.C. section 179(d). Rehabilitation and reconstruction
28 costs do not include amounts incurred or paid with respect to tangible personal property and
29 structural components of the certified building which the certified building owner leases from any
30 other person or corporation. For the purposes of the preceding sentence, any contract or
31 agreement to lease or rent or for a license to use the property shall be considered a lease unless
32 the contract or agreement is treated for the federal income tax purposes of the certified building
33 owner as an installment purchase rather than a lease.

34 (12) "Mill complex" means two or more mill buildings, located on the same or

1 contiguous parcels of land, each of which, at one time, simultaneously had the same owner(s).

2 (13) "Certified building" means a building with respect to which the council has issued a
3 written notice of final designation as a certified building pursuant to the provisions of section 42-
4 64.7-6. (a) A portion of a building may be treated as a separate building for purposes of this
5 chapter if:

6 (i) It consists of a clearly identifiable part of a ~~certifiable~~ certified building, including
7 without limitation, one or more wings, stories, or other separable portions of a ~~certifiable~~ certified
8 building;

9 (ii) It is held by a single owner, whether in fee or as a condominium, cooperative or
10 leasehold interest; and

11 (iii) At least one eligible business reasonable could be operated within the confines of
12 this portion.

13 (b) If an owner of a certified building or a portion or portions thereof desires to treat a
14 portion or portions of the certified building as a separate building pursuant hereto, said owner
15 shall petition the council requesting said designation and if the portion or portions of said
16 certified building meets the requirements of sections 42-64.7-5(13)(i), (ii) and (iii) above, the
17 council shall so designate such portion or portions of a certified building as a separate building. In
18 such case, the appraisal required by section 42-64.7-4(10) shall be for that portion or portions of
19 the certified building so designated and section 42-64.7.6.1 shall be applied with respect to the
20 portion or portions of the certified building so designated.

21 SECTION 2. Section 42-64.7-5 of the General Laws in Chapter 42-64.7 entitled "Mill
22 Building and Economic Revitalization Act" is hereby amended to read as follows:

23 **42-64.7-5. Building certification process.** -- (a) No later than December 1, 2000, a
24 municipality shall submit to the enterprise zone council a list of industrial mill structures located
25 within the municipality for consideration by the council as to whether any of these structures
26 qualify as certifiable buildings. The council will notify the municipality as to which structures
27 qualify as certifiable buildings. In the case of a mill complex, the municipality shall also provide
28 evidence that the complex meets the requirements of section 42-64.7-4(12).

29 (b) On or before May 1, 2001, any building or mill complex designated by the enterprise
30 zone council as a certifiable building may then be submitted by the municipality to the council for
31 preliminary designation as a certified building, provided that the municipality has given notice to
32 the council.

33 (1) That the building conforms to the area restriction set forth in square feet in subsection
34 (d) of this section, and

- 1 (2) That within six (6) months of this designation, the municipality agrees to:
- 2 (i) Promulgate local regulations and ordinances providing favorable local property tax
3 treatment for certified industrial mill buildings which are substantially rehabilitated;
- 4 (ii) Promulgate local regulations and ordinances to expedite the building permit review
5 and approval process required in the municipality for the rehabilitation of certified buildings;
- 6 (iii) Promulgate local regulations and ordinances waiving all building permit fees of the
7 municipality for the rehabilitation of certified buildings;
- 8 (iv) Promulgate local regulations and ordinances adopting design standards in the
9 municipality which encourage historic preservation of certified buildings, or alternatively, adopt
10 design standards developed and recommended by the Rhode Island historic preservation
11 commission;
- 12 (v) Promulgate local regulations and ordinances requiring that the advice of the Rhode
13 Island historic preservation commission will be obtained for the rehabilitation of any certified
14 building in the municipality; and
- 15 (vi) Establish a program for eligible businesses which coordinates the economic
16 development activities of state and local business assistance programs and agencies, including but
17 not limited to, the Ocean State business development authority, the Rhode Island small business
18 development center, the Rhode Island export assistance center, the applicable private industry
19 council, and the applicable chamber of commerce.
- 20 (c) Notwithstanding anything to the contrary contained herein, the council's preliminary
21 designation of certified buildings within any municipality shall be limited in accordance with the
22 following:
- 23 (1) One certified building per municipality having a population according to the most
24 recent federal census of less than twenty-five thousand (25,000); provided, however, that in the
25 event one or more enterprise zones have been designated in the municipality, it may be permitted
26 two (2) certified buildings, in which event, at least one of the certified buildings shall be located
27 within the municipality's boundaries of an enterprise zone;
- 28 (2) Two (2) certified buildings per municipality having a population according to the
29 most recent federal census of between twenty-five thousand and one (25,001) and seventy-five
30 thousand (75,000); provided, however, that in the event one or more enterprise zones have been
31 designated in the municipality it may be permitted three (3) certified buildings, in which event, at
32 least one of the certified buildings shall be located within the boundaries of an enterprise zone;
33 and
- 34 (3) Four (4) certified buildings per municipality having a population according to the

