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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO TAXATION -- HISTORIC STRUCTURES

Introduced By: Representatives Tobon, Blazejewski, Barros, Melo, and Casey

Date Introduced: March 13, 2015

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 44-33.6 of the General Laws entitled "Historic Preservation Tax
2 Credits 2013" is hereby repealed in its entirety.

~~CHAPTER 44-33.6~~

~~Historic Preservation Tax Credits 2013~~

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5 ~~**44-33.6-1. Declaration of purpose.** -- The general assembly finds and declares that~~
6 ~~Rhode Island's historic structures continue to experience high vacancy rates and physical~~
7 ~~deterioration, particularly in Rhode Island's central business districts. Without adding economic~~
8 ~~incentive, these structures are not viable for the redevelopment and reuse by modern commercial,~~
9 ~~residential or manufacturing enterprises and will continue their physical deterioration. The~~
10 ~~redevelopment and reuse of these historic structures are of critical importance to the economic~~
11 ~~measures and will assist in stimulating the reuse and redevelopment of historic structures and will~~
12 ~~improve property values, foster civic beauty, create employment opportunities, enhance~~
13 ~~commerce, and promote public education, pleasure, and welfare. Furthermore, during this~~
14 ~~unprecedented economic climate, many in the building and construction trades, and related~~
15 ~~service industries, have been severely impacted. The redevelopment and reuse of these historic~~
16 ~~structures will serve as a vital catalyst in the recovery of these trades and services, in addition to~~
17 ~~stimulating various other related economic benefits and business activities. The purpose of this~~
18 ~~chapter is to create economic incentives for the purpose of stimulating the redevelopment and~~
19 ~~reuse of Rhode Island's historic structures, as well as to generate the positive economic and~~

1 ~~employment activities that will result from such redevelopment and reuse.~~

2 ~~**44-33.6-2. Definitions.** -- As used in this chapter:~~

3 ~~(1) "Certified historic structure" means a property which is located in the state of Rhode~~
4 ~~Island and is:~~

5 ~~(i) Listed individually on the national register of historic places; or~~

6 ~~(ii) Listed individually in the state register of historic places; or~~

7 ~~(iii) Located in a registered historic district and certified by either the commission or~~
8 ~~Secretary of the Interior as being of historic significance to the district.~~

9 ~~(2) "Certified rehabilitation" means any rehabilitation of a certified historic structure~~
10 ~~consistent with the historic character of such property or the district in which the property is~~
11 ~~located as determined by the commission guidelines.~~

12 ~~(3) "Substantial Construction" means that: (i) the owner of a certified historic structure~~
13 ~~has entered into a contract with the division of taxation and paid the processing fee; (ii) the~~
14 ~~commission has certified that the certified historic structure's rehabilitation will be consistent with~~
15 ~~the standards set forth in this chapter; and (iii) the owner has expended ten percent (10%) of its~~
16 ~~qualified rehabilitation expenditures, estimated in the contract entered into with the division of~~
17 ~~taxation for the project or its first phase of a phased project.~~

18 ~~(4) "Commission" means the Rhode Island historical preservation and heritage~~
19 ~~commission created pursuant to § 42-45-2.~~

20 ~~(5) "Exempt from real property tax" means, with respect to any certified historic~~
21 ~~structure, that the structure is exempt from taxation pursuant to § 44-3-3.~~

22 ~~(6) "Hard construction costs" means the direct contractor costs for labor, material,~~
23 ~~equipment, and services associated with an approved project, contractors overhead and profit, and~~
24 ~~other direct construction costs.~~

25 ~~(7) "Holding period" means twenty four (24) months after the commission issues a~~
26 ~~certificate of completed work to the owner. In the case of a rehabilitation which may reasonably~~
27 ~~be expected to be completed in phases as described in subdivision (15) of this section, "holding~~
28 ~~period" shall be extended to include a period of time beginning on the date of issuance of a~~
29 ~~certificate of completed work for the first phase or phases for which a certificate of completed~~
30 ~~work is issued and continuing until the expiration of twenty four (24) months after the certificate~~
31 ~~of completed work issued for the last phase.~~

32 ~~(8) "Part 2 application" means the Historic Preservation Certification Application Part 2-~~
33 ~~Description of Rehabilitation.~~

34 ~~(9) "Placed in service" means that substantial rehabilitation work has been completed~~

1 ~~which would allow for occupancy of the entire structure or some identifiable portion of the~~
2 ~~structure, as established in the Part 2 application.~~

3 ~~(10) "Principal residence" means the principal residence of the owner within the meaning~~
4 ~~of section 121 of the Internal Revenue Code [26 U.S.C. 121] or any successor provision.~~

5 ~~(11) "Qualified rehabilitation expenditures" means any amounts expended in the~~
6 ~~rehabilitation of a certified historic structure properly capitalized to the building and either:~~

7 ~~(i) Depreciable under the Internal Revenue Code, 26 U.S.C. § 1 et seq., or~~

8 ~~(ii) Made with respect to property (other than the principal residence of the owner) held~~
9 ~~for sale by the owner. Fees paid pursuant to this chapter are not qualified rehabilitation~~
10 ~~expenditures. Notwithstanding the foregoing, except in the case of a nonprofit corporation, there~~
11 ~~will be deducted from qualified rehabilitation expenditures for the purposes of calculating the tax~~
12 ~~credit any funds made available to the person (including any entity specified in section 44-33.5-~~
13 ~~3(a)) incurring the qualified rehabilitation expenditures in the form of a direct grant from a~~
14 ~~federal, state or local governmental entity or agency or instrumentality of government.~~

15 ~~(12) "Registered historic district" means any district listed in the national register of~~
16 ~~historic places or the state register of historic places.~~

17 ~~(13) "Remain idle" means that substantial work has ceased at the subject project; work~~
18 ~~crews have been reduced by more than twenty-five percent (25%) for reasons unrelated to~~
19 ~~scheduled completion of work in accordance with the project schedule, reasonably unanticipated~~
20 ~~physical conditions, or force majeure; or the project schedule that was originally submitted by the~~
21 ~~taxpayer to the commission has been extended by more than twelve (12) months for reasons other~~
22 ~~than reasonably unanticipated physical conditions or an event of force majeure (by way of~~
23 ~~example, and not in limitation, any delays, work stoppage, or work force reduction caused by~~
24 ~~issues with project funding, finances, disputes, or violation of laws shall be deemed to cause a~~
25 ~~project to remain idle).~~

26 ~~(14) "Scattered Site Development" means a development project for which the developer~~
27 ~~seeks unified financing to rehabilitate dwelling units in two (2) or more buildings located in an~~
28 ~~area that is defined by a neighborhood revitalization plan and is not more than one mile in~~
29 ~~diameter.~~

30 ~~(15) "Social club" means a corporation or other entity and/or its affiliate that offers its~~
31 ~~facilities primarily to members for social or recreational purposes and the majority source of its~~
32 ~~revenue is from funds and/or dues paid by its members and/or an entity defined as a social club~~
33 ~~pursuant to the Internal Revenue Code section 501(c)(7).~~

