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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - RHODE ISLAND TAX  
INCREMENT FINANCING

Introduced By: Representatives Craven, and Casimiro

Date Introduced: March 23, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-64.21-3 and 42-64.21-6 of the General Laws in Chapter 42-  
2 64.21 entitled "Rhode Island Tax Increment Financing" are hereby amended to read as follows:

3 **42-64.21-3. Definitions.**

4 As used in this chapter:

5 (1) "Applicant" means a developer proposing to enter into a tax increment financing  
6 agreement under this chapter.

7 (2) "Commerce corporation" means the Rhode Island commerce corporation established  
8 pursuant to general laws § 42-64-1 et seq.

9 (3) "Developer" means a person, firm, corporation, partnership, association, political  
10 subdivision, or other entity that proposes to divide, divides, or causes to be divided real property  
11 into a subdivision or proposes to build, or builds a building or buildings or otherwise improves  
12 land or existing structures, which division, building, or improvement qualifies for benefits under  
13 this chapter. In the case of a political subdivision, the terms "improves land" and/or  
14 "improvement" shall include public infrastructure such as sewers and pumping stations.

15 (4) "Hope Community" means a municipality for which the five (5) year average  
16 percentage of families with income below the federal poverty level exceeds the state five (5) year  
17 average percentage, both most recently reported by the U.S. Department of Commerce, Bureau of  
18 the Census.

1 (5) "Eligible revenue" means the incremental revenues set forth in § 42-64.21-5 of this  
2 chapter.

3 (6) "Incremental" means (i) net new revenue to the State of Rhode Island as defined by  
4 the commerce corporation, in consultation with the department of revenue as established in  
5 Chapter 42-142 of the general laws, or (ii) existing revenue at substantial risk of loss to the State  
6 of Rhode Island as defined by the commerce corporation in consultation with the department of  
7 revenue.

8 (7) "Project area" means land or lands under common ownership or control as certified by  
9 the commerce corporation, or in the case of a political subdivision, the project area agreed upon  
10 by such developer and the commerce corporation which need not be under common ownership or  
11 control but shall be within the boundaries of such political subdivision.

12 (8) "Project financing gap" means:

13 (i) The part of the total project cost that remains to be financed after all other sources of  
14 capital have been accounted for, including, but not limited to, developer-contributed capital, and  
15 in the case of a political subdivision, capital shall mean planned or actual assessments for public  
16 infrastructure whether or not such infrastructure is existing at the time of the TIF agreement,  
17 which shall be defined through rules and regulations promulgated by the commerce corporation;  
18 or

19 (ii) The amount of funds that the state may invest in a project to gain a competitive  
20 advantage over a viable and comparable location in another state by means described in this  
21 chapter.

22 (9) "Qualified development project" means a specific construction project or  
23 improvement, including lands, buildings, improvements, real and personal property or any  
24 interest therein, including lands under water, riparian rights, space rights and air rights, acquired,  
25 owned, leased, developed or redeveloped, constructed, reconstructed, rehabilitated or improved,  
26 or in the case of a political subdivision, public infrastructure, undertaken by a developer, owner or  
27 tenant, or both, within a specific geographic area, meeting the requirements of this chapter, as set  
28 forth in an application made to the commerce corporation.

29 (10) "Qualifying TIF area" shall mean an area containing a qualified development project  
30 identified by the commerce corporation as a priority because of its potential to generate, preserve  
31 or otherwise enhance jobs or its potential to produce, preserve or otherwise enhance housing  
32 units. The commerce corporation shall take into account the following factors in determining  
33 whether a qualified development project is a priority:

34 (i) Generation or preservation of manufacturing jobs;

- 1 (ii) Promotion of targeted industries;
- 2 (iii) Location in a port or airport district, and any property connected or to be connected
- 3 to the wastewater treatment facility operated by the Quonset development corporation shall be
- 4 eligible to be included in a port district;
- 5 (iv) Location in an industrial or research park;
- 6 (v) Location in a transit oriented development area;
- 7 (vi) Location in a hope community;
- 8 (vii) Location in an area designated by a municipality as a redevelopment area under §
- 9 45-32-4 of the general laws; and
- 10 (viii) Location in an area located within land approved for closure under any federal
- 11 commission on base realignment and closure action.
- 12 (11) "Revenue increment base" means the amounts of all eligible revenues from sources
- 13 within the qualifying TIF area in the calendar year preceding the year in which the TIF agreement
- 14 is executed, as certified by the division of taxation.
- 15 (12) "TIF agreement" means an agreement between the commerce corporation and a
- 16 developer, under which, in exchange for the benefits of the funding derived from qualification
- 17 under this chapter, the developer agrees to perform any work or undertaking necessary for a
- 18 qualified development project, including the clearance, development or redevelopment,
- 19 construction, or rehabilitation of any structure or improvement of commercial, industrial, or
- 20 residential property; public infrastructure; preexisting municipally-owned stadium of 10,000 seats
- 21 or greater; or utilities within a qualifying TIF area. In the case of a political subdivision, all or any
- 22 part of such public infrastructure may have been completed prior to the time of the TIF
- 23 agreement.
- 24 (13) "TIF payment" means reimbursement of all or a portion of the project financing gap
- 25 of a qualified development project from the division of taxation as provided under this chapter.
- 26 (14) "Targeted industry" means any advanced, promising or otherwise prioritized
- 27 industry identified in the economic development vision and policy promulgated pursuant General
- 28 Laws § 42-64.17-1 or, until such time as any such economic development vision and policy is
- 29 promulgated, as identified by the commerce corporation.
- 30 (15) "Transit oriented development area" means an area in proximity to transit
- 31 infrastructure that will be further defined by regulation of the commerce corporation in
- 32 consultation with the Rhode Island department of transportation.

