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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO TAXATION - HISTORIC STRUCTURES - TAX CREDIT

Introduced By: Representatives Regunberg, O'Grady, Naughton, Ajello, and Lally

Date Introduced: February 26, 2015

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 44-33.2-3 of the General Laws in Chapter 44-33.2 entitled "Historic  
2 Structures - Tax Credit" is hereby amended to read as follows:

3           **44-33.2-3. Tax credit.** -- (a) Any person, firm, partnership, trust, estate, limited liability  
4 company, corporation (whether for profit or non-profit) or other business entity that incurs  
5 qualified rehabilitation expenditures for the substantial rehabilitation of a property officially  
6 recorded as having applied to be certified as a certified historic structure by the Rhode Island  
7 historical preservation and heritage commission through its historic tax credit application process  
8 prior to January 1, 2008, and verified by the division of taxation, provided the rehabilitation  
9 meets standards consistent with the standards of the Secretary of the United States Department of  
10 the Interior for rehabilitation as certified by the commission, shall be entitled to a credit against  
11 the taxes imposed on such person or entity pursuant to chapter 11, 12, 13, 14, 17 or 30 of this  
12 title. For certified historical structures or some identifiable portion of a structure placed in service  
13 prior to January 1, 2008 the credit shall be an amount equal to ~~thirty percent (30%)~~ twenty-seven  
14 percent (27%) of the qualified rehabilitation expenditures. For certified historical structures or  
15 some identifiable portion of a structure placed in service after December 31, 2007, the credit shall  
16 not exceed ~~twenty five percent (25%), twenty six percent (26%), or twenty seven percent (27%)~~  
17 twenty-two and one-half percent (22.5%), twenty-three and four-tenths percent (22.4%), or  
18 twenty-four and three-tenths percent (24.3%) of the qualified rehabilitation expenditures as  
19 contracted between the division of taxation and the person, firm, partnership, trust, estate, limited

1 liability company, corporation (whether for profit or non-profit) or other business entity that  
2 incurs qualified rehabilitation expenditures for the substantial rehabilitation of certified historic  
3 structures or some identifiable portion of a structure to be placed in service after December 31,  
4 2007.

5 (b) Notwithstanding any provisions of the general laws or regulations adopted thereunder  
6 to the contrary, including, but not limited to, the provisions of chapter 2 of title 37, the division of  
7 taxation is hereby expressly authorized and empowered to enter into contracts with persons,  
8 firms, partnerships, trusts, estates, limited liability companies, corporations (whether for profit or  
9 non-profit) or other business entities that incur qualified rehabilitation expenditures for the  
10 substantial rehabilitation of certified historic structures or some identifiable portion of a structure  
11 to be placed in service after December 31, 2007, for the following purposes, all of which shall be  
12 set forth in more particular detail as follows:

13 (1) Upon payment of the fees as set forth in this section, the division of taxation shall, on  
14 behalf of the state of Rhode Island, guaranty through a contract with persons, firms, partnerships,  
15 trusts, estates, limited liability companies, corporations (whether for profit or non-profit) or other  
16 business entities that will incur qualified rehabilitation expenditures for the substantial  
17 rehabilitation of a certified historic structure or some identifiable portion of a structure to be  
18 placed in service after December 31, 2007, the delivery and issuance of one hundred percent  
19 (100%) of the tax credit allowed under this section in the form of a rebate. ~~in an amount which is~~  
20 ~~the lesser of: (i) the amount of the tax credit identified in the contract with the division of taxation~~  
21 ~~on or before May 15, 2008 in consideration of any processing fees; or (ii) the actual qualified~~  
22 ~~rehabilitation expenditures multiplied by the tax credit percentage selected by the taxpayer on or~~  
23 ~~before May 15, 2008 and any processing fees.~~ The tax credit and fee shall not exceed the  
24 following combinations which shall be selected by any person, firm, partnership, trust, estate,  
25 limited liability company, corporation (whether for profit or non-profit) or other business entity  
26 that will incur qualified rehabilitation expenditures for the substantial rehabilitation of certified  
27 historic structures or some identifiable portion of a structure to be placed in service after  
28 December 31, 2007:

29 (A) For an amount of credit not exceeding ~~twenty five percent (25%)~~ twenty-two and  
30 one-half percent (22.5%) of the qualified rehabilitation expenditures, the fee shall be an amount  
31 equal to three percent (3%) of the qualified rehabilitation expenditures.

32 (B) For an amount of credit not exceeding ~~twenty six percent (26%)~~ twenty-three and  
33 four-tenths percent (23.4%) of the qualified rehabilitation expenditures, the fee shall be an  
34 amount equal to four percent (4%) of the qualified rehabilitation expenditures.

1 (C) For an amount of credit not exceeding ~~twenty-seven percent (27%)~~ twenty-four and  
2 three-tenths percent (24.3%) of the qualified rehabilitation expenditures, the fee shall be an  
3 amount equal to five percent (5%) of the qualified rehabilitation expenditures.

4 (D) As referred to in subsection 44-33.2-4(d), two and one quarter percent (2.25%) of the  
5 qualified rehabilitation expenditures shall be paid by May 15, 2008 with the remaining percent to  
6 be paid by March 5, 2009. Payments made after March 5, 2009 shall accrue interest as set forth in  
7 § 44-1-7.