34 ~~(16) "Substantial rehabilitation" means, with respect to a certified historic structure, that~~

1 ~~the qualified rehabilitation expenses of the building during the twenty four (24) month period~~
2 ~~selected by the taxpayer ending with or within the taxable year exceed the adjusted basis in such~~
3 ~~building and its structural components as of the beginning of such period. In the case of any~~
4 ~~rehabilitation, which may reasonably be expected to be completed in phases set forth in~~
5 ~~architectural plans and specifications completed before the rehabilitation begins, the above~~
6 ~~definition shall be applied by substituting "sixty (60) month period" for "twenty four (24) month~~
7 ~~period".~~

8 ~~(17) "Trade or business" means an activity that is carried on for the production of income~~
9 ~~from the sale or manufacture of goods or performance of services, excluding residential rental~~
10 ~~activity.~~

11 ~~**44-33.6-3. Tax credit.** (a) Subject to the maximum credit provisions set forth in~~
12 ~~subsections (c) and (d) below, any person, firm, partnership, trust, estate, limited liability~~
13 ~~company, corporation (whether for profit or nonprofit) or other business entity that incurs~~
14 ~~qualified rehabilitation expenditures for the substantial rehabilitation of a certified historic~~
15 ~~structure, provided the rehabilitation meets standards consistent with the standards of the~~
16 ~~Secretary of the United States Department of the Interior for rehabilitation as certified by the~~
17 ~~commission and said person, firm, partnership, trust, estate, limited liability company,~~
18 ~~corporation or other business entity is not a social club as defined in subdivision 44-33.6-2(13) of~~
19 ~~this chapter, shall be entitled to a credit against the taxes imposed on such person or entity~~
20 ~~pursuant to chapter 11, 12, 13, 14, 17 or 30 of this title in an amount equal to the following:~~

21 ~~(1) Twenty percent (20%) of the qualified rehabilitation expenditures; or~~

22 ~~(2) Twenty five percent (25%) of the qualified rehabilitation expenditures provided that~~
23 ~~either:~~

24 ~~(i) At least twenty five percent (25%) of the total rentable area of the certified historic~~
25 ~~structure will be made available for a trade or business; or~~

26 ~~(ii) The entire rentable area located on the first floor of the certified historic structure~~
27 ~~will be made available for a trade or business.~~

28 ~~(b) Tax credits allowed pursuant to this chapter shall be allowed for the taxable year in~~
29 ~~which such certified historic structure or an identifiable portion of the structure is placed in~~
30 ~~service provided that the substantial rehabilitation test is met for such year.~~

31 ~~(c) Maximum project credit. The credit allowed pursuant to this chapter shall not~~
32 ~~exceed five million dollars (\$5,000,000) for any certified rehabilitation project under this chapter.~~
33 ~~No building to be completed in phases or in multiple projects shall exceed the maximum project~~
34 ~~credit of five million dollars (\$5,000,000) for all phases or projects involved in the rehabilitation~~

1 of such building.

2 ~~(d) Maximum aggregate credits.—The aggregate credits authorized to be reserved~~
3 ~~pursuant to this chapter shall not exceed sums estimated to be available in the historic~~
4 ~~preservation tax credit trust fund pursuant to this chapter.~~

5 ~~(e) Subject to the exception provided in subsection (g) of this section, if the amount of~~
6 ~~the tax credit exceeds the taxpayer's total tax liability for the year in which the substantially~~
7 ~~rehabilitated property is placed in service, the amount that exceeds the taxpayer's tax liability may~~
8 ~~be carried forward for credit against the taxes imposed for the succeeding ten (10) years, or until~~
9 ~~the full credit is used, whichever occurs first for the tax credits. Credits allowed to a partnership, a~~
10 ~~limited liability company taxed as a partnership or multiple owners of property shall be passed~~
11 ~~through to the persons designated as partners, members or owners respectively pro rata or~~
12 ~~pursuant to an executed agreement among such persons designated as partners, members or~~
13 ~~owners documenting an alternate distribution method without regard to their sharing of other tax~~
14 ~~or economic attributes of such entity. Credits may be allocated to partners, members or owners~~
15 ~~that are exempt from taxation under section 501(c)(3), section (c)(4) or section 501(c)(6) of the~~
16 ~~U.S. Code and these partners, members or owners must be treated as taxpayers for purposes of~~
17 ~~this section.~~

18 ~~(f) If the taxpayer has not claimed the tax credits in whole or part, taxpayers eligible for~~
19 ~~the tax credits may assign, transfer or convey the credits, in whole or in part, by sale or otherwise~~
20 ~~to any individual or entity, including, but not limited to, condominium owners in the event the~~
21 ~~certified historic structure is converted into condominiums and assignees of the credits that have~~
22 ~~not claimed the tax credits in whole or part may assign, transfer or convey the credits, in whole or~~
23 ~~in part, by sale or otherwise to any individual or entity. The assignee of the tax credits may use~~
24 ~~acquired credits to offset up to one hundred percent (100%) of the tax liabilities otherwise~~
25 ~~imposed pursuant to chapter 11, 12, 13, (other than the tax imposed under § 44-13-13), 14, 17 or~~
26 ~~30 of this title. The assignee may apply the tax credit against taxes imposed on the assignee until~~
27 ~~the end of the tenth calendar year after the year in which the substantially rehabilitated property is~~
28 ~~placed in service or until the full credit assigned is used, whichever occurs first. Fiscal year~~
29 ~~assignees may claim the credit until the expiration of the fiscal year that ends within the tenth~~
30 ~~year after the year in which the substantially rehabilitated property is placed in service. The~~
31 ~~assignor shall perfect the transfer by notifying the state of Rhode Island division of taxation, in~~
32 ~~writing, within thirty (30) calendar days following the effective date of the transfer and shall~~
33 ~~provide any information as may be required by the division of taxation to administer and carry~~
34 ~~out the provisions of this section.~~

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

10 ~~(g) Credits allowed to partners, members or owners that are exempt from taxation under~~
11 ~~section 501(c)(3), section (c)(4) or section 501(c)(6) of the U.S. Code, and only said credits, shall~~
12 ~~be fully refundable.~~

13 ~~(h) Substantial rehabilitation of property that either:~~

14 ~~(1) Is exempt from real property tax;~~

15 ~~(2) Is a social club; or~~

16 ~~(3) Consists of a single family home or a property that contains less than three (3)~~
17 ~~residential apartments or condominiums shall be ineligible for the tax credits authorized under~~
18 ~~this chapter; provided, however, a scattered site development with five (5) or more residential~~
19 ~~units in the aggregate (which may include single family homes) shall be eligible for tax credit. In~~
20 ~~the event a certified historic structure undergoes a substantial rehabilitation pursuant to this~~
21 ~~chapter and within twenty four (24) months after issuance of a certificate of completed work the~~
22 ~~property becomes exempt from real property tax, the taxpayer's tax for the year shall be increased~~
23 ~~by the total amount of credit actually used against the tax.~~

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

27 ~~**44-33.6-4. Administration.**~~ (a) ~~To claim the tax credit authorized in this chapter,~~
28 ~~taxpayers shall apply:~~

