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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO TOWNS AND CITIES

Introduced By: Senators Ruggerio, McCaffrey, Lynch Prata, Conley, and Ciccone

Date Introduced: April 11, 2019

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 24.6

4 SPECIAL ECONOMIC DEVELOPMENT DISTRICTS

5 **45-24.6-1. Declaration of purpose.**

6 (a) According to the United States Census Bureau estimates as of 2015, Rhode Island
7 ranks second among the fifty (50) states in terms of population density. Notwithstanding this,
8 there exists within the various municipalities of the state, certain large tracts of developable or
9 blighted state – owned land, which areas represent in and of themselves and are often contiguous
10 with areas of vital economic importance to the state. In light of this, the state declares that these
11 tracts of state-owned land, and more specifically those tracts that are twenty (20) or more
12 contiguous acres in size, are important state assets which require the coordination of federal,
13 state, local, or private action to efficiently make use of these lands.

14 (b) It is further declared that coordination is paramount to development as time delays,
15 redundant approvals and local eccentricities often impede the development project.

16 (c) It is further declared that there is a statewide need for coordinated attention to and
17 supervision of the development of these areas for the purpose of education, enjoyment, and
18 welfare of the general public, the promotion of commercial and economic development, the
19 attraction to our state of appropriate business, industrial, and tourist trade, resources, and

1 investment, the development of an attractive environment that fosters the social welfare and
2 health of the public.

3 (d) It is further declared that the developmental tools presently available to
4 municipalities in the state do not contain sufficient flexibility to address the unique problems
5 arising from the projects and to govern comprehensive and coordinated development of areas
6 subject to these projects consistently with the previously-declared public needs and purposes.
7 Proper development of these areas, consistent with the general welfare, may require designation
8 of special land use districts and special land-use controls which may be more stringent or more
9 flexible than existing zoning, planning, and other developmental tools, and may require the
10 adoption, implementation, and administration of a plan that establishes a framework for
11 development and sets out detailed design and development criteria, regulations, and enforcement
12 procedures.

13 (e) It is further declared that the most efficient and effective method to further the
14 previously-declared public policy of the state to encourage the appropriate, comprehensive, and
15 coordinated development of these properties is to permit the creation of special economic
16 development districts in the municipalities of the state and the creation of special economic
17 development district commissions to adopt, implement, and administer plans of development that
18 establish and enforce design and development criteria and regulations for the development of
19 these areas.

20 **45-24.6-2. Short title.**

21 This chapter may be referred to and cited as the "Rhode Island Special Economic
22 Development District Enabling Act".

23 **45-24.6-3. Definitions.**

24 As used in this chapter, the following words and terms have the following meanings,
25 unless the context indicates another or different meaning or intent:

26 (1) "Certificate of approval" means the document issued by a special development district
27 commission approving an application for construction, erection, alteration, demolition, or use of a
28 structure or land within the special development district, and pursuant to which a building permit
29 may be issued.

30 (2) "Certificate of rejection" means the document issued by a special development district
31 commission rejecting an application for construction, erection, alteration, demolition, or use of a
32 structure or land within a special economic development district.

33 (3) "Commission" means a special economic development district commission or
34 independent public instrumentality authorized by the general assembly and empowered by this

1 this chapter.

2 (4) "Development map" means a map of a special economic development district that
3 shows the parcels into which the district may have been divided according to the plan of
4 development.

5 (5) "District" means any developable or blighted state-owned tract or parcel of land,
6 consisting of twenty (20) or more contiguous acres in size.

7 (6) "Permit" means a building permit issued by a duly licensed building inspector.

8 (7) "Person" means a natural person or any other legal entity, including, but not limited
9 to, a corporation, firm, partnership, or trust.

10 (8) "Plan of development" or "plan" means a plan, including design and development
11 criteria and regulations, for the development of a special economic development district adopted
12 by a special economic development district commission pursuant to this chapter.