1 most recent federal census in excess of seventy-five thousand and one (75,001); provided,
2 however, that in the event one or more enterprise zones have been designated in the municipality,
3 it may be permitted six (6) certified buildings, in which event, at least two (2) of the certified
4 buildings shall be located within the boundaries of an enterprise zone.

5 (d) The aggregate square footage of all certified buildings within any municipality shall
6 not exceed the average of three hundred thousand (300,000) gross square feet per certified
7 building.

8 (e) In the event that one or more portions of a certified building are treated as a separate
9 building in accordance with the provisions of section 42-64.7-4(13), such portion or portions shall
10 not be construed as a separate building for the purposes of section 42-64.7-5(c).

11 SECTION 3. Section 42-64.7-6.1 of the General Laws in Chapter 42-64.7 entitled "Mill
12 Building and Economic Revitalization Act" is hereby amended to read as follows:

13 **42-64.7-6.1. Certified building rehabilitation.** -- (a) A certified building shall be treated
14 as having been substantially rehabilitated only if the reconstruction and rehabilitation
15 expenditures incurred during the ~~twenty four (24) months~~ period commencing on the date of final
16 designation of the building as a certified building pursuant to section 42-64.2-6 selected by the
17 ~~certified building owner~~ and ending ~~with or within~~ at the end of the taxable year in which the
18 rehabilitated certified building is first placed in service by the certified building owner meet the
19 definition of "substantial rehabilitation" set forth in section 42-64.7-4~~(12)~~(10) . For purposes of
20 determining whether the requirements of section 42-64.7-4~~(12)~~(10) have been met, the market
21 value of the certified building shall be determined prior to rehabilitation or reconstruction. ~~at the~~
22 ~~beginning of the 1st day of such twenty four (24) month period.~~

23 ~~-(b) Special rule for phased rehabilitation. — In the case of any rehabilitation which may~~
24 ~~reasonably be expected to be completed in phases set forth in architectural plans and~~
25 ~~specifications completed before the rehabilitation begins, clause (a) shall be applied by~~
26 ~~substituting "sixty (60) month period" for "twenty four (24) month period".~~

27 A certified building shall be treated as having been substantially rehabilitated as of the
28 first (1st) day of the month in which the definition of "substantial rehabilitation" set forth in
29 section 42-64.7-4(10) hereof has been met even if the rehabilitated certified building has not yet
30 been replaced in service by the certified building owner.

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1 SECTION 4. This act shall take effect upon passage but applies to all buildings that have
2 been designated by the Enterprise Zone Council for all years commencing with the year of such
3 designation.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- MILL BUILDING AND
ECONOMIC REVITALIZATION ACT

1 This act would allow that a portion or portions of certified buildings to be designated as
2 separate buildings and would provide technical changes for regulatory and consistency purposes.

3 This act would take effect upon passage but applies to all buildings that have been
4 designated by the Enterprise Zone Council for all years commencing with the year of such
5 designation.

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