29 ~~(1) To the commission prior to the certified historic structure being placed in service for~~
30 ~~a certification that the certified historic structure's rehabilitation will be consistent with the~~
31 ~~standards of the Secretary of the United States Department of the Interior for rehabilitation;~~

32 ~~(2) To the commission after completion of the rehabilitation work of the certified historic~~
33 ~~structure for a certification that the rehabilitation is consistent with the standards of the Secretary~~
34 ~~of the United States Department of the Interior for rehabilitation; and~~

1 ~~(3) To the division of taxation after completion of the rehabilitation work of the certified~~
2 ~~historic structure for a certification as to the amount of tax credit for which the rehabilitation~~
3 ~~qualifies. The commission and the division of taxation may rely on the facts represented in the~~
4 ~~application without independent investigation and, with respect to the amount of tax credit for~~
5 ~~which the rehabilitation qualifies, upon the certification of a certified public accountant licensed~~
6 ~~in the state of Rhode Island. The applications shall be developed by the commission and the~~
7 ~~division of taxation and may be amended from time to time.~~

8 ~~(b) Within thirty (30) days after the commission's and division of taxation's receipt of the~~
9 ~~taxpayer's application requesting certification for the completed rehabilitation work:~~

10 ~~(1) The commission shall issue the taxpayer a written determination either denying or~~
11 ~~certifying the rehabilitation; and~~

12 ~~(2) Division of taxation shall issue a certification of the amount of credit for which the~~
13 ~~rehabilitation qualifies. To claim the tax credit, the division of taxation's certification as to the~~
14 ~~amount of the tax credit shall be attached to all state tax returns on which the credit is claimed.~~

15 ~~(c) No taxpayer may benefit from the provisions of this chapter unless the owner of the~~
16 ~~certified historic structure grants a restrictive covenant to the commission, agreeing that during~~
17 ~~the holding period no material alterations to the certified historic structure will be made without~~
18 ~~the commission's prior approval and agreeing that such shall be done in a manner consistent with~~
19 ~~the standards of the Secretary of the United States Department of the Interior; and, in the event~~
20 ~~the owner applies for the twenty five percent (25%) tax credit, that either:~~

21 ~~(1) At least twenty five percent (25%) of the total rentable area of the certified historic~~
22 ~~structure will be made available for a trade or business; or~~

23 ~~(2) The entire rentable area located on the first floor of the certified historic structure will~~
24 ~~be made available for a trade or business, in either case, for a period of sixty (60) months after the~~
25 ~~placed in service date of the certified historic structure or identifiable portion thereof.~~

26 ~~(d) The division of taxation shall charge a fee equal to three percent (3%) of qualified~~
27 ~~rehabilitation expenditures. The fee shall be payable upon submission of the Part 2 application.~~
28 ~~The fee shall be non-refundable.~~

29 ~~(e) Notwithstanding any provisions of the general laws or regulations adopted thereunder~~
30 ~~to the contrary, including, but not limited to, the provisions of chapter 2 of title 37, the division of~~
31 ~~taxation is hereby expressly authorized and empowered to enter into contracts with persons,~~
32 ~~firms, partnerships, trusts, estates, limited liability companies, corporations (whether for profit or~~
33 ~~nonprofit) or other business entities that incur qualified rehabilitation expenditures for the~~
34 ~~substantial rehabilitation of certified historic structures or some identifiable portion of a structure.~~

1 ~~Upon payment of the portion of the fee set forth in subdivision (d) above, the division of taxation~~
2 ~~and the applicant shall enter into a contract for tax credits consistent with the terms and~~
3 ~~provisions of this chapter.~~

4 ~~(f) Upon satisfaction of the requirements set forth herein and the payment of the fees as~~
5 ~~set forth in subdivision (d) above, the division of taxation shall, on behalf of the State of Rhode~~
6 ~~Island, guarantee the delivery of one hundred percent (100%) of the tax credit and use of one~~
7 ~~hundred percent (100%) of the tax credit in the tax year a certified historic structure is placed in~~
8 ~~service through a contract with persons, firms, partnerships, trusts, estates, limited liability~~
9 ~~companies, corporations (whether for profit or nonprofit) or other business entities that will incur~~
10 ~~qualified rehabilitation expenditures for the substantial rehabilitation of a certified historic~~
11 ~~structure or some identifiable portion of a structure.~~

12 ~~(g) Any contract executed pursuant to this chapter by a person, firm, partnership, trust,~~
13 ~~estate, limited liability company, corporation (whether for profit or nonprofit) or other business~~
14 ~~entity shall be assignable to:~~

15 ~~(1) An affiliate thereof without any consent from the division of taxation;~~

16 ~~(2) A banking institution as defined by subdivision 44-14-2(2) or credit union as defined~~
17 ~~in subdivision 44-15-1.1(1) without any consent from the division of taxation; or~~

18 ~~(3) A person, firm, partnership, trust, estate, limited liability company, corporation~~
19 ~~(whether for profit or nonprofit) or other business entity that incurs qualified rehabilitation~~
20 ~~expenditures for the substantial rehabilitation of certified historic structures or some identifiable~~
21 ~~portion of a structure, with such assignment to be approved by the division of taxation, which~~
22 ~~approval shall not be unreasonably withheld or conditioned. For purposes of this subsection,~~
23 ~~"affiliate" shall be defined as any entity controlling, controlled by or under common control with~~
24 ~~such person, firm, partnership, trust, estate, limited liability company, corporation (whether for~~
25 ~~profit or nonprofit) or other business entity.~~

26 ~~(h) If information comes to the attention of the commission or division of taxation at any~~
27 ~~time up to and including the last day of the holding period that is materially inconsistent with~~
28 ~~representations made in an application, the commission may deny the requested certification or~~
29 ~~revoke a certification previously given, and in either instance all fees paid by the applicant shall~~
30 ~~be deemed forfeited. In the event that tax credits or a portion of tax credits are subject to~~
31 ~~recapture for ineligible costs and such tax credits have been transferred, assigned and/or~~
32 ~~allocated, the state will pursue its recapture remedies and rights against the applicant of the tax~~
33 ~~credits, and all fees paid by the applicant shall be deemed forfeited. No redress shall be sought~~
34 ~~against assignees, transferees or allocates of such credits provided they acquired the tax credits by~~

1 ~~way of an arms length transaction, for value, and without notice of violation, fraud or~~
2 ~~misrepresentation.~~

3 ~~(i) The commission, in consultation with the division of taxation, shall promulgate such~~
4 ~~rules and regulations as are necessary to carry out the intent and purpose of this chapter.~~

5 ~~**44-33.6-5. Information requests.** -- The tax division and its agents, for the purpose of~~
6 ~~ascertaining the correctness of any credit claimed under the provisions of this chapter, may~~
7 ~~examine any books, papers, records, or memoranda bearing upon the matters required to be~~
8 ~~included in the return, report, or other statement, and may require the attendance of the person~~
9 ~~executing the return, report, or other statement, or of any officer or employee of any taxpayer, or~~
10 ~~the attendance of any other person, and may examine the person under oath respecting any matter~~
11 ~~which the tax administrator or his or her agent deems pertinent or material in determining the~~
12 ~~eligibility for credits claimed and may request information from the commission, and the~~
13 ~~commission shall provide the information in all cases, to the extent not otherwise prohibited by~~
14 ~~statute.~~