13 (9) "Regulations" means the rules regulating the construction, erection, alteration,
14 demolition, or use of a structure or land within a special development district adopted by a special
15 economic development commission pursuant to a plan of development.

16 (10) "Special economic development district" means an area of a municipality or
17 municipalities that has been or will be established, designated, laid out, or defined by the General
18 Assembly including but not limited to, independent public instrumentalities created by the
19 General Assembly.

20 (11) "Structure" means a building or anything that is constructed or erected and that
21 requires location on the ground or attachment to something located on the ground.

22 **45-24.6-4. Special economic development districts authorized.**

23 (a) For the purposes stated in § 45-24.6-1, the general assembly may, by statute,
24 establish, designate, lay out, and define, as special economic development districts, areas that are,
25 may be or have been the subject of, or substantially affected by combined federal, state, local, or
26 private action, in the same manner as municipalities are presently empowered to establish,
27 designate, lay out, and define zoning districts, and which lands are developable or blighted state-
28 owned tracts or parcels of land, consisting of twenty (20) or more contiguous acres in size.

29 (b) The boundaries of a special economic development district established, designated,
30 laid out, and defined according to the provisions of this chapter, may be amended only by an act
31 of the general assembly.

32 (c) The general assembly shall designate a commission, as a public corporation and
33 instrumentality of the state, to adopt, implement, and administer a plan of development for the
34 special economic development district. Notwithstanding the provisions of chapter 24 of this title,

1 the commission shall have the sole authority to adopt, implement, and administer a plan of
2 development for the special economic development district.

3 **45-24.6-5. Powers of commission.**

4 Any special economic development district commission in conformance with this chapter
5 has any powers that are necessary and incidental to the adoption, implementation, and
6 administration of a plan of development for the special economic development district, and any
7 other powers that the general assembly may grant in the creation of the commission.

8 **45-24.6-6. Adoption of special development district plan – Regulation of structures**
9 **and uses - Notice.**

10 (a) A special economic development district commission shall adopt a plan of
11 development for the special economic development district. Any plan of development adopted by
12 a special economic development district commission pursuant to this chapter may regulate and
13 restrict, by means of regulations duly adopted by the commission, the erection, construction,
14 reconstruction, alteration, repair, or use of buildings, structures, or land within the special
15 economic development district in a uniform, consistent, and nondiscriminatory manner that is
16 rationally related to the purposes of this chapter. The plan may include regulations relating to
17 allowable land uses, the location and use of buildings, street systems, dimensional, height and
18 area coverage requirements, setbacks and build-to lines, frontage, parking requirements,
19 landscaping, pedestrian travel, signs, design review, open spaces, and population density.

20 (b) Pursuant to the plan of development, the commission may divide the special
21 economic development district into several parcels as indicated on a development map, and may
22 regulate structures and uses differently in different parcels, so long as regulation of similar
23 structures and uses is uniform within any one parcel.

24 (c) A plan of development may be adopted or amended only after a public hearing before
25 the commission, at which all interested parties have an opportunity to be heard. Notice of the
26 time, place, nature, and purpose of the public hearing shall be given to all owners of real property
27 within the bounds of the special economic development district and within two hundred feet
28 (200') of the perimeter thereof, by registered or certified mail at least seven (7) days before the
29 date of the hearing, and by publication of notice in a newspaper of general circulation within the
30 municipality at least once each week for three (3) successive weeks prior to the date of the
31 hearing.

32 **45-24.6-7. Permit required to erect, construct, alter, repair, or demolish structure –**
33 **Commission quorum and voting.**

34 (a) Before any structure may be erected, constructed, altered, repaired, or demolished

1 within a special economic development district, the person proposing the construction or other
2 alteration shall file with the commission an application for permission to erect, construct, alter,
3 repair, or demolish the structure, together with plans and specifications, all that may be required
4 by regulations adopted by the commission. It is the duty of the commission to review the
5 application, plans, and specifications, and no building permit shall be granted until the
6 commission has acted on it. No construction or other alteration of a structure may be undertaken
7 within a special development district without a permit. The commission may, by regulation,
8 coordinate permit approvals with state building officials and fire marshals, city or town officials
9 or independent staff or consultants.

