

2012 -- H 8143

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT

Introduced By: Representatives McLaughlin, Hull, Dickinson, MacBeth, and Menard

Date Introduced: May 09, 2012

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "State Affairs and Government" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 4.2

4 CATEGORY ONE MEMORIAL ITEMS

5 **42-4.2-1. Definition of category one memorial item. --** (a) As used in this chapter, a
6 category one memorial item shall include a structure, sculpture, inscription, or icon, or similar
7 item, which meets the following criteria:

8 (1) Has attained a secular traditional, cultural, or community recognition and/or value;

9 (2) Is located on property that is owned by either the state, a city or town, or any
10 instrumentality thereof;

11 (3) Was in existence prior to January 1, 2012; and

12 (4) Is designated as a category one memorial pursuant to section 42-4.2-2.

13 (b) A memorial may, but does not need to be, related to military affairs in order to be
14 designated as a category one memorial.

15 (c) The potential identification of an item or the item having recognizable identification
16 with a known or established religion shall not exclude the item from being designated as a
17 category one memorial item, so long as the provisions of subsection (a) are met.

18 **42-4.2-2. Designation of category one memorial item. --** Any elected Rhode Island
19 state or municipal official may identify and designate a category one memorial item.

1 **42-4.2-3. Declaration of purpose.** -- (a) The state of Rhode Island declares that a
2 category one memorial item shall not be deemed or viewed as the making of a law regarding the
3 establishment of a state religion.

4 (b) The state of Rhode Island further declares that no category one memorial items shall
5 be deemed to be in violation of the Rhode Island state constitution, including, but not limited to,
6 provisions of Article 1, Section 3 of the state constitution.

7 **42-4.2-4. Defense of category one memorial items.** -- (a) It shall be the policy of the
8 state to defend against any non-governmental challenge to the placement or continued existence
9 of any category one memorial item on any state or municipal property. The legal defense shall be
10 maintained by the attorney general or an attorney designated by the attorney general. Legal costs
11 and attorneys' fees shall not be awarded to any party prevailing in an action against the state,
12 municipality, or instrumentality thereof, or against an official who designates a category one
13 memorial item, which challenges the designation or placement of a category one memorial item.

14 (b) The state shall establish and fund a restricted receipt account to provide for the
15 defense of and/or challenges to designations of items as category one memorial items. The fund
16 shall initially be funded in the amount of one million dollars (\$1,000,000).

17 (c) Nothing in this chapter shall be deemed to prevent the lawful alteration, relocation, or
18 removal of any category one memorial by a state, a municipality, or any instrumentality thereof.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would provide for the designation of certain memorials as category one
2 memorial items. By definition, such memorials would have a secular traditional, cultural, or
3 community recognition and/or value, and would not constitute the making of a law regarding the
4 establishment of a state religion.

5 This act would take effect upon passage.

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