

ARTICLE 12

RELATING TO ECONOMIC DEVELOPMENT

SECTION 1. Section 42-64.20-3 of the General Laws in Chapter 42-64.20 entitled "Rebuild Rhode Island Tax Credit Act" is hereby amended to read as follows:

42-64.20-3. Definitions.

(1) "Adaptive reuse" means the conversion of an existing structure from the use for which it was constructed to a new use by maintaining elements of the structure and adapting such elements to a new use.

(2) "Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to § 1563 of the Internal Revenue Code of 1986 (26 U.S.C. § 1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of § 414 of the Internal Revenue Code of 1986 (26 U.S.C. § 414). A taxpayer may establish by clear and convincing evidence, as determined by the tax administrator, that control exists in situations involving lesser percentages of ownership than required by those statutes. An affiliate of a business may contribute to meeting either the capital investment or full-time employee requirements of a business that applies for a credit under this chapter.

(3) "Affordable housing" means housing for sale or rent with combined rental costs or combined mortgage loan debt service, property taxes, and required insurance that do not exceed thirty percent (30%) of the gross annual income of a household earning up to eighty percent (80%) of the area median income, as defined annually by the United States Department of Housing and Urban Development.

(4) "Applicant" means a developer applying for a rebuild Rhode Island tax credit under this chapter.

(5) "Business" means a corporation as defined in § 44-11-1(4), or a partnership, an S corporation, a non-profit corporation, a sole proprietorship, or a limited liability corporation. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by an affiliate.

(6) "Capital investment" in a real estate project means expenses by a developer incurred

1 after application for:

2 (i) Site preparation and construction, repair, renovation, improvement, equipping, or
3 furnishing on real property or of a building, structure, facility, or improvement to real property;

4 (ii) Obtaining and installing furnishings and machinery, apparatus, or equipment, including
5 but not limited to material goods for the operation of a business on real property or in a building,
6 structure, facility, or improvement to real property.

7 In addition to the foregoing, if a developer acquires or leases a qualified development
8 project, the capital investment made or acquired by the seller or owner, as the case may be, if
9 pertaining primarily to the premises of the qualified development project, shall be considered a
10 capital investment by the developer and, if pertaining generally to the qualified development project
11 being acquired or leased, shall be allocated to the premises of the qualified development project on
12 the basis of the gross leasable area of the premises in relation to the total gross leasable area in the
13 qualified development project. The capital investment described herein shall be defined through
14 rules and regulations promulgated by the commerce corporation.

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

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

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

19 (iii) Located in a registered historic district and certified by either the Rhode Island
20 historical preservation and heritage commission created pursuant to § 42-45-2 or the Secretary of
21 the Interior as being of historic significance to the district.

22 (8) "Commerce corporation" means the Rhode Island commerce corporation established
23 pursuant to § 42-64-1 et seq.

24 (9) "Commercial" shall mean non-residential development.

25 (10) "Developer" means a person, firm, business, partnership, association, political
26 subdivision, or other entity that proposes to divide, divides, or causes to be divided real property
27 into a subdivision or proposes to build, or builds a building or buildings or otherwise improves land
28 or existing structures, which division, building, or improvement qualifies for benefits under this
29 chapter.

30 (11) "Development" means the improvement of land through the carrying out of building,
31 engineering, or other operations in, on, over, or under land, or the making of any material change
32 in the use of any buildings or land for the purposes of accommodating land uses.

33 (12) "Eligibility period" means the period in which a developer may claim a tax credit
34 under this act, beginning with the tax period in which the commerce corporation accepts

1 certification from the developer that it has met the requirements of the act and extending thereafter
2 for a term of five (5) years.

3 (13) "Full-time employee" means a person who is employed by a business for consideration
4 for a minimum of at least thirty-five (35) hours per week, or who renders any other standard of
5 service generally accepted by custom or practice as full-time employment, or who is employed by
6 a professional employer organization pursuant to an employee leasing agreement between the
7 business and the professional employer organization for a minimum of thirty-five (35) hours per
8 week, or who renders any other standard of service generally accepted by custom or practice as
9 full-time employment, and whose wages are subject to withholding.

10 (14) "Hope community" means a municipality for which the five-year (5) average
11 percentage of families with income below the federal poverty level exceeds the state five-year (5)
12 average percentage, both as most recently reported by the U.S. Department of Commerce, Bureau
13 of the Census.

14 (15) "Manufacturer" shall mean any entity that:

15 (a) Uses any premises within the state primarily for the purpose of transforming raw
16 materials into a finished product for trade through any or all of the following operations: adapting,
17 altering, finishing, making, processing, refining, metalworking, and ornamenting, but shall not
18 include fabricating processes incidental to warehousing or distribution of raw materials, such as
19 alteration of stock for the convenience of a customer; or

20 (b) Is described in codes 31-33 of the North American Industry Classification System, as
21 revised from time to time.

22 ~~(15)~~(16) "Mixed use" means a development comprising both commercial and residential
23 components.

24 ~~(17)~~6 "Partnership" means an entity classified as a partnership for federal income tax
25 purposes.

26 ~~(18)~~7 "Placed in service" means the earlier of i) substantial construction or rehabilitation
27 work has been completed which would allow for occupancy of an entire structure or some
28 identifiable portion of a structure, as established in the application approved by the commerce
29 corporation board or ii) receipt by the developer of a certificate, permit or other authorization
30 allowing for occupancy of the project or some identifiable portion of the project by the municipal
31 authority having jurisdiction.

32 ~~(19)~~8 "Project" means qualified development project as defined under subsection (22).

33 ~~(20)~~9 "Project area" means land or lands under common ownership or control in which a
34 qualified development project is located.

1 (21~~9~~) "Project cost" means the costs incurred in connection with the qualified development
2 project or qualified residential or mixed use project by the applicant until the issuance of a
3 permanent certificate of occupancy, or until such other time specified by the commerce corporation,
4 for a specific investment or improvement, as defined through rules and regulations promulgated by
5 the commerce corporation.

6 (22~~1~~) "Project financing gap" means

7 (i) The part of the total project cost that remains to be financed after all other sources of
8 capital have been accounted for (such sources will include, but not be limited to, developer-
9 contributed capital), which shall be defined through rules and regulations promulgated by the
10 commerce corporation, or

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

13 (23~~2~~) "Qualified development project" means a specific construction project or
14 improvement, including lands, buildings, improvements, real and personal property or any interest
15 therein, including lands under water, riparian rights, space rights and air rights, acquired, owned,
16 leased, developed or redeveloped, constructed, reconstructed, rehabilitated or improved,
17 undertaken by a developer, owner or tenant, or both, within a specific geographic area, meeting the
18 requirements of this chapter, as set forth in an application made to the commerce corporation.

19 (24~~3~~) "Recognized historical structure" means a property which is located in the state of
20 Rhode Island and is commonly considered to be of historic or cultural significance as determined
21 by the commerce corporation in consultation with the state historic preservation officer.

22 (24~~4~~)(25) "Residential" means a development of residential dwelling units.

23 (26~~5~~) "Targeted industry" means any advanced, promising, or otherwise prioritized
24 industry identified in the economic development vision and policy promulgated pursuant to § 42-
25 64.17-1 or, until such time as any such economic development vision and policy is promulgated,
26 as identified by the commerce corporation.

27 (27~~6~~) "Transit oriented development area" means an area in proximity to transit
28 infrastructure that will be further defined by regulation of the commerce corporation in consultation
29 with the Rhode Island department of transportation.

30 (28~~7~~) "Workforce housing" means housing for sale or rent with combined rental costs or
31 combined mortgage loan debt service, property taxes, and required insurance that do not exceed
32 thirty percent (30%) of the gross annual income of a household earning between eighty percent
33 (80%) and one hundred and forty percent (140%) of the area median income, as defined annually
34 by the United States Department of Housing and Urban Development.

1 SECTION 2. Section 42-64.20-5 of the General Laws in Chapter 42-64.20 entitled
2 "Rebuild Rhode Island Tax Credit" is hereby amended to read as follows:

3 **42-64.20-5. Tax credits.**

4 (a) An applicant meeting the requirements of this chapter may be allowed a credit as set
5 forth hereinafter against taxes imposed upon such person under applicable provisions of title 44 of
6 the general laws for a qualified development project.

7 (b) To be eligible as a qualified development project entitled to tax credits, an applicant's
8 chief executive officer or equivalent officer shall demonstrate to the commerce corporation, at the
9 time of application, that:

10 (1) The applicant has committed capital investment or owner equity of not less than twenty
11 percent (20%) of the total project cost;

12 (2) There is a project financing gap in which after taking into account all available private
13 and public funding sources, the project is not likely to be accomplished by private enterprise
14 without the tax credits described in this chapter; and

15 (3) The project fulfills the state's policy and planning objectives and priorities in that:

16 (i) The applicant will, at the discretion of the commerce corporation, obtain a tax
17 stabilization agreement from the municipality in which the real estate project is located on such
18 terms as the commerce corporation deems acceptable;

19 (ii) It (A) is a commercial development consisting of at least 25,000 square feet occupied
20 by at least one business employing at least 25 full-time employees after construction or such
21 additional full-time employees as the commerce corporation may determine; (B) is a multi-family
22 residential development in a new, adaptive reuse, certified historic structure, or recognized
23 historical structure consisting of at least 20,000 square feet and having at least 20 residential units
24 in a hope community; or (C) is a mixed-use development in a new, adaptive reuse, certified historic
25 structure, or recognized historical structure consisting of at least 25,000 square feet occupied by at
26 least one business, subject to further definition through rules and regulations promulgated by the
27 commerce corporation; and

28 (iii) Involves a total project cost of not less than \$5,000,000, except for a qualified
29 development project located in a hope community or redevelopment area designated under § 45-
30 32-4 in which event the commerce corporation shall have the discretion to modify the minimum
31 project cost requirement.

32 (c) The commerce corporation shall develop separate, streamlined application processes
33 for the issuance of Rebuild RI tax credits for each of the following:

34 (1) Qualified development projects that involve certified historic structures;

1 (2) Qualified development projects that involve recognized historical structures;
2 (3) Qualified development projects that involved at least one manufacturer; and
3 (4) Qualified development projects that include affordable housing or workforce housing.
4 (d) Applications made for a historic structure or recognized historic structure tax credit
5 under chapter 33.6 of title 44 shall be considered for tax credits under this chapter. The division of
6 taxation, at the expense of the commerce corporation, shall provide communications from the
7 commerce corporation to those who have applied for and are in the queue awaiting the offer of tax
8 credits pursuant to chapter 33.6 of title 44 regarding their potential eligibility for the Rebuild RI
9 Tax Credit program.