10 (b) Nothing in this chapter prevents or is to be construed to prevent ordinary maintenance
11 or repair of any structure within the special economic development district; nor shall anything in
12 this chapter prevent or be construed to prevent the continuance of the use of any building or
13 improvement for any purpose to which the building or improvement was lawfully devoted at the
14 time of the adoption of a plan of development, or to prevent or be construed to prevent the
15 erection, construction, alteration, repair, or demolition of any structure under a permit issued by
16 the inspector of buildings prior to the adoption of a plan of development pursuant to this chapter.

17 (c) At all meetings of the commission, a majority of the commissioners is necessary and
18 sufficient to constitute a quorum for the transaction of business, and the act of a majority of the
19 commissioners present at any meeting at which there is a quorum is the act of the commission,
20 except as otherwise provided by law.

21 **45-24.6-8. Variances, deviations, and special exceptions.**

22 (a) Any special economic development district commission that adopts or has adopted a
23 plan of development conforming to this chapter has the authority to grant variances, deviations,
24 and special exceptions from the literal application of any regulations adopted pursuant to that
25 plan, upon the application of an aggrieved property owner.

26 (b) Special exceptions to the terms of the regulations may be granted in those cases
27 specified in the regulations, and subject to those conditions and safeguards specified therein,
28 where the use granted by special exception is reasonably necessary for the convenience or welfare
29 of the public and does not substantially or permanently injure the value of neighboring property.

30 (c) Variances may be granted where, owing to special conditions, a literal enforcement of
31 the regulations would result in unnecessary hardship, where the variance will not be contrary to
32 the public interest, and the spirit of the plan will be observed and substantial justice done.

33 (d) Deviations may be granted where the literal enforcement of the regulations relating to
34 setbacks, build-to lines, and other area and dimensional restrictions would preclude the full

1 enjoyment by the owner of a permitted use and amount to more than a mere inconvenience.

2 (e) The commission shall hold a hearing on the application within a reasonable time, and
3 give public notice and due notice of the hearing to the parties in interest and property owners
4 within two hundred feet (200') of the affected property. At any hearing any party may appear in
5 person or by agent or attorney.

6 (f) Nothing in this chapter shall be construed to restrict, amend, repeal, or otherwise
7 supersede the jurisdiction of the commission regarding any area designated a special development
8 district pursuant to this chapter. The municipality shall not have concurrent jurisdiction over the
9 special economic development district.

10 **45-24.6-9. Appeals to superior court.**

11 (a) Any person or persons jointly or severally aggrieved by a decision of the commission
12 may appeal to the superior court for the county in which the municipality is situated by filing a
13 complaint stating the reasons of appeal within twenty (20) days after the decision has been filed
14 in the office of the commission. The commission shall file the original documents acted upon by
15 it and constituting the record of the hearing appealed from, or certified copies of the documents,
16 together with any other facts that may be pertinent, with the clerk of the court within ten (10)
17 days after being served with a copy of the complaint. When the complaint is filed by someone
18 other than the original applicant or appellant, the original applicant or appellant and the members
19 of the commission shall be made parties to the proceedings. The appeal shall not stay proceedings
20 upon the decision being appealed, but the court may, in its discretion, grant a stay on appropriate
21 terms and make any other orders that it deems necessary for an equitable disposition of the
22 appeal.

23 (b) If, before the date set for hearing in the superior court, an application is made to the
24 court for leave to present additional evidence before the commission, and it is shown to the
25 satisfaction of the court that the additional evidence is material and that there were good reasons
26 for the failure to present it at the hearing before the commission, the court may order that the
27 additional evidence be taken before the commission upon conditions determined by the court. The
28 commission may modify its findings and decision by reason of the additional evidence and file
29 that evidence and any modifications, new findings, or decisions with the superior court.