15 ~~**44-33.6-6. Election; Limitations.** -- Taxpayers who elect and qualify to claim tax credits~~
16 ~~for the substantial rehabilitation of a certified historic structure pursuant to this chapter are~~
17 ~~ineligible for any tax credits that may also be available to the taxpayer for the substantial~~
18 ~~rehabilitation of that particular certified historic structure under the provisions of chapters 33.1 of~~
19 ~~this title, 64.7 of title 42, and/or 31 of this title. Neither taxpayers nor assignees may apply any~~
20 ~~tax credits issued in accordance with this section until fiscal year 2014.~~

21 ~~**44-33.6-7. Timing and reapplication.** -- Taxpayers shall have twelve (12) months from~~
22 ~~the approval of Part 2 application to commence substantial construction activities related to the~~
23 ~~subject substantial rehabilitation. Upon commencing substantial construction activities, the~~
24 ~~taxpayer shall submit an affidavit of commencement of substantial construction to the~~
25 ~~commission, together with evidence of such requirements having been satisfied. Furthermore,~~
26 ~~after commencement of substantial construction activities, no project shall remain idle prior to~~
27 ~~completion for a period of time exceeding six (6) months. In the event that a taxpayer does not~~
28 ~~commence substantial construction activities within twelve (12) months from the approval of Part~~
29 ~~2 application, or in the event that a project remains idle prior to completion for a period of time~~
30 ~~exceeding six (6) months, the subject taxpayer shall forfeit all fees paid prior to such date and its~~
31 ~~then current contract for tax credits shall be deemed null and void, and shall terminate without~~
32 ~~need for further action or documentation. Upon any such forfeiture and termination, a taxpayer~~
33 ~~may re apply for tax credits pursuant to this chapter, however, notwithstanding anything~~
34 ~~contained herein to the contrary, one hundred percent (100%) of the fees required shall be paid~~

1 ~~upon reapplication and such fees shall be non-refundable. Additionally, any taxpayer reapplying~~
2 ~~for tax credits pursuant to this § 44-33.6-7 shall be required to submit evidence with its~~
3 ~~application establishing the reason for delay in commencement or the project sitting idle, as the~~
4 ~~case may be, and provide evidence, reasonably satisfactory to the commission, that such~~
5 ~~condition or event causing same has been resolved. All taxpayers shall submit a reasonably~~
6 ~~detailed project timeline to the commission together with the Part 2 application. The provisions of~~
7 ~~this section shall be further detailed and incorporated into the form of contract for tax credits used~~
8 ~~in connection with this chapter.~~

9 ~~**44-33.6-8. Historic tax credit apprenticeship requirements.**~~ (a) ~~Notwithstanding any~~
10 ~~laws to the contrary, any credit allowed under this chapter for hard construction costs valued at~~
11 ~~ten million dollars (\$10,000,000) or more shall include a requirement that any contractor and~~
12 ~~subcontractor working on the project shall have an apprenticeship program as defined herein for~~
13 ~~all apprenticeable crafts that will be employed on the project at the time of bid. The provisions of~~
14 ~~the section shall only apply to contractors and subcontractors with five (5) or more employees.~~
15 ~~For purposes of this section, an apprenticeship program is one that is registered with and~~
16 ~~approved by the United States department of labor in conformance with 29 C.F.R. 29 and 29~~
17 ~~C.F.R. 30; and~~

18 ~~(b) The department of labor and training must provide information and technical~~
19 ~~assistance to affected governmental, quasi-governmental agencies, and any contractors awarded~~
20 ~~projects relative to their obligations under this statute.~~

21 ~~(c) The department of labor and training may also impose a penalty of up to five hundred~~
22 ~~dollars (\$500) for each calendar day of noncompliance with this section, as determined by the~~
23 ~~director of labor and training. Mere errors and/or omissions shall not be grounds for imposing a~~
24 ~~penalty under this subsection.~~

25 ~~(d) Any penalties assessed under this statute shall be paid to the general fund.~~

26 ~~(e) To the extent that any of the provisions contained in § 37-13-3.2 conflict with the~~
27 ~~requirements for federal aid contracts, federal law and regulations shall control.~~

28 ~~**44-33.6-9. Reporting requirements.**~~ (a) ~~Each taxpayer requesting certification of a~~
29 ~~completed rehabilitation shall report to the commission and the division of taxation the following~~
30 ~~information:~~

- 31 ~~(1) The number of total jobs created;~~
- 32 ~~(2) The number of Rhode Island businesses retained for work;~~
- 33 ~~(3) The total amount of qualified rehabilitation expenditures;~~
- 34 ~~(4) The total cost of materials or products purchased from Rhode Island businesses;~~

1 ~~(5) Such other information deemed necessary by the tax administrator.~~

2 ~~(b) Any agreements or contracts entered into under this chapter by the division, the~~
3 ~~commission, or the economic development corporation and the taxpayer shall be sent to the~~
4 ~~division of taxation and be available to the public for inspection by any person and shall be~~
5 ~~published by the tax administrator on the tax division website.~~

6 ~~(c) By August 15th of each year the division of taxation shall report the name, address,~~
7 ~~and amount of tax credit received for each credit recipient during the previous state fiscal year to~~
8 ~~the governor, the chairpersons of the house and senate finance committees, the house and senate~~
9 ~~fiscal advisors, and the department of labor and training. This report shall be available to the~~
10 ~~public for inspection by any person and shall be published by the tax administrator on the tax~~
11 ~~division website.~~

12 ~~(d) By September 1st of each year the division of taxation shall report in the aggregate~~
13 ~~the information required under subsection 44-33.6-9(a). This report shall be available to the~~
14 ~~public for inspection by any person and shall be published by the tax administrator on the tax~~
15 ~~division website.~~

16 ~~(e) By September 1, 2018 and biennially thereafter the division of taxation shall report in~~
17 ~~the aggregate the total number of approved projects, project costs, and associated amount of~~
18 ~~approved tax credits.~~

19 ~~**44-33.6-10. Historic preservation tax credit trust fund.** -- All processing fees collected~~
20 ~~pursuant to this chapter after July 1, 2013 shall be deposited in a historic preservation tax credit~~
21 ~~restricted receipt account within the historic preservation tax credit trust fund, which shall be~~
22 ~~used, to the extent resources are available, to refund or reimburse the state for any credits certified~~
23 ~~by the division of taxation.~~

24 ~~**44-33.6-11. Sunset.** -- No credits shall be authorized to be reserved pursuant to this~~
25 ~~chapter on or after June 30, 2016 or upon the exhaustion of the maximum aggregate credits,~~
26 ~~whichever comes first.~~