10 ~~(e)~~(e) Applicants (i) who have received the notice referenced in subsection (d) above and
11 who may be eligible ~~qualifying~~ for a tax credit pursuant to chapter 33.6 of title 44, (ii) whose
12 application involves a certified historic structure or recognized historical structure, or (iii) whose
13 project is occupied by at least one manufacturer shall be exempt from the requirements of
14 subparagraphs (b)(3)(ii) and (b)(3)(iii) of this section. The following procedure shall apply to such
15 applicants:

16 (1) The division of taxation shall remain responsible for determining the eligibility of an
17 applicant for tax credits awarded under chapter 33.6 of title 44;

18 (2) The commerce corporation shall retain sole authority for determining the eligibility of
19 an applicant for tax credits awarded under this chapter; and

20 (3) The commerce corporation shall not award in excess of fifteen percent (15%) of the
21 annual amount ~~appropriated~~ authorized in any fiscal year to applicants seeking tax credits pursuant
22 to this subsection ~~(ee)~~.

23 ~~(f)~~(f) *Maximum project credit.*

24 (i) For qualified development projects, the maximum tax credit allowed under this chapter
25 shall be the lesser of (1) thirty percent (30%) of the total project cost; or (2) the amount needed to
26 close a project financing gap (after taking into account all other private and public funding sources
27 available to the project), as determined by the commerce corporation.

28 (ii) The credit allowed pursuant to this chapter, inclusive of any sales and use tax
29 exemptions allowed pursuant to this chapter, shall not exceed fifteen million dollars (\$15,000,000)
30 for any qualified development project under this chapter; provided, further, any project which
31 exceeded the cap prior to passage of this act shall not be further increased. No building or qualified
32 development project to be completed in phases or in multiple projects shall exceed the maximum
33 project credit of fifteen million dollars (\$15,000,000) for all phases or projects involved in the
34 rehabilitation of such building. Provided, however, that for purposes of this subsection and no more

1 than once in a given fiscal year, the commerce corporation may consider the development of land
2 and buildings by a developer on the "I-195 land" (as defined in § 42-64.24-3(6) of the general laws)
3 as a separate, qualified development project from a qualified development project by a tenant or
4 owner of a commercial condominium or similar legal interest including leasehold improvement, fit
5 out, and capital investment. Such qualified development project by a tenant or owner of a
6 commercial condominium or similar legal interest on the I-195 land may be exempted from
7 subparagraph ~~(d)(i)(1)~~ (f)(i)(1).

8 ~~(e)(g)~~ Credits available under this chapter shall not exceed twenty percent (20%) of the
9 project cost, provided, however, that the applicant shall be eligible for additional tax credits of not
10 more than ten percent (10%) of the project cost, if the qualified development project meets any of
11 the following criteria or other additional criteria determined by the commerce corporation from
12 time to time in response to evolving economic or market conditions:

- 13 (1) The project includes adaptive reuse or development of a recognized historical structure;
- 14 (2) The project is undertaken by or for a targeted industry;
- 15 (3) The project is located in a transit-oriented development area;
- 16 (4) The project includes residential development of which at least twenty percent (20%) of
17 the residential units are designated as affordable housing or workforce housing;
- 18 (5) The project includes the adaptive reuse of property subject to the requirements of the
19 industrial property remediation and reuse act, § 23-19.14-1 et seq.; or
- 20 (6) The project includes commercial facilities constructed in accordance with the minimum
21 environmental and sustainability standards, as certified by the commerce corporation pursuant to
22 Leadership in Energy and Environmental Design or other equivalent standards.

23 ~~(f)(h)~~ (h) *Maximum aggregate credits.* The aggregate sum authorized pursuant to this chapter,
24 inclusive of any sales and use tax exemptions allowed pursuant to this chapter, shall not exceed ~~one~~
25 ~~hundred and fifty million dollars (\$150,000,000)~~ two hundred million dollars (\$200,000,000).

26 ~~(g)(i)~~ Tax credits shall not be allowed under this chapter prior to the taxable year in which
27 the project is placed in service.

28 ~~(h)(j)~~ (j) The amount of a tax credit allowed under this chapter shall be allowable to the taxpayer
29 in up to five, annual increments; no more than thirty percent (30%) and no less than fifteen percent
30 (15%) of the total credits allowed to a taxpayer under this chapter may be allowable for any taxable
31 year.

32 ~~(i)(k)~~ (k) If the portion of the tax credit allowed under this chapter exceeds the taxpayer's total
33 tax liability for the year in which the relevant portion of the credit is allowed, the amount that
34 exceeds the taxpayer's tax liability may be carried forward for credit against the taxes imposed for

1 the succeeding four (4) years, or until the full credit is used, whichever occurs first. Credits allowed
2 to a partnership, a limited liability company taxed as a partnership, or multiple owners of property
3 shall be passed through to the persons designated as partners, members, or owners respectively pro
4 rata or pursuant to an executed agreement among such persons designated as partners, members,
5 or owners documenting an alternate distribution method without regard to their sharing of other tax
6 or economic attributes of such entity.

7 (f) The commerce corporation in consultation with the division of taxation shall establish,
8 by regulation, the process for the assignment, transfer, or conveyance of tax credits.

9 (m) For purposes of this chapter, any assignment or sales proceeds received by the
10 taxpayer for its assignment or sale of the tax credits allowed pursuant to this section shall be exempt
11 from taxation under title 44. If a tax credit is subsequently revoked or adjusted, the seller's tax
12 calculation for the year of revocation or adjustment shall be increased by the total amount of the
13 sales proceeds, without proration, as a modification under chapter 30 of title 44. In the event that
14 the seller is not a natural person, the seller's tax calculation under chapters 11, 13, 14, or 17 of title
15 44 of the general laws, as applicable, for the year of revocation, or adjustment, shall be increased
16 by including the total amount of the sales proceeds without proration.

17 (h) The tax credit allowed under this chapter may be used as a credit against corporate
18 income taxes imposed under chapters 11, 13, 14, or 17, of title 44, or may be used as a credit against
19 personal income taxes imposed under chapter 30 of title 44 for owners of pass-through entities such
20 as a partnership, a limited liability company taxed as a partnership, or multiple owners of property.

21 (o) In the case of a corporation, this credit is only allowed against the tax of a corporation
22 included in a consolidated return that qualifies for the credit and not against the tax of other
23 corporations that may join in the filing of a consolidated tax return.

24 (p) Upon request of a taxpayer and subject to annual appropriation, the state shall redeem
25 such credit, in whole or in part, for ninety percent (90%) of the value of the tax credit. The division
26 of taxation, in consultation with the commerce corporation, shall establish by regulation a
27 redemption process for tax credits.

28 (q) Projects eligible to receive a tax credit under this chapter may, at the discretion of the
29 commerce corporation, be exempt from sales and use taxes imposed on the purchase of the
30 following classes of personal property only to the extent utilized directly and exclusively in such
31 project: (1) Furniture, fixtures and equipment, except automobiles, trucks, or other motor vehicles;
32 or (2) Such other materials, including construction materials and supplies, that are depreciable and
33 have a useful life of one year or more and are essential to the project.

34 (r) The commerce corporation shall promulgate rules and regulations for the

1 administration and certification of additional tax credit under subsection (e), including criteria for
2 the eligibility, evaluation, prioritization, and approval of projects that qualify for such additional
3 tax credit.

4 ~~(qs)~~ The commerce corporation shall not have any obligation to make any award or grant
5 any benefits under this chapter.

6 SECTION 3. Section 42-64.20-7 and 42-64.20-10 of the General Laws in Chapter 42-64.20
7 entitled "Rebuild Rhode Island Tax Credit" are hereby amended to read as follows:

8 **42-64.20-7. Rebuild Rhode Island tax credit fund.**

9 (a) There is hereby established at the commerce corporation a restricted account known as
10 the rebuild Rhode Island tax-credit fund (the "Fund") in which all amounts appropriated for the
11 program created under this chapter shall be deposited. The fund shall be used (i) to pay for the
12 redemption of tax credits or reimbursement to the state for tax credits applied against a taxpayer's
13 liability; and (ii) to redeem or reimburse the state for any sales and use tax exemptions allowed
14 pursuant to this chapter. The commerce corporation may pledge and reserve amounts deposited
15 into the fund for the purpose of securing payment for the redemption of tax credits or for making
16 reimbursements to municipalities pursuant to chapter 64.22 of title 42 of the general laws. The fund
17 shall be exempt from attachment, levy, or any other process at law or in equity. The director of the
18 department of revenue shall make a requisition to the commerce corporation for funding during
19 any fiscal year as may be necessary to pay for the redemption of tax credits presented for
20 redemption or to reimburse the state for tax credits applied against a taxpayer's tax liability. The
21 commerce corporation shall pay from the fund such amounts as requested by the director of the
22 department of revenue necessary for redemption or reimbursement in relation to tax credits granted
23 under this chapter; provided, however, that the commerce corporation shall not be required to pay
24 from the fund such sums pledged and reserved by the commerce corporation, as permitted in this
25 section, except for redemption of tax credits.

26 (b) Notwithstanding anything in this chapter to the contrary, the commerce corporation
27 may make a loan or equity investment as an alternative incentive in lieu of the provision of tax
28 credits so long as the applicant otherwise qualifies for tax credits under this chapter. In addition to
29 the qualification requirements of this chapter, any loan or equity investment shall be subject to the
30 provisions of §§ 42-64.20-5(b), ~~(d), (e),~~ (f), (g), ~~(n), (o), (p), and~~ (h), (i), (j), (q), (r) and (s) 42-
31 64.20-7, 42-64.20-8, 42-64.20-9, and 42-64.20-10 as if such loan or equity investment were a tax
32 credit. The commerce corporation may pay, reserve, and/or pledge monies for a loan or equity
33 investment from the fund.

34 **42-64.20-10. Sunset.**

1 No credits shall be authorized to be reserved pursuant to this chapter after ~~June 30,~~
2 [December 31, 2020](#).

3 SECTION 4. Section 44-11-11 of the General Laws in Chapter 44-11 entitled "Business
4 Corporation Tax" is hereby amended to read as follows:

5 **44-11-11. "Net income" defined.**

6 (a)(1) "Net income" means, for any taxable year and for any corporate taxpayer, the taxable
7 income of the taxpayer for that taxable year under the laws of the United States, plus:

8 (i) Any interest not included in the taxable income;

9 (ii) Any specific exemptions;

10 (iii) The tax imposed by this chapter; and minus

11 (iv) Interest on obligations of the United States or its possessions, and other interest exempt
12 from taxation by this state; and

13 (v) The federal net operating loss deduction.