30 (c) The review shall be conducted by the superior court without a jury. The court shall
31 consider the record of the hearing before the commission, and if it appears to the court that
32 additional evidence is necessary for the proper disposition of the matter, it may allow any party to
33 the appeal to present evidence in open court, which evidence, along with the record shall
34 constitute the record upon which the determination of the court is made.

1 (d) The court shall not substitute its judgment for that of the commission as to the weight
2 of the evidence on questions of fact. The court may affirm the decision of the commission or
3 remand the case for further proceedings, or may reverse or modify the decision if substantial
4 rights of the appellant have been prejudiced because of findings, inferences, conclusions, or
5 decisions which are:

6 (1) In violation of constitutional, statutory provisions;

7 (2) In excess of the authority granted to the commission by statute;

8 (3) Made upon unlawful procedure;

9 (4) Affected by other error of law;

10 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the
11 whole record; or

12 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
13 exercise of discretion.

14 **45-24.6-10. Construction of chapter.**

15 Whenever the context permits in this chapter, the use of the plural includes the singular,
16 the singular, the plural, and the use of any gender is deemed to include all genders.

17 **45-24.6-11. Severability.**

18 If any one or more sections, clauses, sentences, or parts of this chapter are for any reason
19 adjudged unconstitutional or invalid in any court, the judgment does not affect, impair, or
20 invalidate the remaining provisions of this chapter, but are confined in its operation to the specific
21 provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section,
22 clause, or provision of this chapter in any one or more instances or circumstances shall not be
23 taken to affect or prejudice in any way its applicability or validity in any other instance.

24 **45-24.6-12. Applicability of other laws.**

25 (a) Any special economic development district commission created pursuant to this
26 chapter will not be subject to the provisions of §§ 42-35-1 – 42-35-18. Any commission and its
27 members will be subject to the provisions of §§ 36-14-1 – 36-14-19 and §§ 42-46-1 – 42-46-14.

28 (b) In the event of a conflict between the provisions of this chapter and any other
29 provisions of the general laws governing the powers of any other district commission created by
30 or pursuant to the general laws, including but not limited to the I-195 redevelopment district
31 established pursuant to chapter 64.14 of title 42, the provisions of this chapter shall prevail. The
32 provisions of this chapter shall also prevail over any district commissions established by
33 legislation promulgated after the effective date of this act, unless specifically exempted by that
34 legislation.

1 SECTION 2. Section 42-64.14-8 of the General Laws in Chapter 42-64.14 entitled "The
2 I-195 Redevelopment Act of 2011" is hereby amended to read as follows:

3 **42-64.14-8. Additional general powers.**

4 In addition to the powers of the commission otherwise provided herein, the commission
5 shall have the powers set forth below and shall be subject to the limitations herein set forth.
6 Except as may be expressly limited by action of the commission at a regular or special meeting,
7 the commission shall have the powers necessary to put into effect the powers of the commission
8 as set forth below and as herein limited.

