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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

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A N A C T

RELATING TO TAXATION – MILL BUILDING AND ECONOMIC REVITALIZATION
ACT

Introduced By: Representative Gregory J. Schadone

Date Introduced: February 12, 2003

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-64.7-4 and 42-64.7-8 of the General Laws in Chapter 42-64.7
2 entitled "Mill Building and Economic Revitalization Act" are hereby amended to read as follows:

3 **42-64.7-4. Definitions and construction.** -- As used in this chapter, unless the context
4 otherwise requires, the term:

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

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

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

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

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

12 (v) That is proposed for substantial rehabilitation;

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

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

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

18 (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, and may include one or more successors in title to
12 the owner of the building at the time the building received written notice of final designation as a
13 certified building pursuant to section 42-64.7-6. A certified building owner may include the
14 owner of a leasehold interest with a minimum term of fifty (50) years, with respect to which a
15 memorandum of lease has been recorded in the land evidence records.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (12) "Mill complex" means two or more mill buildings, located on the same or
34 contiguous parcels of land, each of which, at one time, had the same owner(s).

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

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

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

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

11 **42-64.7-8. Business tax credits.** -- A taxpayer who owns a certifiable building or who
12 owns and operates an eligible business within a certified building that has been substantially
13 rehabilitated is allowed a credit against the tax imposed pursuant to chapter 11 or 30 of title 44 as
14 follows:

15 (1) A credit equal to one hundred percent (100%) of the total amount of Rhode Island
16 salaries and wages as are paid to qualified employees in excess of Rhode Island salaries and
17 wages paid to the same employees in the prior calendar year. The maximum credit allowable per
18 taxable year under the provisions of this subsection is three thousand dollars (\$3,000) per
19 qualified employee.

20 (2) Any tax credits provided in subdivision (1) shall not offset any tax liability in years
21 other than the year in which the taxpayer qualifies for the credit. Fiscal year taxpayers must claim
22 the tax credit in the year in which the December 31st of the certification year falls. The credit
23 shall not reduce the tax below the minimum tax. The credit shall be used to offset tax liability
24 under either chapter 11 or 30 of title 44, but not both.

25 (3) In the case of a corporation, the credit allowed under this section is only allowed
26 against the tax of that corporation included in a consolidated return that qualifies for the credit
27 and not against the tax of other corporations that may join in the filing of a consolidated tax
28 return.

29 (4) In the case of multiple business owners, the credit provided in subdivision (1) is
30 apportioned according to the ownership interests of the eligible business.

31 (5) In the event that the eligible business is located within an enterprise zone and is a
32 certified business under the provisions of section 42-64.3-6, the taxpayer must elect to use the
33 credit provided under subdivision (1) or the credit provided in section 42-64.3-6 to offset tax
34 liability, but the taxpayer may not elect to claim both.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION – MILL BUILDING AND ECONOMIC REVITALIZATION
ACT

- 1 This act would allow real estate developers that renovate old mills for residential use to
- 2 receive business tax credits.
- 3 This act would take effect upon passage.

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