14 (2) All binding federal elections made by or on behalf of the taxpayer applicable either
15 directly or indirectly to the determination of taxable income shall be binding on the taxpayer except
16 where this chapter or its attendant regulations specifically modify or provide otherwise. Rhode
17 Island taxable income shall not include the "gross-up of dividends" required by the federal Internal
18 Revenue Code to be taken into taxable income in connection with the taxpayer's election of the
19 foreign tax credit.

20 (b) A net operating loss deduction shall be allowed which shall be the same as the net
21 operating loss deduction allowed under 26 U.S.C. § 172, except that:

22 (1) Any net operating loss included in determining the deduction shall be adjusted to reflect
23 the inclusions and exclusions from entire net income required by subsection (a) of this section and
24 § 44-11-11.1;

25 (2) The deduction shall not include any net operating loss sustained during any taxable year
26 in which the taxpayer was not subject to the tax imposed by this chapter; and

27 (3) The deduction shall not exceed the deduction for the taxable year allowable under 26
28 U.S.C. § 172; provided, that the deduction for a taxable year may not be carried back to any other
29 taxable year for Rhode Island purposes but shall only be allowable on a carry forward basis for the
30 five (5) succeeding taxable years.

31 (c) "Domestic international sales corporations" (referred to as DISCs), for the purposes of
32 this chapter, will be treated as they are under federal income tax law and shall not pay the amount
33 of the tax computed under § 44-11-2(a). Any income to shareholders of DISCs is to be treated in
34 the same manner as it is treated under federal income tax law as it exists on December 31, 1984.

1 (d) A corporation which qualifies as a "foreign sales corporation" (FSC) under the
2 provisions of subchapter N, 26 U.S.C. § 861 et seq., and which has in effect for the entire taxable
3 year a valid election under federal law to be treated as a FSC, shall not pay the amount of the tax
4 computed under § 44-11-2(a). Any income to shareholders of FSCs is to be treated in the same
5 manner as it is treated under federal income tax law as it exists on January 1, 1985.

6 [\(e\) For purposes of a corporation's state tax liability, any deduction to income allowable](#)
7 [under 26 U.S.C. 1400Z-2\(c\) may be claimed in the case of any investment held by the taxpayer for](#)
8 [at least seven years. The division of taxation shall promulgate, in its discretion, rules and](#)
9 [regulations relative to the accelerated application of deductions under 26 U.S.C. 1400Z-2\(c\).](#)

10 SECTION 5. Section 44-30-12 of the General Laws in Chapter 44-30 entitled "Personal
11 Income Tax" is hereby amended to read as follows:

12 **44-30-12. Rhode Island income of a resident individual.**

13 (a) General. The Rhode Island income of a resident individual means his or her adjusted
14 gross income for federal income tax purposes, with the modifications specified in this section.

15 (b) Modifications increasing federal adjusted gross income. There shall be added to federal
16 adjusted gross income:

17 (1) Interest income on obligations of any state, or its political subdivisions, other than
18 Rhode Island or its political subdivisions;

19 (2) Interest or dividend income on obligations or securities of any authority, commission,
20 or instrumentality of the United States, but not of Rhode Island or its political subdivisions, to the
21 extent exempted by the laws of the United States from federal income tax but not from state income
22 taxes;

23 (3) The modification described in § 44-30-25(g);

24 (4)(i) The amount defined below of a nonqualified withdrawal made from an account in
25 the tuition savings program pursuant to § 16-57-6.1. For purposes of this section, a nonqualified
26 withdrawal is:

27 (A) A transfer or rollover to a qualified tuition program under Section 529 of the Internal
28 Revenue Code, 26 U.S.C. § 529, other than to the tuition savings program referred to in § 16-57-
29 6.1; and

30 (B) A withdrawal or distribution which is:

31 (I) Not applied on a timely basis to pay "qualified higher education expenses" as defined
32 in § 16-57-3(12) of the beneficiary of the account from which the withdrawal is made;

33 (II) Not made for a reason referred to in § 16-57-6.1(e); or

34 (III) Not made in other circumstances for which an exclusion from tax made applicable by

1 Section 529 of the Internal Revenue Code, 26 U.S.C. § 529, pertains if the transfer, rollover,
2 withdrawal or distribution is made within two (2) taxable years following the taxable year for which
3 a contributions modification pursuant to subdivision (c)(4) of this section is taken based on
4 contributions to any tuition savings program account by the person who is the participant of the
5 account at the time of the contribution, whether or not the person is the participant of the account
6 at the time of the transfer, rollover, withdrawal or distribution;

7 (ii) In the event of a nonqualified withdrawal under subparagraphs (i)(A) or (i)(B) of this
8 subdivision, there shall be added to the federal adjusted gross income of that person for the taxable
9 year of the withdrawal an amount equal to the lesser of:

10 (A) The amount equal to the nonqualified withdrawal reduced by the sum of any
11 administrative fee or penalty imposed under the tuition savings program in connection with the
12 nonqualified withdrawal plus the earnings portion thereof, if any, includible in computing the
13 person's federal adjusted gross income for the taxable year; and

14 (B) The amount of the person's contribution modification pursuant to subdivision (c)(4) of
15 this section for the person's taxable year of the withdrawal and the two (2) prior taxable years less
16 the amount of any nonqualified withdrawal for the two (2) prior taxable years included in
17 computing the person's Rhode Island income by application of this subsection for those years. Any
18 amount added to federal adjusted gross income pursuant to this subdivision shall constitute Rhode
19 Island income for residents, nonresidents and part-year residents; and

20 (5) The modification described in § 44-30-25.1(d)(3)(i).

21 (6) The amount equal to any unemployment compensation received but not included in
22 federal adjusted gross income.

23 (7) The amount equal to the deduction allowed for sales tax paid for a purchase of a
24 qualified motor vehicle as defined by the Internal Revenue Code § 164(a)(6).

25 (c) Modifications reducing federal adjusted gross income. There shall be subtracted from
26 federal adjusted gross income:

27 (1) Any interest income on obligations of the United States and its possessions to the extent
28 includible in gross income for federal income tax purposes, and any interest or dividend income on
29 obligations, or securities of any authority, commission, or instrumentality of the United States to
30 the extent includible in gross income for federal income tax purposes but exempt from state income
31 taxes under the laws of the United States; provided, that the amount to be subtracted shall in any
32 case be reduced by any interest on indebtedness incurred or continued to purchase or carry
33 obligations or securities the income of which is exempt from Rhode Island personal income tax, to
34 the extent the interest has been deducted in determining federal adjusted gross income or taxable

1 income;

2 (2) A modification described in § 44-30-25(f) or § 44-30-1.1(c)(1);

3 (3) The amount of any withdrawal or distribution from the "tuition savings program"
4 referred to in § 16-57-6.1 which is included in federal adjusted gross income, other than a
5 withdrawal or distribution or portion of a withdrawal or distribution that is a nonqualified
6 withdrawal;

7 (4) Contributions made to an account under the tuition savings program, including the
8 "contributions carryover" pursuant to paragraph (iv) of this subdivision, if any, subject to the
9 following limitations, restrictions and qualifications:

10 (i) The aggregate subtraction pursuant to this subdivision for any taxable year of the
11 taxpayer shall not exceed five hundred dollars (\$500) or one thousand dollars (\$1,000) if a joint
12 return;

13 (ii) The following shall not be considered contributions:

14 (A) Contributions made by any person to an account who is not a participant of the account
15 at the time the contribution is made;

16 (B) Transfers or rollovers to an account from any other tuition savings program account or
17 from any other "qualified tuition program" under section 529 of the Internal Revenue Code, 26
18 U.S.C. § 529; or

19 (C) A change of the beneficiary of the account;

20 (iii) The subtraction pursuant to this subdivision shall not reduce the taxpayer's federal
21 adjusted gross income to less than zero (0);

22 (iv) The contributions carryover to a taxable year for purpose of this subdivision is the
23 excess, if any, of the total amount of contributions actually made by the taxpayer to the tuition
24 savings program for all preceding taxable years for which this subsection is effective over the sum
25 of:

26 (A) The total of the subtractions under this subdivision allowable to the taxpayer for all
27 such preceding taxable years; and

28 (B) That part of any remaining contribution carryover at the end of the taxable year which
29 exceeds the amount of any nonqualified withdrawals during the year and the prior two (2) taxable
30 years not included in the addition provided for in this subdivision for those years. Any such part
31 shall be disregarded in computing the contributions carryover for any subsequent taxable year;

32 (v) For any taxable year for which a contributions carryover is applicable, the taxpayer
33 shall include a computation of the carryover with the taxpayer's Rhode Island personal income tax
34 return for that year, and if for any taxable year on which the carryover is based the taxpayer filed a

1 joint Rhode Island personal income tax return but filed a return on a basis other than jointly for a
2 subsequent taxable year, the computation shall reflect how the carryover is being allocated between
3 the prior joint filers; and

4 (5) The modification described in § 44-30-25.1(d)(1).

5 (6) Amounts deemed taxable income to the taxpayer due to payment or provision of
6 insurance benefits to a dependent, including a domestic partner pursuant to chapter 12 of title 36 or
7 other coverage plan.

8 (7) Modification for organ transplantation.

9 (i) An individual may subtract up to ten thousand dollars (\$10,000) from federal adjusted
10 gross income if he or she, while living, donates one or more of his or her human organs to another
11 human being for human organ transplantation, except that for purposes of this subsection, "human
12 organ" means all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow. A subtract
13 modification that is claimed hereunder may be claimed in the taxable year in which the human
14 organ transplantation occurs.

15 (ii) An individual may claim that subtract modification hereunder only once, and the
16 subtract modification may be claimed for only the following unreimbursed expenses that are
17 incurred by the claimant and related to the claimant's organ donation:

18 (A) Travel expenses.

19 (B) Lodging expenses.

20 (C) Lost wages.

21 (iii) The subtract modification hereunder may not be claimed by a part-time resident or a
22 nonresident of this state.

23 (8) Modification for taxable Social Security income.