33 **42-64.21-6. Agreements permitted.**

- 34 (a) The commerce corporation is authorized to enter into a TIF agreement with a

1 developer for any qualified development project located within a qualifying TIF area. The TIF  
2 agreement between the commerce corporation and the developer shall contain a provision  
3 acknowledging that the benefits of said agreement, with the exception of 42-64.21-5(d) of this  
4 chapter, are subject to such annual appropriation.

5 (b) The decision whether or not to enter into a TIF agreement is solely within the  
6 discretion of the commerce corporation. However, to enter into an agreement with the commerce  
7 corporation as authorized in this chapter, applicants shall apply:

8 (1) To the commerce corporation for approval of the proposed project. Such approval  
9 shall require:

10 (i) That the applicant has submitted a completed application as developed by the  
11 commerce corporation;

12 (ii) That the chief executive officer of the commerce corporation provide written  
13 confirmation to the commerce corporation board that (A) the commerce corporation has reviewed  
14 the application and any determination regarding the potential impact on the project's ability to  
15 promote the retention and expansion of existing jobs, stimulate the creation of new jobs,  
16 including good-paying jobs, attract new business and industry to the state, and stimulate growth  
17 in real estate developments and/or businesses that are prepared to make meaningful investment  
18 and foster job creation in the state; and (B) the length of the TIF agreement and the percentage of  
19 incremental revenues to be allocated under the TIF agreement.

20 (iii) That the secretary of commerce provide written confirmation to the commerce  
21 corporation board that the recommendation of the commerce corporation is consistent with the  
22 purposes of this chapter.

23 (c) A developer that has entered into a TIF agreement with the commerce corporation  
24 pursuant to this section may, upon notice to and consent of the corporation, pledge and assign as  
25 security for any loan, any or all of its right, title and interest in and to the TIF agreement and in  
26 the TIF payments due thereunder, and the right to receive same, along with the rights and  
27 remedies provided to the developer under such agreement. Any such assignment shall be an  
28 absolute assignment for all purposes, including the federal bankruptcy code. Without limiting the  
29 generality of the foregoing, and notwithstanding the provisions of any general or special law or  
30 municipal charter to the contrary, any municipality entering into or entered in a TIF agreement  
31 with the commerce corporation may, upon notice to the corporation, pledge and assign as security  
32 for any loan from the Rhode Island infrastructure bank to the municipality, any or all of the  
33 municipality's right, title, and interest in and to the TIF agreement and in the TIF payments due  
34 thereunder, and the right to receive same, along with the rights and remedies provided to the

1 [municipality under such agreement.](#)

2 (d) Any pledge of TIF payments made by the developer shall be valid and binding from  
3 the time when the pledge is made and filed in the records of the commerce corporation. The TIF  
4 agreement and payments so pledged and thereafter received by the developer shall immediately  
5 be subject to the lien of the pledge without any physical delivery thereof or further act, and the  
6 lien of any pledge shall be valid and binding as against all parties having claims of any kind in  
7 tort, contract, or otherwise against the developer irrespective of whether the parties have notice  
8 thereof.

9 (e) The commerce corporation shall be entitled to impose an application fee and impose  
10 other charges upon developers associated with the review of a project and the administration of  
11 the program.

12 (f) Maximum agreement amount. In no event shall the amount of the reimbursements  
13 under a TIF agreement exceed 30 percent of the total cost of the project and provided further, that  
14 the commerce corporation may exempt public infrastructure, a preexisting municipally-owned  
15 stadium of 10,000 seats or greater, or utilities from said 30 percent cap.

16 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 STATE AFFAIRS AND GOVERNMENT - RHODE ISLAND TAX  
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1           This act would allow infrastructure of a political subdivision to qualify for tax increment  
2 financing agreements. This act would also permit a municipality entering into a TIF agreement  
3 with the commerce corporation to pledge and assign the municipality's interest in the TIF  
4 agreement as security for any loan from the Rhode Island infrastructure bank to the municipality.

5           This act would take effect upon passage.

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