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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 PUBLIC PROPERTY AND WORKS

Introduced By: Senators Perry, Miller, DeVall, and Nesselbush

Date Introduced: February 28, 2012

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 37 of the General Laws entitled "PUBLIC PROPERTY AND
2 WORKS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 2.5

4 CONFLICT MINERALS

5 **37-2.5-1. Legislative findings.** – The general assembly finds and declares that:

6 (1) The Democratic Republic of Congo was devastated by a civil war carried out in 1996
7 and 1997 and a war that began in 1998 and ended in 2003, which resulted in widespread human
8 rights violations and the intervention of multiple armed forces or armed nonstate actors from
9 other countries in the region.

10 (2) Despite the signing of a peace agreement and subsequent withdrawal of foreign forces
11 in 2003, the eastern region of the Democratic Republic of Congo has continued to suffer from
12 high levels of poverty, insecurity, and a culture of impunity, in which illegal armed groups and
13 military forces continue to commit widespread human rights abuses.

14 (3) According to a study by the international rescue committee released in January 2008,
15 conflict and the related humanitarian crisis in the Democratic Republic of Congo have resulted in
16 the deaths of an estimated five million four hundred thousand (5,400,000) people since 1998 and
17 continue to cause as many as forty-five thousand (45,000) deaths each month.

18 (4) Sexual violence and rape remain pervasive tools of warfare used by all parties in
19 eastern region of the Democratic Republic of Congo to terrorize and humiliate communities,

1 resulting in community breakdown which causes a decrease in the ability of affected communities
2 to resist control by illegal armed forces and a loss of community access to minerals. Sexual
3 violence and rape affects hundreds of thousands of women and girls, frequently resulting in
4 traumatic fistula, other severe genital injuries, and long-term psychological trauma.

5 (5) A report released by the government accountability office in December 2007,
6 describes how the mismanagement and illicit trade of extractive resources from the Democratic
7 republic of Congo supports conflict between militias and armed domestic factions in neighboring
8 countries.

9 (6) In October 2002, the United Nations group of experts on the Democratic Republic of
10 Congo called on member states of the United Nations to adopt measures, consistent with the
11 guidelines established for multinational enterprises by the organization for economic co-operation
12 and development, to ensure that enterprises in their jurisdiction do not abuse principles of conduct
13 that they have adopted as a matter of law.

14 (7) In February 2008, the United Nations Group of Experts on the Democratic Republic
15 of Congo stated, “individuals and entities buying mineral output from areas of the eastern part of
16 the Democratic Republic of Congo with a strong rebel presence are violating the sanctions regime
17 when they do not exercise due diligence to ensure their mineral purchases do not provide
18 assistance to illegal armed groups” and defined due diligence as including the following:
19 determining the precise identity of the deposits from which the minerals they intend to purchase
20 have been mined; establishing whether or not these deposits are controlled or taxed by illegal
21 armed groups; and refusing to buy minerals known to originate, or suspected to originate, from
22 deposits controlled or taxed by illegal armed groups.

23 (8) In its final report, released on December 12, 2008, the United Nations Group of
24 Experts on the Democratic Republic of the Congo found that official exports of columbite-
25 tantalite, cassiterite, wolframite, and gold are grossly undervalued and that various illegal armed
26 groups in the eastern region of the Democratic Republic of Congo continue to profit greatly from
27 these natural resources by coercively exercising control over mining sites from where they are
28 extracted and locations along which they are transported for export.

29 (9) United Nations Security Council Resolution 1857, unanimously adopted on
30 December 22, 2008, broadens existing sanctions relating to the Democratic Republic of Congo to
31 include “individuals or entities supporting the illegal armed groups ... through the illicit trade of
32 natural resources”; and encourages member countries to ensure that companies handling minerals
33 from the Democratic Republic of Congo exercise due diligence on their suppliers.

34 (10) Continues weak governance in the Democratic Republic of Congo has allowed the

1 illicit trade in the minerals columbite-tantalite, cassiterite, wolframite, and gold to flourish, which
2 empowers illegal armed groups, undermines local development, and results in a loss or misuse of
3 tax revenue for the Government of the Democratic Republic of Congo. The development of
4 stronger governance and economic institutions that support legitimate cross-border trade in such
5 minerals would help prevent the exploitation of such minerals by illegal armed groups and
6 enable the hundreds of thousands of people who depend on such minerals for their livelihoods to
7 benefit from such minerals.