24 (i) For tax years beginning on or after January 1, 2016:

25 (A) For a person who has attained the age used for calculating full or unreduced social
26 security retirement benefits who files a return as an unmarried individual, head of household or
27 married filing separate whose federal adjusted gross income for such taxable year is less than eighty
28 thousand dollars (\$80,000); or

29 (B) A married individual filing jointly or individual filing qualifying widow(er) who has
30 attained the age used for calculating full or unreduced social security retirement benefits whose
31 joint federal adjusted gross income for such taxable year is less than one hundred thousand dollars
32 (\$100,000), an amount equal to the social security benefits includable in federal adjusted gross
33 income.

34 (ii) Adjustment for inflation. The dollar amount contained in subparagraphs 44-30-

1 12(c)(8)(i)(A) and 44-30-12(c)(8)(i)(B) shall be increased annually by an amount equal to:

2 (A) Such dollar amount contained in subparagraphs 44-30-12(c)(8)(i)(A) and 44-30-
3 12(c)(8)(i)(B) adjusted for inflation using a base tax year of 2000, multiplied by;

4 (B) The cost-of-living adjustment with a base year of 2000.

5 (iii) For the purposes of this section the cost-of-living adjustment for any calendar year is
6 the percentage (if any) by which the consumer price index for the preceding calendar year exceeds
7 the consumer price index for the base year. The consumer price index for any calendar year is the
8 average of the consumer price index as of the close of the twelve (12) month period ending on
9 August 31, of such calendar year.

10 (iv) For the purpose of this section the term "consumer price index" means the last
11 consumer price index for all urban consumers published by the department of labor. For the purpose
12 of this section the revision of the consumer price index which is most consistent with the consumer
13 price index for calendar year 1986 shall be used.

14 (v) If any increase determined under this section is not a multiple of fifty dollars (\$50.00),
15 such increase shall be rounded to the next lower multiple of fifty dollars (\$50.00). In the case of a
16 married individual filing separate return, if any increase determined under this section is not a
17 multiple of twenty-five dollars (\$25.00), such increase shall be rounded to the next lower multiple
18 of twenty-five dollars (\$25.00).

19 (9) Modification for up to fifteen thousand dollars (\$15,000) of taxable retirement income
20 from certain pension plans or annuities.

21 (i) For tax years beginning on or after January 1, 2017, a modification shall be allowed for
22 up to fifteen thousand dollars (\$15,000) of taxable pension and/or annuity income that is included
23 in federal adjusted gross income for the taxable year:

24 (A) For a person who has attained the age used for calculating full or unreduced social
25 security retirement benefits who files a return as an unmarried individual, head of household, or
26 married filing separate whose federal adjusted gross income for such taxable year is less than the
27 amount used for the modification contained in § 44-30-12(c)(8)(i)(A) an amount not to exceed
28 \$15,000 of taxable pension and/or annuity income includable in federal adjusted gross income; or

29 (B) For a married individual filing jointly or individual filing qualifying widow(er) who
30 has attained the age used for calculating full or unreduced social security retirement benefits whose
31 joint federal adjusted gross income for such taxable year is less than the amount used for the
32 modification contained in § 44-30-12(c)(8)(i)(B) an amount not to exceed \$15,000 of taxable
33 pension and/or annuity income includable in federal adjusted gross income.

34 (ii) Adjustment for inflation. The dollar amount contained by reference in §§ 44-30-

1 12(c)(9)(i)(A) and 44-30-12(c)(9)(i)(B) shall be increased annually for tax years beginning on or
2 after January 1, 2018 by an amount equal to:

3 (A) Such dollar amount contained by reference in §§ 44-30-12(c)(9)(i)(A) and 44-30-
4 12(c)(9)(i)(B) adjusted for inflation using a base tax year of 2000, multiplied by;

5 (B) The cost-of-living adjustment with a base year of 2000.

6 (iii) For the purposes of this section, the cost-of-living adjustment for any calendar year is
7 the percentage (if any) by which the consumer price index for the preceding calendar year exceeds
8 the consumer price index for the base year. The consumer price index for any calendar year is the
9 average of the consumer price index as of the close of the twelve-month (12) period ending on
10 August 31, of such calendar year.

11 (iv) For the purpose of this section, the term "consumer price index" means the last
12 consumer price index for all urban consumers published by the department of labor. For the purpose
13 of this section, the revision of the consumer price index which is most consistent with the consumer
14 price index for calendar year 1986 shall be used.

15 (v) If any increase determined under this section is not a multiple of fifty dollars (\$50.00),
16 such increase shall be rounded to the next lower multiple of fifty dollars (\$50.00). In the case of a
17 married individual filing a separate return, if any increase determined under this section is not a
18 multiple of twenty-five dollars (\$25.00), such increase shall be rounded to the next lower multiple
19 of twenty-five dollars (\$25.00).

20 (10) Modification for Rhode Island investment in opportunity zones. For purposes of a
21 taxpayer's state tax liability, in the case of any investment in a Rhode Island opportunity zone by
22 the taxpayer for at least seven (7) years, a modification to income shall be allowed for the
23 incremental difference between the benefit allowed under 26 U.S.C. 1400Z-2(b)(2)(B)(iv) and the
24 federal benefit allowed under 26 U.S.C. 1400Z-2(c).

25 (d) Modification for Rhode Island fiduciary adjustment. There shall be added to, or
26 subtracted from, federal adjusted gross income (as the case may be) the taxpayer's share, as
27 beneficiary of an estate or trust, of the Rhode Island fiduciary adjustment determined under § 44-
28 30-17.

29 (e) Partners. The amounts of modifications required to be made under this section by a
30 partner, which relate to items of income or deduction of a partnership, shall be determined under §
31 44-30-15.

32 SECTION 6. Section 44-31.2-5 and 44-31.2-11 of the General Laws in Chapter 44-31.2
33 entitled "Motion Picture Production Tax Credits" are hereby amended to read as follows:

34 **44-31.2-5. Motion picture production company tax credit.**

1 (a) A motion picture production company shall be allowed a credit to be computed as
2 provided in this chapter against a tax imposed by chapters 11, 14, 17, and 30 of this title. The
3 amount of the credit shall be thirty percent (30%) of the state certified production costs incurred
4 directly attributable to activity within the state, provided that the primary locations are within the
5 state of Rhode Island and the total production budget as defined herein is a minimum of one
6 hundred thousand dollars (\$100,000). The credit shall be earned in the taxable year in which
7 production in Rhode Island is completed, as determined by the film office in final certification
8 pursuant to § 44-31.2-6(c).

9 (b) For the purposes of this section: "total production budget" means and includes the
10 motion picture production company's pre-production, production, and post-production costs
11 incurred for the production activities of the motion picture production company in Rhode Island in
12 connection with the production of a state-certified production. The budget shall not include costs
13 associated with the promotion or marketing of the film, video, or television product.

14 (c) Notwithstanding subsection (a), the credit shall not exceed seven million dollars
15 (\$7,000,000) and shall be allowed against the tax for the taxable period in which the credit is earned
16 and can be carried forward for not more than three (3) succeeding tax years. Pursuant to rules
17 promulgated by the tax administrator, the administrator may issue a waiver of the seven million
18 dollars (\$7,000,000) tax credit cap for any feature-length film or television series up to the
19 remaining funds available pursuant to section (e).

20 (d) Credits allowed to a motion picture production company, which is a subchapter S
21 corporation, partnership, or a limited-liability company that is taxed as a partnership, shall be
22 passed through respectively to persons designated as partners, members, or owners on a pro rata
23 basis or pursuant to an executed agreement among such persons designated as subchapter S
24 corporation shareholders, partners, or members documenting an alternate distribution method
25 without regard to their sharing of other tax or economic attributes of such entity.

26 (e) No more than fifteen million dollars (\$15,000,000) in total may be issued for any tax
27 year beginning after December 31, 2007, for motion picture tax credits pursuant to this chapter
28 and/or musical and theatrical production tax credits pursuant to chapter 31.3 of this title. [After](#)
29 [December 31, 2019 no more than twenty million dollars \(\\$20,000,000\) in total may be issued for](#)
30 [any tax year for motion picture tax credits pursuant to this chapter and/or musical and theater](#)
31 [production tax credits pursuant to chapter 31.3 of this title.](#) Said credits shall be equally available
32 to motion picture productions and musical and theatrical productions. No specific amount shall be
33 set aside for either type of production.

34 **44-31.2-11. Sunset.**

1 No credits shall be issued on or after ~~July 1, 2024~~ July 1, 2027, unless the production has
2 received initial certification under § 44-31.2-6(a) prior to ~~July 1, 2024~~ July 1, 2027.

3 SECTION 8. Section 44-48.3-6 of the General Laws in Chapter 44-48.3 entitled "Rhode
4 Island New Qualified Jobs Incentive Act 2015" is hereby amended to read as follows:

5 **44-48.3-6. Total amount of tax credit for eligible business.**

6 (a) The base amount of the tax credit for an eligible business for each new full-time job
7 shall be up to two thousand five hundred dollars (\$2,500) annually.

8 (b) The total tax credit amount shall be calculated and credited to the business annually for
9 each year of the eligibility period after the commerce corporation, in consultation with the division
10 of taxation, has verified that the jobs covered by the tax credit have generated sufficient personal
11 income taxes to comply with subsection (e) of this section.

12 (c) In addition to the base amount of the tax credit, the amount of the tax credit to be
13 awarded for each new full-time job may be increased, pursuant to the provisions of subsection (d)
14 of this section, if the business meets any of the following criteria or such other additional criteria
15 determined by the commerce corporation from time to time in response to evolving economic or
16 market conditions:

17 (1) For a business located within a hope community;

18 (2) For a targeted industry;

19 (3) For a business located within a transit oriented development area; and

20 (4) For an out-of-state business that relocates a business unit or units or creates a significant
21 number of new full-time jobs during the commitment period.

22 (d) For any application made to the commerce corporation from ~~2015 through 2018~~, the
23 tax credit for an eligible business for each new full-time job shall not exceed seven thousand five
24 hundred dollars (\$7,500) annually.

25 (e) Notwithstanding the provisions of subsections (a) through (d) of this section, for each
26 application approved by the commerce corporation, the amount of tax credits available to be
27 obtained by the business annually shall not exceed seventy-five percent (75%) of the reasonable
28 W-2 withholding received by the state for each new full-time job created by a business for
29 applications received by the commerce corporation ~~in 2015 through 2018~~.

30 (f) The commerce corporation shall establish regulations regarding the conditions under
31 which a business may submit more than one application for tax credits over time. The commerce
32 corporation may place limits on repeat applications.