27 SECTION 2. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
28 adding thereto the following chapter:

29 CHAPTER 33.7

30 HISTORIC PRESERVATION TAX CREDITS ACT OF 2015

31 **44-33.7-1. Declaration of purpose.** -- The general assembly finds and declares that
32 Rhode Island's historic structures continue to experience high vacancy rates and physical
33 deterioration, particularly in Rhode Island's central business districts. Without adding economic
34 incentive, these structures are not viable for the redevelopment and reuse by modern commercial,

1 residential, or manufacturing enterprises, and will continue their physical deterioration. The
2 redevelopment and reuse of these historic structures are of critical importance to the economic
3 measures and will assist in stimulating the reuse and redevelopment of historic structures and will
4 improve property values, foster civic beauty, create employment opportunities, enhance
5 commerce, and promote public education, pleasure, and welfare. Furthermore, during this
6 unprecedented economic climate, many in the building and construction trades, and related
7 service industries, have been severely impacted. The redevelopment and reuse of these historic
8 structures will serve as a vital catalyst in the recovery of these trades and services, in addition to
9 stimulating various other related economic benefits and business activities. The purpose of this
10 chapter is to create economic incentives for the purpose of stimulating the redevelopment and
11 reuse of Rhode Island's historic structures, as well as to generate the positive economic and
12 employment activities that will result from such redevelopment and reuse.

13 **44-33.7-2. Definitions.** – As used in this chapter:

14 (1) "Certified historic structure" means a property which is located in the state of Rhode
15 Island and is:

16 (i) Listed individually on the national register of historic places; or

17 (ii) Listed individually in the state register of historic places; or

18 (iii) Located in a registered historic district and certified by either the commission or
19 Secretary of the United States Department of the Interior as being of historic significance to the
20 district.

21 (2) "Certified rehabilitation" means any rehabilitation of a certified historic structure
22 consistent with the historic character of such property or the district in which the property is
23 located as determined by the commission guidelines.

24 (3) "Commence substantial construction activities" means that:

25 (i) Contracts for construction activities equal to no less than ten percent (10%) of the total
26 project budget have been awarded to bona fide third-party contractors, subcontractors, and/or
27 material men (soft costs shall not qualify for the purposes of this requirement) with such work
28 having been authorized for commencement;

29 (ii) All permits and approvals required in connection with the construction activities
30 provided for in the contracts awarded pursuant to subsection (c)(i) of this section have been
31 obtained; and

32 (iii) Substantial construction activities have commenced at the subject property beyond
33 mere site preparation activities, staging and/or storage of materials.

34 (4) "Commission" means the Rhode Island historical preservation and heritage

1 commission created pursuant to § 42-45-2.

2 (5) "Exempt from real property tax" means, with respect to any certified historic
3 structure, that the structure is exempt from taxation pursuant to § 44-3-3.

4 (6) "Holding period" means twenty-four (24) months after the commission issues a
5 certificate of completed work to the owner. In the case of a rehabilitation which may reasonably
6 be expected to be completed in phases as described in subsection (14) of this section, "holding
7 period" shall be extended to include a period of time beginning on the date of issuance of a
8 certificate of completed work for the first phase or phases for which a certificate of completed
9 work is issued and continuing until the expiration of twenty-four (24) months after the certificate
10 of completed work issued for the last phase.

11 (7) "Placed in service" means that substantial rehabilitation work has been completed
12 which would allow for occupancy of the entire structure or some identifiable portion of the
13 structure, or the owner has commenced depreciation of the qualified rehabilitation expenditures,
14 whichever occurs first.

15 (8) "Principal residence" means the principal residence of the owner within the meaning
16 of § 121 of the Internal Revenue Code [26 U.S.C. 121] or any successor provision.

17 (9) "Qualified rehabilitation expenditures" or "QREs" means any amounts expended in
18 the rehabilitation of a certified historic structure properly capitalized to the building and either:

19 (i) Depreciable under the Internal Revenue Code, 26 U.S.C. § 1 et seq., or

20 (ii) Made with respect to property (other than the principal residence of the owner) held
21 for sale by the owner. Fees paid pursuant to this chapter are not qualified rehabilitation
22 expenditures. Notwithstanding the foregoing, except in the case of a nonprofit corporation, there
23 will be deducted from qualified rehabilitation expenditures for the purposes of calculating the tax
24 credit any funds made available to the person (including any entity specified in § 44-33.6-3(a))
25 incurring the qualified rehabilitation expenditures in the form of a direct grant from a federal,
26 state or local governmental entity or agency or instrumentality of government.

27 (10) "Registered historic district" means any district listed in the national register of
28 historic places, or the state register of historic places.

29 (11) "Remain idle" means that work crews have been reduced by more than twenty-five
30 percent (25%) for reasons unrelated to scheduled completion of work in accordance with the
31 project schedule, reasonably unanticipated physical conditions, or force majeure; or the project
32 schedule that was originally submitted by the taxpayer to the commission has been extended by
33 more than twelve (12) months for reasons other than reasonably unanticipated physical conditions
34 or an event of force majeure (by way of example, and not in limitation, any delays, work

1 stoppage, or work force reduction caused by issues with project funding, finances, disputes, or
2 violation of laws shall be deemed to cause a project to remain idle).

3 (12) "Scattered site development" means a development project for which the developer
4 seeks unified financing to rehabilitate dwelling units in two (2) or more buildings located in an
5 area that is defined by a neighborhood revitalization plan and is not more than one mile in
6 diameter.

7 (13) "Social club" means a corporation or other entity and/or its affiliate that offers its
8 facilities primarily to members for social or recreational purposes and the majority source of its
9 revenue is from funds and/or dues paid by its members and/or an entity defined as a social club
10 pursuant to the Internal Revenue Code section 501(c)(7).

11 (14) "Substantial rehabilitation" means, with respect to a certified historic structure, that
12 the qualified rehabilitation expenses of the building during the twenty-four (24) month period
13 selected by the taxpayer ending with or within the taxable year exceed fifty percent (50%) of the
14 adjusted basis in such building and its structural components as of the beginning of such period.
15 In the case of any rehabilitation, which may reasonably be expected to be completed in phases set
16 forth in architectural plans and specifications completed before the rehabilitation begins, the
17 above definition shall be applied by substituting "sixty (60) month period" for "twenty-four (24)
18 month period".

19 (15) "Trade or business" means an activity that is carried on for the production of income
20 from the sale of goods or performance of services, excluding residential rental activity.

21 **44-33.7-3. Tax credit.** -- (a) Any person, firm, partnership, trust, estate, limited liability
22 company, corporation (whether for profit or nonprofit) or other business entity that incurs
23 qualified rehabilitation expenditures for the substantial rehabilitation of a certified historic
24 structure, provided the rehabilitation meets standards consistent with the standards of the
25 Secretary of the United States Department of the Interior for rehabilitation as certified by the
26 commission and said person, firm, partnership, trust, estate, limited liability company,
27 corporation or other business entity is not a social club as defined in § 44-33.7-2(13) of this
28 chapter, shall be entitled to a credit against the taxes imposed on such person or entity pursuant to
29 chapters 11, 12, 13 (other than the tax imposed under § 44-13-13), 14, 17 or 30 of this title in an
30 amount equal to the following:

31 (1) Twenty percent (20%) of the qualified rehabilitation expenditures; or

32 (2) Twenty-five percent (25%) of the qualified rehabilitation expenditures provided that
33 either:

34 (i) At least twenty-five percent (25%) of the total rentable area of the certified historic

1 structure will be made available for a trade or business; or

2 (ii) The entire rentable area located on the first floor of the certified historic structure will
3 be made available for a trade or business; in either case for a period of sixty (60) months after the
4 placed in service date of the certified historic structure or identifiable portion thereof.