8 (11) Metals derived from columbite-tantalite, cassiterite, wolframite, and gold from the
9 Democratic Republic of Congo are used in diverse technological products sold worldwide,
10 including mobile telephones, laptop computers, and digital video recorders.

11 (12) In February 2009, the electronic industry citizenship coalition and the global e-
12 sustainability initiative released a statement asserting that use by the information communications
13 technology industry of mined commodities that support conflict in such countries as the
14 Democratic Republic of Congo is unacceptable and electronics companies can and should uphold
15 responsible practices in their operations and work with suppliers to meet social and
16 environmental standards with respect to the raw materials used in the manufacture of their
17 products.

18 (13) Notwithstanding the extensiveness of the supply chains of technological products
19 and the extensiveness of the processing stages for the metals derived from columbite-tantalite,
20 cassiterite, wolframite, and gold used in such products, companies that create and sell products
21 that include such metals have the ability to influence the situation in the Democratic Republic of
22 Congo by doing all of the following: exercising due diligence in ensuring that their suppliers
23 provide raw materials in a manner that does not directly finance armed conflict, result in labor or
24 human rights violations, or damage the environment; verifying the country from which the
25 minerals used to derive such metals originate, the identity of the exporter of the minerals, and that
26 all appropriate tax payments are made; and committing to support mineral exporters from the
27 Democratic Republic of Congo that fully disclose their export payments and certify that their
28 minerals do not directly finance armed conflict, result in labor or human rights violations, or
29 damage the environment.

30 (14) It is the sense of the legislature that the exploitation and trade of conflict minerals
31 originating in the Democratic Republic of Congo is helping to finance conflict characterized by
32 extreme levels of violence in the eastern Democratic Republic of Congo, particularly sexual-and-
33 gender-based violence, and contributing to an emergency humanitarian situation.

34 (15) The Dodd-Frank Wall Street Reform and Consumer Protection Act was signed into

1 law by President Barack Obama on July 21, 2010. This law requires those who file with the
2 securities exchange commission and use minerals originating in the Democratic Republic of
3 Congo in manufacturing to disclose measures taken to exercise due diligence on the source and
4 chain of custody of the materials and the products manufactured.

5 **37-2.5-2. Definitions.** – (a) For the purpose of this chapter, the following words shall
6 have the following meanings:

7 (1) “Company” means any corporation, whether for profit or not-for-profit, domestic
8 corporation or foreign corporation, as defined in section 7-1.2-106, financial institution,
9 cooperative, association, receivership, trust, holding company, firm, joint stock company, public
10 utility, sole proprietorship, partnership, limited partnership, or any other entity recognized by the
11 laws of the United States and/or the state of Rhode Island for the purpose of doing business.

12 (2) “Scrutinized company” refers to a company that has been found to be in violation of
13 section 13(p) of the Securities Exchange Act of 1934 by final judgment or settlement entered in a
14 civil or administrative action brought by the Securities and Exchange Commission by not
15 adhering to section 1502 of the Dodd-Frank Wall Street Reform Act, H.R. 4173. ENR.

16 **37-2.5-3. Scrutinized company ineligible for contracts with the state.** – A scrutinized
17 company is ineligible to, and shall not, bid on or submit a proposal for a contract with a state
18 agency for goods or services related to products or services which provide the basis for
19 compliance with section 13(p) of the securities exchange act of 1934.

20 **37-2.5-4. Severability.** – If any provision of this chapter or the application thereof to any
21 person or circumstances is held invalid, such invalidity shall not affect other provisions or
22 applications of the chapter, which can be given effect without the invalid provision or application,
23 and to this end the provisions of this chapter are declared to be severable.

24 SECTION 2. This act shall take effect upon passage, or upon the date that the United
25 States Securities and Exchange Commission issues the final rules and regulations on the
26 implementation of section 1502 of public law 111-203, whichever occurs later in time.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would prohibit scrutinized companies under the Dodd-Frank Wall Street Reform
2 and Consumer Protection Act (as a result of failure to use due-diligence relating to tracing the
3 chain of custody of certain conflict minerals contributing to violence originating in the
4 Democratic Republic of Congo) from contracting with the state of Rhode Island.

5 This act would take effect upon passage or upon the date that the United States Securities
6 and Exchange Commission would issue the final rules and regulations on the implementation of
7 section 1502 of Public Law 111-203 whichever occurs later.

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