33 SECTION 9. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
34 amended by adding thereto the following chapter:

1 CHAPTER 24.6

2 SPECIAL ECONOMIC DEVELOPMENT DISTRICTS

3 **45-24.6-1. Declaration of purpose.**

4 (a) According to the United States Census Bureau estimates as of 2015, Rhode Island ranks
5 second among the fifty (50) states in terms of population density. Notwithstanding this, there exists
6 within the various municipalities of the state, certain large tracts of developable or blighted state-
7 owned land, which areas represent in and of themselves and are often contiguous with areas of vital
8 economic importance to the state. In light of this, the state declares that these tracts of state-owned
9 land, and more specifically those tracts that are twenty (20) or more contiguous acres in size, are
10 important state assets which require the coordination of federal, state, local, or private action to
11 efficiently make use of these lands.

12 (b) It is further declared that coordination is paramount to development as time delays,
13 redundant approvals and local eccentricities often impede development projects.

14 (c) It is further declared that there is a statewide need for coordinated attention to and
15 supervision of the development of these areas for the purpose of education, enjoyment, and welfare
16 of the general public, the promotion of commercial and economic development, the attraction to
17 our state of appropriate business, industrial, and tourist trade, resources, and investment, the
18 development of an attractive environment that fosters the social welfare and health of the public.

19 (d) It is further declared that the developmental tools presently available to municipalities
20 in the state do not contain sufficient flexibility to address the unique problems arising from the
21 projects and to govern comprehensive and coordinated development of areas subject to these
22 projects consistently with the previously-declared public needs and purposes. Proper development
23 of these areas, consistent with the general welfare, may require designation of special land-use
24 districts and special land-use controls which may be more stringent or more flexible than existing
25 zoning, planning, and other developmental tools, and may require the adoption, implementation,
26 and administration of a plan that establishes a framework for development including detailed design
27 and development criteria, regulations, and enforcement procedures.

28 (e) It is further declared that the most efficient and effective method to further the
29 previously-declared public policy of the state to encourage the appropriate, comprehensive, and
30 coordinated development of these properties is to permit the creation of special economic
31 development districts in the municipalities of the state and the creation of special economic
32 development district commissions to adopt, implement, and administer plans of development that
33 establish and enforce design and development criteria and regulations for the development of these
34 areas.

1 **45-24.6-2. Short title.**

2 This chapter may be known and may be cited as the "Rhode Island Special Economic
3 Development District Enabling Act".

4 **45-24.6-3. Definitions.**

5 As used in this chapter, the following words and terms have the following meanings, unless
6 the context indicates another or different meaning or intent:

7 (1) "Certificate of approval" means the document issued by a special economic
8 development district commission approving an application for construction, erection, alteration,
9 demolition, or use of a structure or land within the special economic development district, and
10 pursuant to which a building permit may be issued.

11 (2) "Certificate of rejection" means the document issued by a special economic
12 development district commission rejecting an application for construction, erection, alteration,
13 demolition, or use of a structure or land within a special economic development district.

14 (3) "Commission" means a special economic development district commission or
15 independent public instrumentality authorized by the general assembly and empowered by this
16 chapter.

17 (4) "Contiguous acres" means tracts or parcels of land that abut or connect without
18 excepting therefrom streams, ponds, rivers, roads, bridges, or other types of paths or rights of way.

19 (5) "Development map" means a map of a special economic development district that
20 shows the parcels into which the district may have been divided according to the plan of
21 development.

22 (6) "District" means any developable or blighted state-owned tracts or parcels of land,
23 which at its creation, aggregation and/or acquisition by a state agency or instrumentality consists
24 of or consisted of twenty (20) or more contiguous acres in size.

25 (7) "Permit" means a building permit issued by a duly licensed building inspector.

26 (8) "Person" means a natural person or any other legal entity, including, but not limited to,
27 a corporation, firm, partnership, or trust.

28 (9) "Plan of development" or "plan" means a plan, including design and development
29 criteria and regulations, for the development of a special economic development district adopted
30 by a special economic development district commission pursuant to this chapter.

31 (10) "Regulations" means the rules regulating the construction, erection, alteration,
32 demolition, or use of a structure or land within a special development district adopted by a special
33 economic development commission pursuant to a plan of development.

34 (11) "Special economic development district" means an area of a municipality or

1 municipalities that has been or will be established, designated, laid out, or defined by the general
2 assembly including but not limited to, independent public instrumentalities created by the general
3 assembly.

4 (12) "Structure" means a building or anything that is constructed or erected and that
5 requires location on the ground or attachment to something located on the ground.

6 **45-24.6-4. Special economic development districts authorized.**

7 (a) For the purposes stated in § 45-24.6-1, the general assembly may, by statute, establish,
8 designate, lay out, and define, as special economic development districts, areas that are, may be or
9 have been the subject of, or substantially affected by combined federal, state, local, or private
10 action, in the same manner as municipalities are presently empowered to establish, designate, lay
11 out, and define zoning districts, and which lands are developable or blighted state-owned tracts or
12 parcels of land, and which at the time of the creation of the district, consist of twenty (20) or more
13 contiguous acres in size. Properties owned or controlled by the department of environmental
14 management shall not be subject to the provisions of this chapter.

15 (b) The boundaries of a special economic development district established, designated, laid
16 out, and defined according to the provisions of this chapter, may be amended only by an act of the
17 general assembly.

18 (c) The powers of the district to achieve the purposes of this chapter shall be exercised by
19 a commission as herein provided as a public corporation and instrumentality of the state, to adopt,
20 implement, and administer a plan of development.

21 Each district commission shall consist of seven (7) voting members. The governor of the
22 state of Rhode Island shall appoint, with the advice and consent of the senate, the seven (7) voting
23 members of the commission. The commission shall have the sole authority to adopt, implement,
24 and administer a plan of development for the special economic development district.

25 **45-24.6-5. Powers of commission.**

26 A special economic development district commission established under this chapter shall
27 have all powers necessary and incidental to the adoption, implementation, and administration of a
28 plan of development, and any other powers that the general assembly may grant in the creation of
29 the commission.

30 **45-24.6-6. Adoption of special development district plan – Regulation of structures**
31 **and uses - Notice.**

32 (a) A special economic development district commission shall adopt a plan of
33 development. Any plan of development adopted by a special economic development district
34 commission pursuant to this chapter may regulate and restrict, by means of regulations duly adopted

1 by the commission, the erection, construction, reconstruction, alteration, repair, or use of buildings,
2 structures, or land within the special economic development district in a uniform, consistent, and
3 nondiscriminatory manner that is rationally related to the purposes of this chapter. The plan may
4 include regulations relating to allowable land uses, the location and use of buildings, street systems,
5 dimensional, height and area coverage requirements, setbacks and build-to lines, frontage, parking
6 requirements, landscaping, pedestrian travel, signs, design review, open spaces, and population
7 density.

8 (b) Pursuant to the plan of development, the commission may divide the special economic
9 development district into several parcels as indicated on a development map, and may regulate
10 structures and uses differently in different parcels, so long as regulation of similar structures and
11 uses is uniform within any one parcel.

12 (c) A plan of development may be adopted or amended only after a public hearing before
13 the commission, at which all interested parties have an opportunity to be heard. Notice of the time,
14 place, nature, and purpose of the public hearing shall be given to all owners of real property within
15 the bounds of the special economic development district and within two hundred feet (200') of the
16 perimeter thereof, by registered or certified mail at least seven (7) days before the date of the
17 hearing, and by publication of notice in a newspaper of general circulation within the municipality
18 at least once each week for three (3) successive weeks prior to the date of the hearing.

19 (d) The municipality shall not have concurrent jurisdiction over the special economic
20 development district.

21 **45-24.6-7. Permit required to erect, construct, alter, repair, or demolish structure –**
22 **Commission quorum and voting.**

23 (a) Before any structure may be erected, constructed, altered, repaired, or demolished
24 within a special economic development district, the person proposing the construction or other
25 alteration shall file with the commission an application for permission to erect, construct, alter,
26 repair, or demolish the structure, together with plans and specifications, all that may be required by
27 regulations adopted by the commission. It is the duty of the commission to review the application,
28 plans, and specifications, and no building permit shall be granted until the commission has acted
29 on it. No construction or other alteration of a structure may be undertaken within a special
30 development district without a permit. The commission may, by regulation, coordinate permit
31 approvals with state building officials and fire marshals, city or town officials or duly qualified
32 independent staff or consultants.

33 (b) Nothing in this chapter prevents or is to be construed to prevent ordinary maintenance
34 or repair of any structure within the special economic development district; nor shall anything in

1 this chapter prevent or be construed to prevent the continuance of the use of any building or
2 improvement for any purpose to which the building or improvement was lawfully devoted at the
3 time of the adoption of a plan of development, or to prevent or be construed to prevent the erection,
4 construction, alteration, repair, or demolition of any structure under a permit issued by the inspector
5 of buildings prior to the adoption of a plan of development pursuant to this chapter.

6 (c) At all meetings of the commission, a majority of the commissioners is necessary and
7 sufficient to constitute a quorum for the transaction of business, and the act of a majority of the
8 commissioners present at any meeting at which there is a quorum is the act of the commission,
9 except as otherwise provided by law.

10 **45-24.6-8. Variances, deviations, and special exceptions.**

11 (a) Any commission that adopts or has adopted a plan conforming to this chapter has the
12 authority to grant variances, deviations, and special exceptions of any regulations adopted pursuant
13 to that plan, upon the application of an aggrieved property owner:

14 (1) Special exceptions to the terms of the regulations may be granted in those cases
15 specified in the regulations, and subject to those conditions and safeguards specified therein, where
16 the use granted by special exception is reasonably necessary for the convenience or welfare of the
17 public and does not substantially or permanently injure the value of neighboring property.

18 (2) Variances may be granted where, owing to special conditions, enforcement of the
19 regulations would result in unnecessary hardship, where the variance will not be contrary to the
20 public interest, and the spirit of the plan will be observed and substantial justice done.

21 (3) Deviations may be granted where the enforcement of the regulations relating to
22 setbacks, build-to lines, and other area and dimensional restrictions would preclude the full
23 enjoyment by the owner of a permitted use and amount to more than a mere inconvenience.

24 (b) The commission shall hold a hearing on the application within a reasonable time, and
25 give public notice and due notice of the hearing to the parties in interest and property owners within
26 two hundred feet (200') of the affected property. At any hearing any party may appear in person or
27 by agent or attorney.