5 (b) Tax credits allowed pursuant to this chapter shall be allowed for the taxable year in
6 which such certified historic structure or an identifiable portion of the structure is placed in
7 service provided that the substantial rehabilitation test is met for such year. Notwithstanding
8 anything to the contrary, tax credits allowed pursuant to this chapter for fiscal years prior to 2015
9 may not be claimed until the taxpayer's tax year ending within fiscal year 2015.

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

19 (d) If the taxpayer has not claimed the tax credits in whole or part, taxpayers eligible for
20 the tax credits may assign, transfer or convey the credits, in whole or in part, by sale or otherwise
21 to any individual or entity, including, but not limited to, condominium owners in the event the
22 certified historic structure is converted into condominiums and assignees of the credits that have
23 not claimed the tax credits in whole or part may assign, transfer or convey the credits, in whole or
24 in part, by sale or otherwise to any individual or entity. The assignee of the tax credits may use
25 acquired credits to offset up to one hundred percent (100%) of the tax liabilities otherwise
26 imposed pursuant to chapters 11, 12, 13, (other than the tax imposed under § 44-13-13), 14, 17 or
27 30 of this title. The assignee may apply the tax credit against taxes imposed on the assignee until
28 the end of the tenth calendar year after the year in which the substantially rehabilitated property is
29 placed in service or until the full credit assigned is used, whichever occurs first. Fiscal year
30 assignees may claim the credit until the expiration of the fiscal year that ends within the tenth
31 year after the year in which the substantially rehabilitated property is placed in service. The
32 assignor shall perfect the transfer by notifying the division of taxation, in writing, within thirty
33 (30) calendar days following the effective date of the transfer and shall provide any information
34 as may be required by the division of taxation to administer and carry out the provisions of this

1 section. The general treasurer shall be empowered to promulgate rules and regulations to create
2 an open, transparent and electronic marketplace for the purchase and sale of tax credits.

3 For the purposes of this chapter, any assignment or sales proceeds received by the
4 taxpayer for its assignment or sale of the tax credits allowed pursuant to this section shall be
5 exempt from this title. If a tax credit is subsequently recaptured under subsection (e) of this
6 section, revoked or adjusted, the seller's tax calculation for the year of revocation, recapture, or
7 adjustment shall be increased by the total amount of the sales proceeds, without proration, as a
8 modification under chapter 30 of this title. In the event that the seller is not a natural person, the
9 seller's tax calculation under chapters 11, 12, 13 (other than with respect to the tax imposed under
10 § 44-13-13), 14, 17, or 30 of this title, as applicable, for the year of revocation, recapture, or
11 adjustment, shall be increased by including the total amount of the sales proceeds without
12 proration.

13 (e) Substantial rehabilitation of property that either:

14 (1) Is exempt from real property tax;

15 (2) Is a social club; or

16 (3) Consists of a single family home or a property that contains less than three (3)
17 residential apartments or condominiums shall be ineligible for the tax credits authorized under
18 this chapter; provided, however, a scattered site development with five (5) or more residential
19 units in the aggregate (which may include single family homes) shall be eligible for tax credit. In
20 the event a certified historic structure undergoes a substantial rehabilitation pursuant to this
21 chapter and within twenty-four (24) months after issuance of a certificate of completed work the
22 property becomes exempt from real property tax, the taxpayer's tax for the year shall be increased
23 by the total amount of credit actually used against the tax.

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

27 **44-33.7-4. Administration. --** (a) To claim the tax credit authorized in this chapter,
28 taxpayers shall apply:

29 (1) To the commission prior to the certified historic structure being placed in service for a
30 certification that the certified historic structure's rehabilitation will be consistent with the
31 standards of the Secretary of the United States Department of the Interior for rehabilitation;

32 (2) To the commission after completion of the rehabilitation work of the certified historic
33 structure for a certification that the rehabilitation is consistent with the standards of the Secretary
34 of the United States Department of the Interior for rehabilitation; and

1 (3) To the division of taxation for a certification as to the amount of tax credit for which
2 the rehabilitation qualifies. The commission and the division of taxation shall rely on the facts
3 represented in the application without independent investigation and, with respect to the amount
4 of tax credit for which the rehabilitation qualifies, upon the certification of a certified public
5 accountant licensed in the state. The application shall be developed by the commission and the
6 division of taxation and may be amended from time to time.

7 (b) Included in the taxpayer's application requesting certification of the tax credit for
8 which the rehabilitation qualified for to the division of taxation shall be the name, state of
9 residence, occupation, number of hours worked, and actual wages and fringe benefits paid to each
10 worker employed by the taxpayer and/or any of its contractors or subcontractors that completed
11 work on the qualified rehabilitation expenditures. This submission shall also include any
12 certifications required by § 44-33.7-8.

13 (1) By submitting this information, which shall be a public record, the taxpayer is
14 certifying that, to the best of taxpayer's actual knowledge, the information provided to the
15 division of taxation is accurate.

16 (2) No taxpayer and/or applicant shall receive a certification of tax credit under the
17 provisions of this chapter unless the division of taxation verifies that it has received all of the
18 required information under this subsection.

19 (3) The taxpayer shall pay a fine of five hundred dollars (\$500) to the general fund for
20 each individual submission of any false or materially inaccurate information to the division of
21 taxation under this subsection; provided however, that the taxpayer shall not be fined for any
22 information submitted that the division of taxation determines is a diminimus clerical error or was
23 otherwise an unintentional mistake (provided that the taxpayer cooperate with the division of
24 taxation to correct such information promptly upon being provided notice of such mistake).

25 (4) Any taxpayer found to have willfully made a false or fraudulent representation on
26 under this subsection shall be referred to the office of the attorney general. The willful false or
27 fraudulent representation shall be considered a misdemeanor and shall be punishable for a period
28 of not more than one year in prison and/or a fine of up to one thousand dollars (\$1,000) per
29 instance. This shall not apply to a taxpayer when: (i) A taxpayer's contractor or subcontractor has
30 willfully made a false or fraudulent representation or otherwise provided the taxpayer or the
31 division of taxation with false information; and (ii) The taxpayer did not have actual knowledge
32 that such representation or information was false and/or fraudulent. Furthermore, notwithstanding
33 the provisions above, no redress shall be sought against assignees, transferees or allocates of such
34 credits provided they acquired the tax credits by way of an arms-length transaction, for value, and

1 without actual notice from the commission or division of taxation of violation, fraud or willful
2 misrepresentation.