9 (a) The commission is authorized and empowered to fix, revise, charge, collect, and abate
10 fees, rates, assessments, delinquency charges, and other charges for its services, and other
11 services, facilities, and commodities furnished or supplied by it including penalties for violations
12 of such regulations as the commission may from time to time promulgate under this chapter.
13 Fees, rates, assessments, delinquency charges, and other charges of general application shall be
14 adopted and revised by the commission in accordance with procedures to be established by the
15 commission for assuring that interested persons are afforded notice and an opportunity to present
16 data, views, and arguments. The commission shall hold at least one public hearing on its schedule
17 of fees, rates, and charges or any revision thereof prior to adoption, notice of which shall be
18 published in a newspaper of substantial circulation in the district at least fifteen (15) days in
19 advance of the hearing, and notice of the hearing shall be provided to the city council of the city
20 of Providence. No later than the date of such publication the commission shall make available to
21 the public the proposed schedule of fees, rates, and charges. Fees, rates, rents, assessments,
22 abatements, and other charges established by the commission shall not be subject to supervision
23 or regulation by any department, division, district, board, bureau, or agency of the state or any of
24 its political subdivisions. In order to provide for the collection and enforcement of its fees, rates,
25 rents, assessments, and other charges, the commission is hereby granted all the powers and
26 privileges with respect to such collection and enforcement held by the city of liens for unpaid
27 taxes. Provided however that the commission shall be required to collect all project application
28 fees, zoning fees and charges, building permit fees, fire code compliance or other public safety
29 permit fees or charges, planning fees, historic district fees and charges, and other similar fees and
30 charges that would otherwise be payable to the city of Providence in connection with such
31 projects located in the city of Providence and remit the greater of one-half (1/2) of such fees
32 collected by the commission to the city of Providence, or one-half (1/2) of such fees the city of
33 Providence would have received from the project under the city's ordinances uniformly applied.
34 The city of Providence shall continue to be entitled to collect all other customary fees for

1 development and maintenance within the district as uniformly applied throughout the city of
2 Providence, including, but not limited to, utility tie-in, connection fees, maintenance fees and
3 assessments.

4 (b) Notwithstanding any provision of law to the contrary, in order to provide for the
5 consolidated, coordinated, efficient and effective exercise of public development powers affecting
6 or benefiting the city of Providence and the state within the boundaries of the district as defined
7 in § 37-5-8, the commission shall have the powers of:

8 (i) A special development district as provided for in chapter 45-24.4.

9 (ii) A redevelopment agency as provided for in chapters 45-31, 45-31.1, 45-31.2, 45-32,
10 and 45-33 within areas of the district which are part of an enterprise zone as provided for in
11 chapter 42-64.3. Within the district, the term "blighted area and substandard area" shall be
12 deemed to include areas where the presence of hazardous materials, as defined in § 23-19.14-2,
13 impairs the use, reuse, or redevelopment of impacted sites.

14 (iii) A municipal public buildings authority as provided for in chapter 45-50.

15 (iv) A subsidiary of the Rhode Island commerce corporation and the enactment of this
16 chapter shall constitute the approval of the general assembly as required by § 42-64-7.1.

17 (v) The city planning board as established pursuant to chapter 45-23.

18 (vi) The city zoning board as established pursuant to chapter 45-24, including, but not
19 limited to, the granting of any use or dimensional variances or special use permits.

20 (vii) The city historic district commission established pursuant to chapter 45-24.1.

21 (viii) Any other city board existing or created that exercises any of the authorities of a
22 planning board, zoning board, design review board or historic district commission. Provided,
23 however, and notwithstanding the foregoing, the commission shall at all times ensure that all
24 projects and development subject to the jurisdiction of the commission are consistent with and
25 subject to the city of Providence comprehensive plan adopted by the city pursuant to § 45-22-2.1
26 et seq. and the city of Providence zoning ordinances pursuant to § 45-24-27 et seq. as previously
27 enacted by the city of Providence, and as may be enacted and/or amended from time to time
28 through July 1, 2012, or enacted and/or amended thereafter with the consent of the commission.

29 (ix) A special economic development district as provided for in chapter 24.6 of title 45.

30 (3) For the benefit of the district, the commission shall have the power to enter into
31 agreements with the city of Providence for:

32 (i) The exercise of powers for tax increment financing as provided for in chapter 45-33.2;

33 (ii) The imposition of impact fees as provided for in chapter 45-22.4 in order to provide
34 infrastructure capacity to or make physical improvements within the district; or

1 (iii) Approval within the district of a district management authority as provided for in
2 chapter 45-59, for purposes of undertaking activities consistent with the approved plans for the
3 district adopted pursuant to § 42-64.14-8.