28 (c) Nothing in this chapter shall be construed to restrict, amend, repeal, or otherwise
29 supersede the jurisdiction of the commission regarding any area designated a special development
30 district pursuant to this chapter.

31 **45-24.6-9. Appeals to superior court.**

32 (a) Any person or persons jointly or severally aggrieved by a decision of the commission
33 may appeal to the superior court for the county in which the special economic development district
34 is situated by filing a complaint stating the reasons of appeal within twenty (20) days after the

1 decision has been filed in the office of the commission. The commission shall file the original
2 documents acted upon by it and constituting the record of the hearing appealed from, or certified
3 copies of the documents, together with any other facts that may be pertinent, with the clerk of the
4 court within ten (10) days after being served with a copy of the complaint. When the complaint is
5 filed by someone other than the original applicant or appellant, the original applicant or appellant
6 and the members of the commission shall be made parties to the proceedings. The appeal shall not
7 stay proceedings upon the decision being appealed, but the court may, in its discretion, grant a stay
8 on appropriate terms and make any other orders that it deems necessary for an equitable disposition
9 of the appeal.

10 (b) If, before the date set for hearing in the superior court, an application is made to the
11 court for leave to present additional evidence before the commission, and it is shown to the
12 satisfaction of the court that the additional evidence is material and that there were good reasons
13 for the failure to present it at the hearing before the commission, the court may order that the
14 additional evidence be taken before the commission upon conditions determined by the court. The
15 commission may modify its findings and decision by reason of the additional evidence and file that
16 evidence and any modifications, new findings, or decisions with the superior court.

17 (c) The review shall be conducted by the superior court without a jury. The court shall
18 consider the record of the hearing before the commission, and if it appears to the court that
19 additional evidence is necessary for the proper disposition of the matter, it may allow any party to
20 the appeal to present evidence in open court, which evidence, along with the record shall constitute
21 the record upon which the determination of the court is made.

22 (d) The court shall not substitute its judgment for that of the commission as to the weight
23 of the evidence on questions of fact. The court may affirm the decision of the commission or remand
24 the case for further proceedings, or may reverse or modify the decision if substantial rights of the
25 appellant have been prejudiced because of findings, inferences, conclusions, or decisions which
26 are:

27 (1) In violation of constitutional, statutory provisions;

28 (2) In excess of the authority granted to the commission by statute;

29 (3) Made upon unlawful procedure;

30 (4) Affected by other error of law;

31 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the
32 whole record; or

33 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
34 exercise of discretion.

1 **45-24.6-10. Construction of chapter.**

2 Whenever the context permits in this chapter, the use of the plural includes the singular,
3 the singular, the plural, and the use of any gender is deemed to include all genders.

4 **45-24.6-11. Severability.**

5 If any one or more sections, clauses, sentences, or parts of this chapter are for any reason
6 adjudged unconstitutional or invalid in any court, the judgment does not affect, impair, or invalidate
7 the remaining provisions of this chapter, but are confined in its operation to the specific provisions
8 so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, or
9 provision of this chapter in any one or more instances or circumstances shall not be taken to affect
10 or prejudice in any way its applicability or validity in any other instance.

11 **45-24.6-12. Applicability of other laws.**

12 (a) Any special economic development district commission created pursuant to this chapter
13 will not be subject to the provisions of §§ 42-35-1 through 42-35-18. Any commission and its
14 members will be subject to the provisions of §§ 36-14-1 through 36-14-19, §§ 38-2-1 through 38-
15 2-16, and §§ 42-46-1 through 42-46-14.

16 (b) In the event of a conflict between the provisions of this chapter and any other provisions
17 of the general laws governing the powers of any other district commission created by or pursuant
18 to the general laws, including but not limited to the I-195 redevelopment district established
19 pursuant to chapter 64.14 of title 42, the provisions of this chapter shall prevail. The provisions of
20 this chapter shall also prevail over any district commissions established by legislation promulgated
21 after the effective date of this act, unless specifically exempted by that legislation.

22 SECTION 10. Sections 42-64.14-5, 42-64.14-8 and 42-64.14-18 of the General Laws in
23 Chapter 42-64.14 entitled "The I-195 Redevelopment Act of 2011" are hereby amended to read as
24 follows:

25 **42-64.14-5. The I-195 redevelopment district created.**

26 (a) The I-195 redevelopment district is hereby constituted as an independent public
27 instrumentality and body corporate and politic for the purposes set forth in this chapter with a
28 separate legal existence from the city of Providence and from the state and the exercise by the
29 commission of the powers conferred by this chapter shall be deemed and held to be the performance
30 of an essential public function. The boundaries of the district are established in § 37-5-8. However,
31 parcels P2 and P4, as delineated on that certain plan of land captioned "Improvements to Interstate
32 Route 195, Providence, Rhode Island, Proposed Development Parcel Plans 1 through 10, Scale: 1"
33 =20', May 2010, Bryant Associates, Inc., Engineers-Surveyors-Construction Managers, Lincoln,
34 RI, Maguire Group, Inc., Architects/Engineers/Planners, Providence, RI," shall be developed and

1 continued to be used as parks or park supporting activity; provided, however, the commission may,
2 from time to time, pursuant to action taken at a meeting of the commission in public session, adjust
3 the boundaries of parcel P4 provided that at all times parcel P4 shall contain no fewer than one
4 hundred eighty-six thousand one hundred eighty-six square feet (186,186 ft²) of land and provided,
5 further, that the city of Providence shall not be responsible for the upkeep of the parks unless a
6 memorandum of understanding is entered into between the commission or the state and the city of
7 Providence that grants full funding to the city for that purpose.

8 (b) The property owned by the district is designated as a special economic development
9 district pursuant to § 45-24.6-4 and constitutes state-owned land within the meaning of that section.

10 (c) Except as otherwise provided in chapter 24.6 of title 45, the ~~The~~ I-195 redevelopment
11 district commission established in this chapter shall oversee, plan, implement, and administer the
12 development of the areas within the district consistent with and subject to the city of Providence
13 comprehensive plan adopted by the city pursuant to § 45-22-2.1 et seq. and the city of Providence
14 zoning ordinances pursuant to § 45-24-27 et seq. as previously enacted by the city of Providence,
15 and as may be enacted and/or amended from time to time through July 1, 2012, or enacted and/or
16 amended thereafter with the consent of the commission.

17 ~~(d)~~ The city of Providence shall not be required to install or pay for the initial installation
18 of any public or private utility infrastructure within the district.

19 ~~(e)~~ It is the intent of the general assembly by the passage of this chapter to vest in the
20 commission all powers, authority, rights, privileges, and titles that may be necessary to enable it to
21 accomplish the purposes herein set forth, and this chapter and the powers granted hereby shall be
22 liberally construed in conformity with those purposes.

23 **42-64.14-8. Additional general powers.**

24 In addition to the powers of the commission otherwise provided herein, the commission
25 shall have the powers set forth below and shall be subject to the limitations herein set forth. Except
26 as may be expressly limited by action of the commission at a regular or special meeting, the
27 commission shall have the powers necessary to put into effect the powers of the commission as set
28 forth below and as herein limited.

29 (a) The commission is authorized and empowered to fix, revise, charge, collect, and abate
30 fees, rates, assessments, delinquency charges, and other charges for its services, and other services,
31 facilities, and commodities furnished or supplied by it including penalties for violations of such
32 regulations as the commission may from time to time promulgate under this chapter. Fees, rates,
33 assessments, delinquency charges, and other charges of general application shall be adopted and
34 revised by the commission in accordance with procedures to be established by the commission for

1 assuring that interested persons are afforded notice and an opportunity to present data, views, and
2 arguments. The commission shall hold at least one public hearing on its schedule of fees, rates, and
3 charges or any revision thereof prior to adoption, notice of which shall be published in a newspaper
4 of substantial circulation in the district at least fifteen (15) days in advance of the hearing, and
5 notice of the hearing shall be provided to the city council of the city of Providence. No later than
6 the date of such publication the commission shall make available to the public the proposed
7 schedule of fees, rates, and charges. Fees, rates, rents, assessments, abatements, and other charges
8 established by the commission shall not be subject to supervision or regulation by any department,
9 division, district, board, bureau, or agency of the state or any of its political subdivisions. In order
10 to provide for the collection and enforcement of its fees, rates, rents, assessments, and other charges,
11 the commission is hereby granted all the powers and privileges with respect to such collection and
12 enforcement held by the city of liens for unpaid taxes. Provided however that the commission shall
13 be required to collect all project application fees, zoning fees and charges, building permit fees, fire
14 code compliance or other public safety permit fees or charges, planning fees, historic district fees
15 and charges, and other similar fees and charges that would otherwise be payable to the city of
16 Providence in connection with such projects located in the city of Providence and remit the greater
17 of one-half (1/2) of such fees collected by the commission to the city of Providence, or one-half
18 (1/2) of such fees the city of Providence would have received from the project under the city's
19 ordinances uniformly applied. The city of Providence shall continue to be entitled to collect all
20 other customary fees for development and maintenance within the district as uniformly applied
21 throughout the city of Providence, including, but not limited to, utility tie-in, connection fees,
22 maintenance fees and assessments.

23 (b) Notwithstanding any provision of law to the contrary, in order to provide for the
24 consolidated, coordinated, efficient and effective exercise of public development powers affecting
25 or benefiting the city of Providence and the state within the boundaries of the district as defined in
26 § 37-5-8, the commission shall have the powers of:

27 (i) A special development district as provided for in chapter 45-24.4.

28 (ii) A redevelopment agency as provided for in chapters 45-31, 45-31.1, 45-31.2, 45-32,
29 and 45-33 within areas of the district which are part of an enterprise zone as provided for in chapter
30 42-64.3. Within the district, the term "blighted area and substandard area" shall be deemed to
31 include areas where the presence of hazardous materials, as defined in § 23-19.14-2, impairs the
32 use, reuse, or redevelopment of impacted sites.

33 (iii) A municipal public buildings authority as provided for in chapter 45-50.

34 (iv) A subsidiary of the Rhode Island commerce corporation and the enactment of this

1 chapter shall constitute the approval of the general assembly as required by § 42-64-7.1.

2 (v) The city planning board as established pursuant to chapter 45-23.

3 (vi) The city zoning board as established pursuant to chapter 45-24, including, but not
4 limited to, the granting of any use or dimensional variances or special use permits.

5 (vii) The city historic district commission established pursuant to chapter 45-24.1.