8 (E) The division of taxation and the Rhode Island historical preservation and heritage  
9 commission shall reconcile tax credits and fees with the persons, firms, partnerships, trusts,  
10 estates, limited liability companies, corporation (whether for profit or non-profit) or other  
11 business entities contracted with as part of the final project certification. In the event that the  
12 processing fee paid is greater than the amount of actual qualified rehabilitation expenditures  
13 multiplied by the percentage chosen pursuant to subsection 44-33.2-3(b), the persons, firms,  
14 partnerships, trusts, estates, limited liability companies, corporations (whether for profit or non-  
15 profit) or other business entities that incur qualified rehabilitation expenditures for the substantial  
16 rehabilitation of certified historic structures or some identifiable portion of a structure to be  
17 placed in service after December 31, 2007, shall be refunded such difference, without interest.

18 (F) Any contract executed pursuant to this chapter by a person, firm, partnership, trust,  
19 estate, limited liability company, corporation (whether for profit or non-profit) or other business  
20 entity that incurs qualified rehabilitation expenditures for the substantial rehabilitation of certified  
21 historic structures or some identifiable portion of a structure to be placed in service after  
22 December 31, 2007, shall be assignable to: (i) an affiliate thereof without any consent from the  
23 division of taxation or (ii) a person, firm, partnership, trust, estate, limited liability company,  
24 corporation (whether for profit or non-profit) or other business entity that incurs qualified  
25 rehabilitation expenditures for the substantial rehabilitation of certified historic structures or some  
26 identifiable portion of a structure to be placed in service after December 31, 2007, with such  
27 assignment to be approved by the division of taxation, which approval shall not be unreasonably  
28 withheld. For purposes of this subsection, "affiliate" shall be defined as any entity controlling,  
29 controlled by or under common control with such person, firm, partnership, trust, estate, limited  
30 liability company, corporation (whether for profit or non-profit) or other business entity.

31 (c) Tax credits and/or rebates allowed pursuant to this chapter shall be allowed for the  
32 taxable year in which such certified historic structure or an identifiable portion of the structure is  
33 placed in service provided that the substantial rehabilitation test is met for such year.

34 (d) If the amount of the tax credit exceeds the taxpayer's total tax liability for the year in

1 which the substantially rehabilitated property is placed in service, the amount that exceeds the  
2 taxpayer's tax liability may be carried forward for credit against the taxes imposed for the  
3 succeeding ten (10) years, or until the full credit is used, whichever occurs first for the tax credits.  
4 Credits allowed to a partnership, a limited liability company taxed as a partnership or multiple  
5 owners of property shall be passed through to the persons designated as partners, members or  
6 owners respectively pro rata or pursuant to an executed agreement among such persons  
7 designated as partners, members or owners documenting an alternate distribution method without  
8 regard to their sharing of other tax or economic attributes of such entity.

9 (e) (1) If the taxpayer has not claimed the tax credits in whole or part, taxpayers eligible  
10 for the tax credits may assign, transfer or convey the credits, in whole or in part, by sale or  
11 otherwise to any individual or entity, including, but not limited to, condominium owners in the  
12 event the certified historic structure is converted into condominiums. The assignee of the tax  
13 credits may use acquired credits to offset up to one hundred percent (100%) of the tax liabilities  
14 otherwise imposed pursuant to chapter 11, 12, 13, (other than the tax imposed under § 44-13-13),  
15 14, 17 or 30 of this title. The assignee may apply the tax credit against taxes imposed on the  
16 assignee until the end of the tenth (10th) calendar year after the year in which the substantially  
17 rehabilitated property is placed in service or until the full credit assigned is used, whichever  
18 occurs first. Fiscal year assignees may claim the credit until the expiration of the fiscal year that  
19 ends within the tenth (10th) year after the year in which the substantially rehabilitated property is  
20 placed in service. The assignor shall perfect the transfer by notifying the state of Rhode Island  
21 division of taxation, in writing, within thirty (30) calendar days following the effective date of the  
22 transfer and shall provide any information as may be required by the division of taxation to  
23 administer and carry out the provisions of this section.

24 (2) For purposes of this chapter, any assignment or sales proceeds received by the  
25 taxpayer for its assignment or sale of the tax credits allowed pursuant to this section shall be  
26 exempt from this title. If a tax credit is subsequently recaptured under subsection (e) of this  
27 section, revoked or adjusted, the seller's tax calculation for the year of revocation, recapture, or  
28 adjustment shall be increased by the total amount of the sales proceeds, without proration, as a  
29 modification under chapter 30 of this title. In the event that the seller is not a natural person, the  
30 seller's tax calculation under chapters 11, 12, 13 (other than with respect to the tax imposed under  
31 § 44-13-13), 14, 17, or 30 of this title, as applicable, for the year of revocation, recapture, or  
32 adjustment, shall be increased by including the total amount of the sales proceeds without  
33 proration.

34 (f) Substantial rehabilitation of property that is exempt from real property tax shall be

1 ineligible for the tax credits authorized under this chapter. In the event a certified historic  
2 structure undergoes a substantial rehabilitation pursuant to this chapter and within twenty-four  
3 (24) months after issuance of a certificate of completed work the property becomes exempt from  
4 real property tax, the taxpayer's tax for the year shall be increased by the total amount of credit  
5 actually used against the tax.

6 (g) In the case of a corporation, this credit is only allowed against the tax of a  
7 corporation included in a consolidated return that qualifies for the credit and not against the tax of  
8 other corporations that may join in the filing of a consolidated tax return.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO TAXATION - HISTORIC STRUCTURES - TAX CREDIT

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- 1           This act would reduce the historic structure tax credit and would further provide that the
- 2           credit be issued in the form of a rebate.
- 3           This act would take effect upon passage.

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