4 (4) Title and survey adjustments. The commission is authorized to adjust boundary lines,
5 survey lines and property descriptions of the parcels of land comprising the I-195 surplus land as
6 may be necessary or appropriate to facilitate or enhance project design plans and for the location
7 and/or relocation of city streets, utility corridors, easements and rights-of-way.

8 (5) The commission is authorized and empowered, in the name of and for the State of
9 Rhode Island, to enter into contracts for the sale, transfer or conveyance, in fee simple, by lease
10 or otherwise of the any of the I-195 Surplus lands identified in § 37-5-8 in order to achieve the
11 purposes of this chapter and customary terms for commercial real estate transactions of this
12 nature, and containing the following provisions:

13 (i) The terms for each parcel shall be the fair market value of such parcel at the time of
14 conveyance as determined by the commission.

15 (ii) As a condition to the sale, lease or other transfer of each parcel or any portion thereof,
16 any buyer, tenant or transferee that is a not-for-profit, organization or entity that is otherwise
17 exempt from municipal real estate taxes, including, without limitation, any independent public
18 instrumentality, governmental or quasi governmental agency, body, division, or official, or any
19 affiliate or subsidiary thereof, shall have entered into an agreement for payments to the city in
20 accordance with § 42-64.14-14 relating to tax exempt parcels, or such other things acceptable to
21 the city.

22 (iii) Promptly after taking title to a parcel, the buyer shall cause such parcel to be
23 attractively landscaped and maintained for use as green space until such time as development of
24 the parcel in accordance with this section begins.

25 (iv) Development of the parcels, as appropriate, shall be in accordance with the findings
26 set forth in this chapter and with the buyer's approved development plan for the identified parcels,
27 as the same may be amended from time to time with the approval of the commission.

28 (v) As a condition to the contract for the sale, lease, transfer or conveyance an approved
29 development plan shall include a construction schedule that shall commence within twelve (12)
30 months from the effective date of the contract and all construction shall be complete within three
31 (3) years from the commencement of said construction unless otherwise amended and approved
32 by the commission at a duly posted public meeting of the commission.

33 (6) Notwithstanding any provision of this chapter 42-64.14 or any other law to the
34 contrary, the commission shall exercise all powers authorized by §§ 42-64.14-7 and 42-64.14-8 in

1 a manner consistent with and subject to the city of Providence comprehensive plan adopted by the
2 city pursuant to 45-22-2.1 et seq. and the city of Providence zoning ordinances pursuant to 45-24-
3 27 et seq. as previously enacted by the city of Providence, and as may be enacted and/or amended
4 from time to time through July 1, 2012, or enacted thereafter with the consent of the commission.

5 (7) Under no circumstances shall the commission establish, authorize, zone, plan, or
6 permit in the district a so-called "casino" or any form of gambling, including but not limited to
7 those activities governed by title 41 of the Rhode Island general laws, so-called "video-gambling"
8 or any lotteries whatsoever except for the sale of lottery tickets pursuant to title 42, section 61 of
9 the general laws. Furthermore, upon conveyance, but in any event before approving any project,
10 development, or redevelopment, the commission shall ensure that a deed restriction, running to
11 the benefit of the city of Providence and the state, is recorded against the subject property
12 effectuating and memorializing such restriction. The aforementioned restriction shall run with the
13 land and be binding upon all successors and assign. Any deed restriction conveyed to the state
14 pursuant to this subsection may be waived only by statute, resolution or other action by the
15 general assembly which complies with the constitutional requirements for the expansion of
16 gambling.

17 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 TOWNS AND CITIES

1 This act would establish special economic development districts. The act would also
2 establish special economic development district commissions which would have authority to
3 adopt a plan for the development of a special economic development district.

4 This act would take effect upon passage.

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