6 (viii) Any other city board existing or created that exercises any of the authorities of a
7 planning board, zoning board, design review board or historic district commission. ~~Provided,~~
8 ~~however, and notwithstanding the foregoing, the commission shall at all times ensure that all~~
9 ~~projects and development subject to the jurisdiction of the commission are consistent with and~~
10 ~~subject to the city of Providence comprehensive plan adopted by the city pursuant to § 45-22-2.1~~
11 ~~et seq. and the city of Providence zoning ordinances pursuant to § 45-24-27 et seq. as previously~~
12 ~~enacted by the city of Providence, and as may be enacted and/or amended from time to time through~~
13 ~~July 1, 2012, or enacted and/or amended thereafter with the consent of the commission.~~

14 (ix) A special economic development district as provided for in chapter 24.6 of title 45.

15 (3) For the benefit of the district, the commission shall have the power to enter into
16 agreements with the city of Providence for:

17 (i) The exercise of powers for tax increment financing as provided for in chapter 45-33.2;

18 (ii) The imposition of impact fees as provided for in chapter 45-22.4 in order to provide
19 infrastructure capacity to or make physical improvements within the district; or

20 (iii) Approval within the district of a district management authority as provided for in
21 chapter 45-59, for purposes of undertaking activities consistent with the approved plans for the
22 district adopted pursuant to § 42-64.14-8.

23 (4) Title and survey adjustments. The commission is authorized to adjust boundary lines,
24 survey lines and property descriptions of the parcels of land comprising the I-195 surplus land as
25 may be necessary or appropriate to facilitate or enhance project design plans and for the location
26 and/or relocation of city streets, utility corridors, easements and rights-of-way.

27 (5) The commission is authorized and empowered, in the name of and for the State of
28 Rhode Island, to enter into contracts for the sale, transfer or conveyance, in fee simple, by lease or
29 otherwise of the any of the I-195 Surplus lands identified in § 37-5-8 in order to achieve the
30 purposes of this chapter and customary terms for commercial real estate transactions of this nature,
31 and containing the following provisions:

32 (i) The terms for each parcel shall be the fair market value of such parcel at the time of
33 conveyance as determined by the commission.

34 (ii) As a condition to the sale, lease or other transfer of each parcel or any portion thereof,

1 any buyer, tenant or transferee that is a not-for-profit, organization or entity that is otherwise
2 exempt from municipal real estate taxes, including, without limitation, any independent public
3 instrumentality, governmental or quasi governmental agency, body, division, or official, or any
4 affiliate or subsidiary thereof, shall have entered into an agreement for payments to the city in
5 accordance with § 42-64.14-14 relating to tax exempt parcels, or such other things acceptable to
6 the city.

7 (iii) Promptly after taking title to a parcel, the buyer shall cause such parcel to be
8 attractively landscaped and maintained for use as green space until such time as development of
9 the parcel in accordance with this section begins.

10 (iv) Development of the parcels, as appropriate, shall be in accordance with the findings
11 set forth in this chapter and with the buyer's approved development plan for the identified parcels,
12 as the same may be amended from time to time with the approval of the commission.

13 (v) As a condition to the contract for the sale, lease, transfer or conveyance an approved
14 development plan shall include a construction schedule that shall commence within twelve (12)
15 months from the effective date of the contract and all construction shall be complete within three
16 (3) years from the commencement of said construction unless otherwise amended and approved by
17 the commission at a duly posted public meeting of the commission.

18 (6) Notwithstanding any provision of this chapter 42-64.14 or any other law to the contrary,
19 the commission shall exercise all powers authorized by §§ 42-64.14-7 and 42-64.14-8 in a manner
20 consistent with and subject to the city of Providence comprehensive plan adopted by the city
21 pursuant to 45-22-2.1 et seq. and the city of Providence zoning ordinances pursuant to 45-24-27 et
22 seq. as previously enacted by the city of Providence, and as may be enacted and/or amended from
23 time to time through July 1, 2012, or enacted thereafter with the consent of the commission.

24 (7) Under no circumstances shall the commission establish, authorize, zone, plan, or permit
25 in the district a so-called "casino" or any form of gambling, including but not limited to those
26 activities governed by title 41 of the Rhode Island general laws, so-called "video-gambling" or any
27 lotteries whatsoever except for the sale of lottery tickets pursuant to title 42, section 61 of the
28 general laws. Furthermore, upon conveyance, but in any event before approving any project,
29 development, or redevelopment, the commission shall ensure that a deed restriction, running to the
30 benefit of the city of Providence and the state, is recorded against the subject property effectuating
31 and memorializing such restriction. The aforementioned restriction shall run with the land and be
32 binding upon all successors and assign. Any deed restriction conveyed to the state pursuant to this
33 subsection may be waived only by statute, resolution or other action by the general assembly which
34 complies with the constitutional requirements for the expansion of gambling.

1 development fund to make qualified investments in eligible businesses located in this state within
2 three (3) years of the initial credit allowance date; and

3 (iii) Is designated by the small business development fund as a capital investment under
4 this chapter and is certified by the Corporation pursuant to § 42-64.33-4. This term shall include
5 any capital investment that does not meet the provisions of § 42-64.33-4(a) if the investment was
6 a capital investment in the hands of a prior holder.

7 (4) "Corporation" means the Rhode Island Commerce Corporation.

8 (5) "Credit allowance date" means the date on which a capital investment is made and each
9 of the five (5) anniversary dates of the date thereafter.

10 (6) "Eligible business" means a business that, at the time of the initial qualified investment
11 in the company:

12 (i) Has less than two hundred fifty (250) employees;

13 (ii) Has not more than fifteen million dollars (\$15,000,000) in net income from the
14 preceding tax year;

15 (iii) Has its principal business operations in this state; and

16 (iv) Is engaged in industries related to clean energy, biomedical innovation, life sciences,
17 information technology, software, cyber physical systems, cybersecurity, data analytics, defense,
18 shipbuilding, maritime, composites, advanced business services, design, food, manufacturing,
19 transportation, distribution, logistics, arts, education, hospitality, tourism, or, if not engaged in the
20 industries, the Corporation makes a determination that the investment will be beneficial to the
21 economic growth of the state.

22 (7) "Eligible distribution" means:

23 (i) A distribution of cash to one or more equity owners of a small business fund investor to
24 fully or partially offset a projected increase in the owner's federal or state tax liability, including
25 any penalties and interest, related to the owner's ownership, management, or operation of the small
26 business fund investor;

27 (ii) A distribution of cash as payment of interest and principal on the debt of the small
28 business fund investor or small business development fund; or

29 (iii) A distribution of cash related to the reasonable costs and expenses of forming,
30 syndicating, managing, and operating the small business fund investor or the small business
31 development fund, or a return of equity or debt to affiliates of a small business fund investor or
32 small business development fund. The distributions may include reasonable and necessary fees paid
33 for professional services, including legal and accounting services, related to the formation and
34 operation of the small business development fund.

1 (8) "Jobs created" means a newly created position of employment that was not previously
2 located in the state at the time of the qualified investment in the eligible business and requiring a
3 minimum of thirty five (35) hours worked each week, measured each year by subtracting the
4 number of full-time thirty five (35) hours per week employment positions at the time of the initial
5 qualified investment in the eligible business from the monthly average of full-time thirty five (35)
6 hours per week employment positions for the applicable year. The number shall not be less than
7 zero.

8 (9) "Jobs retained" means a position requiring a minimum of thirty five (35) hours worked
9 each week that existed prior to the initial qualified investment. Retained jobs shall be counted each
10 year based on the monthly average of full-time thirty five (35) hours per week employment
11 positions for the applicable year. The number shall not exceed the initial amount of retained jobs
12 reported and shall be reduced each year if employment at the eligible business concern drops below
13 that number.

14 (10) "Minority business enterprise" means an eligible business which is certified by the
15 Rhode Island office of diversity, equity and opportunity as being a minority or women business
16 enterprise.

17 (11) "Principal business operations" means the location where at least sixty percent (60%)
18 of a business's employees work or where employees who are paid at least sixty percent (60%)
19 percent of the business's payroll work. A business that has agreed to relocate employees using the
20 proceeds of a qualified investment to establish its principal business operations in a new location
21 shall be deemed to have its principal business operations in the new location if it satisfies these
22 requirements no later than one hundred eighty (180) days after receiving a qualified investment.

23 (12) "Purchase price" means the amount paid to the small business development fund that
24 issues a capital investment which shall not exceed the amount of capital investment authority
25 certified pursuant to § 42-64.33-4.

26 (13) "Qualified investment" means any investment in an eligible business or any loan to an
27 eligible business with a stated maturity date of at least one year after the date of issuance, excluding
28 revolving lines of credit and senior secured debt unless the eligible business has a credit refusal
29 letter or similar correspondence from a depository institution or a referral letter or similar
30 correspondence from a depository institution referring the business to a small business development
31 fund; provided that, with respect to any one eligible business, the maximum amount of investments
32 made in the business by one or more small business development funds, on a collective basis with
33 all of the businesses' affiliates, with the proceeds of capital investments shall be twenty percent
34 (20%) of the small business development fund's capital investment authority, exclusive of

1 investments made with repaid or redeemed investments or interest or profits realized thereon. An
2 eligible business, on a collective basis with all of the businesses' affiliates, is prohibited from
3 receiving more than four million dollars (\$4,000,000) in investments from one or more small
4 business development funds with the proceeds of capital investments.

5 (14) "Small business development fund" means an entity certified by the Corporation under
6 § 42-64.33-4.

7 (15) "Small business fund investor" means an entity that makes a capital investment in a
8 small business development fund.

9 (16) "State" means the state of Rhode Island and Providence Plantations.

10 (17) "State tax liability" means any liability incurred by any entity under § 44-17-1 et seq.

11 **42-64.33-3. Tax credit established.**

12 (a) Upon making a capital investment in a small business development fund, a small
13 business fund investor earns a vested right to a credit against the entity's state tax liability that may
14 be utilized on each credit allowance date of the capital investment in an amount equal to the
15 applicable percentage for the credit allowance date multiplied by the purchase price paid to the
16 small business development fund for the capital investment. The amount of the credit claimed by
17 any entity shall not exceed the amount of the entity's state tax liability for the tax year for which
18 the credit is claimed. Any amount of credit that an entity is prohibited from claiming in a taxable
19 year as a result of this section may be carried forward for use in any subsequent taxable year. It is
20 the intent of this chapter that an entity claiming a credit under this section is not required to pay
21 any additional tax that may arise as a result of claiming the credit.