3 (c) Within thirty (30) days after the commission's and division of taxation's receipt of the
4 taxpayer's application requesting certification for the completed rehabilitation work:

5 (1) The commission shall issue the taxpayer a written determination either denying or
6 certifying the rehabilitation; and

7 (2) The division of taxation shall issue a certification of the amount of credit for which
8 the rehabilitation qualifies. To claim the tax credit, the division of taxation's certification as to the
9 amount of the tax credit shall be attached to all state tax returns on which the credit is claimed.

10 (d) No taxpayer may benefit from the provisions of this chapter unless the owner of the
11 certified historic structure grants a restrictive covenant to the commission, agreeing that during
12 the holding period no material alterations to the certified historic structure will be made without
13 the commission's prior approval and agreeing that such shall be done in a manner inconsistent
14 with the standards of the Secretary of the United States Department of the Interior; and, in the
15 event the owner applies for the twenty-five percent (25%) tax credit, that either:

16 (1) At least twenty-five percent (25%) of the total rentable area of the certified historic
17 structure will be made available for a trade or business; or

18 (2) The entire rentable area located on the first floor of the certified historic structure will
19 be made available for a trade or business, in either case, for a period of sixty (60) months after the
20 placed in service date of the certified historic structure or identifiable portion thereof.

21 (e) The division of taxation shall charge a fee not to exceed two thousand dollars (\$2,000)
22 which shall be paid upon the signing of the tax contract with the division of taxation. This fee
23 shall be nonrefundable.

24 (f) The aggregate value of all tax credits approved by the commission pursuant to this
25 chapter for projects that file applications prior to the sunset provisions contained in § 44-33-7.9
26 shall not exceed two hundred fifty million dollars (\$250,000,000).

27 (g) Notwithstanding any provisions of the general laws or regulations adopted thereunder
28 to the contrary, including, but not limited to, the provisions of chapter 2 of title 37, the division of
29 taxation is hereby expressly authorized and empowered to enter into contracts with persons,
30 firms, partnerships, trusts, estates, limited liability companies, corporations (whether for profit or
31 nonprofit) or other business entities that incur qualified rehabilitation expenditures for the
32 substantial rehabilitation of certified historic structures or some identifiable portion of a structure.
33 Upon payment of the portion of the fee set forth in subsection (d)(1) above, the division of
34 taxation and the applicant shall enter into a contract for tax credits consistent with the terms and

1 provisions of this chapter.

2 (h) Upon satisfaction of the requirements set forth herein and the payment of the fees as
3 set forth in subsection (e) above, the division of taxation shall, on behalf of the state, guarantee
4 through a contract with persons, firms, partnerships, trusts, estates, limited liability companies,
5 corporations (whether for profit or nonprofit) or other business entities that will incur qualified
6 rehabilitation expenditures for the substantial rehabilitation of a certified historic structure or
7 some identifiable portion of a structure the delivery and use of one hundred percent (100%) of the
8 tax credit in an amount equal to the lesser of: (i) The amount of the tax credit identified in such
9 contract; or (ii) The actual QREs incurred multiplied by the tax credit percentage applicable
10 pursuant to § 44-33.7-3(a).

11 (i) Any contract executed pursuant to this chapter by a person, firm, partnership, trust,
12 estate, limited liability company, corporation (whether for profit or nonprofit) or other business
13 entity shall be assignable to:

14 (1) An affiliate thereof without any consent from the division of taxation;

15 (2) A banking institution as defined by § 44-14-2(2) or credit union as defined in § 44-15-
16 1.1(1) without any consent from the division of taxation; or

17 (3) A person, firm, partnership, trust, estate, limited liability company, corporation
18 (whether for profit or nonprofit) or other business entity that incurs qualified rehabilitation
19 expenditures for the substantial rehabilitation of certified historic structures or some identifiable
20 portion of a structure, with such assignment to be approved by the division of taxation, which
21 approval shall not be unreasonably withheld or conditioned. For purposes of this subsection,
22 "affiliate" shall be defined as any entity controlling, controlled by or under common control with
23 such person, firm, partnership, trust, estate, limited liability company, corporation (whether for
24 profit or nonprofit) or other business entity.

25 (j) If information comes to the attention of the commission or division of taxation at any
26 time up to and including the last day of the holding period that is materially inconsistent with
27 representations made in an application, the commission may deny the requested certification or
28 revoke a certification previously given, and in either instance all fees paid by the applicant shall
29 be deemed forfeited. In the event that tax credits or a portion of tax credits are subject to
30 recapture for ineligible costs and such tax credits have been transferred, assigned and/or
31 allocated, the state will pursue its recapture remedies and rights against the applicant of the tax
32 credits, and all fees paid by the applicant shall be deemed forfeited. No redress shall be sought
33 against assignees, transferees or allocates of such credits provided they acquired the tax credits by
34 way of an arms-length transaction, for value, and without notice by the commission or division of

1 taxation of violation, fraud or willful misrepresentation.

2 **44-33.7-5. Information requests.** -- The tax division and its agents, for the purpose of
3 ascertaining the correctness of any credit claimed under the provisions of this chapter, may
4 examine any books, papers, records, or memoranda bearing upon the matters required to be
5 included in the return, report, or other statement, and may require the attendance of the person
6 executing the return, report, or other statement, or of any officer or employee of any taxpayer, or
7 the attendance of any other person, and may examine the person under oath respecting any matter
8 which the tax administrator or his or her agent deems pertinent or material in determining the
9 eligibility for credits claimed and may request information from the commission, and the
10 commission shall provide the information in all cases, to the extent not otherwise prohibited by
11 statute.

12 **44-33.7-6. Election; Limitations.** -- Taxpayers who elect and qualify to claim tax credits
13 for the substantial rehabilitation of a certified historic structure pursuant to this chapter are
14 ineligible for any tax credits that may also be available to the taxpayer for the substantial
15 rehabilitation of that particular certified historic structure under the provisions of chapters 31 and
16 33.1 of this title, or 64.7 of title 42. As stated above, neither taxpayers nor assignees may claim
17 any tax credits issued in accordance with this section until fiscal year 2015. Applicants or their
18 affiliates that have entered into a contract for tax credits concerning a certain property under
19 chapter 33.2 of title 44 and subsequently withdraw from or otherwise terminate said contract shall
20 not reapply under this chapter with respect to the same property; provided, however, the
21 foregoing shall not prohibit a subsequent bona fide third-party from terminating a contract for tax
22 credits entered into under chapter 33.2 of title 44 by an unrelated and unaffiliated party and
23 applying under this chapter with respect to said property.

24 **44-33.7-7. Timing and reapplication.** -- Taxpayers shall have twelve (12) months from
25 the approval of Part II application to commence substantial construction activities related to the
26 subject substantial rehabilitation. Upon commencing substantial construction activities, the
27 taxpayer shall submit an affidavit of commencement of substantial construction to the
28 commission, together with evidence of such requirements having been satisfied. Furthermore,
29 after commencement of substantial construction activities, no project shall remain idle prior to
30 completion for a period of time exceeding six (6) months. In the event that a taxpayer does not
31 commence substantial construction activities within twelve (12) months from the approval of Part
32 II application, or in the event that a project remains idle prior to completion for a period of time
33 exceeding six (6) months, the subject taxpayer shall forfeit all fees paid prior to such date and its
34 then current contract for tax credits shall be deemed null and void, and shall terminate without

1 need for further action or documentation. Upon any such forfeiture and termination, a taxpayer
2 may reapply for tax credits pursuant to this chapter, however, notwithstanding anything contained
3 herein to the contrary, one hundred percent (100%) of the fees required shall be paid upon
4 reapplication and such fees shall be non-refundable. Additionally, any taxpayer reapplying for tax
5 credits pursuant to this section shall be required to submit evidence with its application
6 establishing the reason for delay in commencement or the project sitting idle, as the case may be,
7 and provide evidence, reasonably satisfactory to the commission, that such condition or event
8 causing same has been resolved. All taxpayers shall submit a reasonably detailed project timeline
9 to the commission together with the Part II application. The provisions of this section shall be
10 further detailed and incorporated into the form of contract for tax credits used in connection with
11 this chapter.

12 **44-33.7-8. Subcontractor Rates – Substantial projects. --** (a) Taxpayers who elect and
13 qualify to claim tax credits for the substantial rehabilitation of a certified historic structure
14 pursuant to this chapter, and where such substantial rehabilitation of a certified historic structure
15 pursuant to this chapter includes hard-construction costs (exclusive of land costs and soft costs,
16 such excluded soft costs including, but not limited to, permit fees, tap/connection fees, developer
17 fees, insurance costs, overhead expense, legal fees, engineering fees, architectural fees, brokerage
18 fees, consultant fees, and the like) that exceed ten million dollars (\$10,000,000) (the "hard costs
19 threshold") shall only utilize contractors that have an apprenticeship program as defined herein
20 for all apprenticeable crafts that will be employed on the project at the time of bid. The provisions
21 of the section shall only apply to contractors and subcontractors with five (5) or more employees.
22 For purposes of this section, an apprenticeship program is one that is registered with and
23 approved by the United States Department of Labor in conformance with 29 C.F.R. 29 and 29
24 C.F.R. 30; and :

25 (i) The department of labor and training must provide information and technical
26 assistance to affected governmental, quasi-governmental agencies, and any contractors awarded
27 projects relative to their obligations under this statute.

28 (ii) The department of labor and training may also impose a penalty of up to five hundred
29 dollars (\$500) for each calendar day of noncompliance with this section, as determined by the
30 director of labor and training. Mere errors and/or omissions shall not be grounds for imposing a
31 penalty under this subsection.

32 (iii) Any penalties assessed under this chapter shall be paid to the general fund. To the
33 extent that any of the provisions contained in § 37-13-3.2 conflict with the requirements for
34 federal aid contracts, federal law and regulations shall control.

1 (b) In connection with a failure to comply with the terms of subsection (a) of this section,
2 any employee or former employee, or any organization representing such an employee or former
3 employee, shall be entitled to pursue any and all remedies available at law to such aggrieved
4 person or entity.

5 (c) In the event that a project is initially submitted to the commission with hard costs that
6 do not exceed the hard costs threshold and therefore the requirements of § 44-33.7-8(a) are not
7 followed, however, the subject project's hard costs end up exceeding the hard costs threshold
8 absent willful misconduct or fraud by the taxpayer, the applicable tax credits will still be issued
9 with respect to all hard costs up to the hard costs threshold (in addition to other amounts that
10 qualify as QREs). In such event, however, no tax credits shall be issued for any hard costs that
11 exceed the hard costs threshold unless the requirements of § 44-33.7-8(a) were complied with.

12 (d) Notwithstanding the requirements of this section, no redress shall be sought against
13 assignees, transferees or allocates of such credits provided they acquired the tax credits by way of
14 an arms-length transaction, for value, and without actual notice by the commission or division of
15 taxation of violation, fraud or willful misrepresentation.

16 **44-33.7-9. Sunset provision.** -- There shall be no more applications for historic tax credit
17 certifications accepted after July 1, 2025, but all applications filed on or before such date shall
18 continue to be processed in accordance with this chapter.

19 SECTION 3. Sections 42-64.4-2 and 42-64.4-3 of the General Laws in Chapter 42-64.4
20 entitled "Economic Development Reporting" are hereby amended to read as follows:

21 **42-64.4-2. Annual reports.** -- Any board, corporation, commission, agency or other
22 entity of the state which issues or approves tax-exempt bonds, or bonds which are partially tax-
23 exempt, for historic tax credits or private uses, including, but not necessarily limited to, industrial
24 revenue bonds, and any corporation or agency whose purpose is to encourage economic
25 development or to assist private development in any manner by the issuance or approval of tax
26 exempt bonds or bonds which are partially tax-exempt or by the insurance of private financing or
27 historic tax credits, shall submit sufficient information to the executive director of the economic
28 development corporation to enable the executive director to submit an annual report to the general
29 assembly containing the information described in § 42-64.4-3, and the executive director shall
30 submit a report by March 1 of each year.

31 **42-64.4-3. Contents of annual report.** -- The annual reports required by the provisions
32 of this chapter shall include:

33 (1) The annual budget of the board, corporation, commission or state entity affected by
34 the provisions of this chapter;

1 (2) A listing of all applications for assistance [or historic tax credits](#) submitted to the
2 board, corporation, commission or state entity during the preceding calendar year, which listing
3 shall designate those applications which were approved or disapproved or pending;

4 (3) The amount and year of issue of each [historic tax credit](#), tax exempt bond or partially
5 tax exempt bond issued or approved which remains active or unpaid and the amount of each
6 private loan insured and the amount of each loan which remains outstanding;

7 (4) The number of persons employed by the board, corporation, commission, or other
8 state entity at the commencement of the preceding calendar year, including the number of persons
9 remaining so employed at the time of the annual report, and their salaries;

10 (5) The number of new jobs created and/or the number of jobs preserved as a result of
11 the issuance of [historic tax credits or](#) bonds or by the insurance of private financing including, by
12 way of illustration and not by limitation, the wages and salaries in each job category as
13 determined by the applicable Federal S.I.C. Codes;

14 (6) A listing of the jobs filled through the utilization of the pathways to progress program
15 of the department of human services;

16 (7) A listing of the jobs filled through the utilization of the workforce 2000 program of
17 the department of labor and training;

18 (8) A listing of any violations of the national Labor Relations Act or citations of
19 violation issued by the national Labor Relations Board to any entity which has received the
20 benefit of any tax exempt or partially tax exempt bond or any insurance of private financing; and

21 (9) A listing of any violations of federal or state environmental laws and regulations
22 during the preceding calendar year by any entity which has received the benefit of any tax exempt
23 or partially tax exempt bond or any insurance of private financing.

24 SECTION 4. 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 -- HISTORIC STRUCTURES

- 1 This act would create economic incentives for the redevelopment and reuse of Rhode
- 2 Island's historic structures.
- 3 This act would take effect upon passage.

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LC002124
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