22 (b) No credit claimed under this section shall be refundable or saleable on the open market.
23 Credits earned by or allocated to a partnership, limited liability company, or S- corporation may be
24 allocated to the partners, members, or shareholders of the entity for their direct use in accordance
25 with the provisions of any agreement among the partners, members, or shareholders, and a small
26 business development fund must notify the Corporation of the names of the entities that are eligible
27 to utilize credits pursuant to an allocation of credits or a change in allocation of credits or due to a
28 transfer of a capital investment upon the allocation, change, or transfer. The allocation shall be not
29 considered a sale for purposes of this section.

30 (c) The Corporation shall provide copies of issued certificates to the division of taxation.

31 **42-64.33-4. Application, approval and allocations.**

32 (a) A small business development fund that seeks to have an equity or debt investment
33 certified as a capital investment and eligible for credits under this chapter shall apply to the
34 Corporation. The Corporation shall begin accepting applications within ninety (90) days of the

1 effective date of this chapter. The small business development fund shall include the following:

2 (1) The amount of capital investment requested;

3 (2) A copy of the applicant's or an affiliate of the applicant's license as a rural business
4 investment company under 7 U.S.C. § 2009cc, or as a small business investment company under
5 15 U.S.C. § 681, and a certificate executed by an executive officer of the applicant attesting that
6 the license remains in effect and has not been revoked;

7 (3) Evidence that, as of the date the application is submitted, the applicant or affiliates of
8 the applicant have invested at least one hundred million dollars (\$100,000,000) in nonpublic
9 companies;

10 (4) An estimate of the number of jobs that will be created or retained in this state as a result
11 of the applicant's qualified investments;

12 (5) A business plan that includes a strategy for reaching out to and investing in minority
13 business enterprises and a revenue impact assessment projecting state and local tax revenue to be
14 generated by the applicant's proposed qualified investment prepared by a nationally recognized,
15 third-party, independent economic forecasting firm using a dynamic economic forecasting model
16 that analyzes the applicant's business plan over the ten (10) years following the date the application
17 is submitted to the Corporation; and

18 (6) A nonrefundable application fee of five thousand dollars (\$5,000), payable to the
19 Corporation.

20 (b) Within thirty (30) days after receipt of a completed application, the Corporation shall
21 grant or deny the application in full or in part. The Corporation shall deny the application if:

22 (1) The applicant does not satisfy all of the criteria described in subsection (a) of this
23 section;

24 (2) The revenue impact assessment submitted with the application does not demonstrate
25 that the applicant's business plan will result in a positive economic impact on this state over a ten
26 (10) year period that exceeds the cumulative amount of tax credits that would be issued to the
27 applicant if the application were approved; or

28 (3) The Corporation has already approved the maximum amount of capital investment
29 authority under subsection (g) of this section.

30 (c) If the Corporation denies any part of the application, it shall inform the applicant of the
31 grounds for the denial. If the applicant provides any additional information required by the
32 Corporation or otherwise completes its application within fifteen (15) days of the notice of denial,
33 the application shall be considered completed as of the original date of submission. If the applicant
34 fails to provide the information or fails to complete its application within the fifteen (15) day period,

1 the application remains denied and must be resubmitted in full with a new submission date.

2 (d) If the application is deemed to be complete and the applicant deemed to meet all of the
3 requirements of Section 42-64.33-4 (a) and (b), the Corporation shall certify the proposed equity
4 or debt investment as a capital investment that is eligible for credits under this chapter, subject to
5 the limitations contained in subsection (g) of this section. The Corporation shall provide written
6 notice of the certification to the small business development fund.

7 (e) The Corporation shall certify capital investments in the order that the applications were
8 received by the Corporation. Applications received on the same day shall be deemed to have been
9 received simultaneously.

10 (f) For applications that are complete and received on the same day, the Corporation shall
11 certify applications in proportionate percentages based upon the ratio of the amount of capital
12 investments requested in an application to the total amount of capital investments requested in all
13 applications.

14 (g) The Corporation shall certify sixty-five million dollars (\$65,000,000) in capital
15 investments pursuant to this section; provided that not more than twenty million dollars
16 (\$20,000,000) may be allocated to any individual small business development fund certified under
17 this section.

18 (h) Within sixty (60) days of the applicant receiving notice of certification, the small
19 business development fund shall issue the capital investment to and receive cash in the amount of
20 the certified amount from a small business fund investor. At least forty-five percent (45%) of the
21 small business fund investor's capital investment shall be composed of capital raised by the small
22 business fund investor from sources, including directors, members, employees, officers, and
23 affiliates of the small business fund investor, other than the amount of capital invested by the
24 allocatee claiming the tax credits in exchange for the allocation of tax credits; provided that at least
25 ten percent (10%) of the capital investment shall be derived from the small business investment
26 fund's managers. The small business development fund shall provide the Corporation with evidence
27 of the receipt of the cash investment within sixty-five (65) days of the applicant receiving notice of
28 certification. If the small business development fund does not receive the cash investment and issue
29 the capital investment within the time period following receipt of the certification notice, the
30 certification shall lapse and the small business development fund shall not issue the capital
31 investment without reapplying to the Corporation for certification. Lapsed certifications revert to
32 the authority and shall be reissued pro rata to applicants whose capital investment allocations were
33 reduced pursuant to this chapter and then in accordance with the application process.

34 **42-64.33-5. Tax credit recapture and exit.**

1 (a) The Corporation, working in coordination with the Division of Taxation, may recapture,
2 from any entity that claims a credit on a tax return, the credit allowed under this chapter if:

3 (1) The small business development fund does not invest one hundred (100%) percent of
4 its capital investment authority in qualified investments in this state within three (3) years of the
5 first credit allowance date;

6 (2) The small business development fund, after satisfying subsection (a)(1) of this section,
7 fails to maintain qualified investments equal to one hundred (100%) percent of its capital
8 investment authority until the sixth anniversary of the initial credit allowance date. For the purposes
9 of this subsection, a qualified investment is considered maintained even if the qualified investment
10 was sold or repaid so long as the small business development fund reinvests an amount equal to the
11 capital returned or recovered by the small business development fund from the original investment,
12 exclusive of any profits realized, in other qualified investments in this state within twelve (12)
13 months of the receipt of the capital. Amounts received periodically by a small business
14 development fund shall be treated as continually invested in qualified investments if the amounts
15 are reinvested in one or more qualified investments by the end of the following calendar year. A
16 small business development fund shall not be required to reinvest capital returned from qualified
17 investments after the fifth anniversary of the initial credit allowance date, and the qualified
18 investments shall be considered held continuously by the small business development fund through
19 the sixth anniversary of the initial credit allowance date;

20 (3) The small business development fund, before exiting the program in accordance with
21 subsection (e) of this section, makes a distribution or payment that results in the small business
22 development fund having less than one hundred percent (100%) of its capital investment authority
23 invested in qualified investments in this state or available for investment in qualified investments
24 and held in cash and other marketable securities;

25 (4) The small business development fund, before exiting the program in accordance with
26 subsection (e) of this section, fails to make qualified investments in minority business enterprises
27 that when added together equal at least ten percent (10%) of the small business development fund's
28 capital investment authority; or

29 (5) The small business development fund violates subsection (d) of this section.

30 (b) Recaptured credits and the related capital investment authority revert to the Corporation
31 and shall be reissued pro rata to applicants whose capital investment allocations were reduced
32 pursuant to § 42-64.33-4(f) of this section and then in accordance with the application process.

33 (c) Enforcement of each of the recapture provisions of subsection (a) of this section shall
34 be subject to a six (6) month cure period. No recapture shall occur until the small business

1 development fund has been given notice of noncompliance and afforded six (6) months from the
2 date of the notice to cure the noncompliance.

3 (d) No eligible business that receives a qualified investment under this chapter, or any
4 affiliates of the eligible business, may directly or indirectly:

5 (1) Own or have the right to acquire an ownership interest in a small business development
6 fund or member or affiliate of a small business development fund, including, but not limited to, a
7 holder of a capital investment issued by the small business development fund; or

8 (2) Loan to or invest in a small business development fund or member or affiliate of a small
9 business development fund, including, but not limited to, a holder of a capital investment issued by
10 a small business development fund, where the proceeds of the loan or investment are directly or
11 indirectly used to fund or refinance the purchase of a capital investment under this chapter.

12 (e) On or after the sixth anniversary of the initial credit allowance date, a small business
13 development fund may apply to the Corporation to exit the program and no longer be subject to
14 regulation under this chapter. The Corporation shall respond to the exit application within thirty
15 (30) days of receipt. In evaluating the exit application, the fact that no credits have been recaptured
16 and that the small business development fund has not received a notice of recapture that has not
17 been cured pursuant to subsection (c) of this section shall be sufficient evidence to prove that the
18 small business development fund is eligible for exit. The Corporation shall not unreasonably deny
19 an exit application submitted under this subsection. If the exit application is denied, the notice shall
20 include the reasons for the determination.

21 (f) If the number of jobs created or retained by the eligible businesses that received
22 qualified investments from the small business development fund, calculated pursuant to reports
23 filed by the small business development fund pursuant to § 42-64.33-7, is:

24 (1) Less than sixty percent (60%) of the amount projected in the approved small business
25 development fund's business plan filed as part of its application for certification under § 42- 64.33-
26 4, then the state shall receive thirty percent (30%) of any distribution or payment to an equity or
27 debt holder in an approved small business development fund made after its exit from the program
28 in excess of eligible distributions; or

29 (2) Greater than sixty percent (60%) but less than one hundred percent (100%) of the
30 amount projected in the approved small business development fund's business plan filed as part of
31 its application for certification under § 42-64.33-4, then the state shall receive fifteen percent (15%)
32 of any distribution or payment to an equity or debt holder in an approved small business
33 development fund made after its exit from the program in excess of eligible distributions.

34 (g) At the time a small business development fund applies to the Corporation to exit the

1 program, it shall calculate the aggregate internal rate of return of its qualified investments. If the
2 small business development fund's aggregate internal rate of return on its qualified investments at
3 exit exceeds ten percent (10%), then, after eligible distributions, the state shall receive ten percent
4 (10%) of any distribution or payment in excess of the aggregate ten percent (10%) internal rate of
5 return to an equity or debtholder in an approved small business development fund.

6 (h) The Corporation shall not revoke a tax credit certificate after the small business
7 development fund's exit from the program.

8 **42-64.33-6. Request for determination.**

9 A small business development fund, before making a qualified investment, may request
10 from the Corporation a written opinion as to whether the business in which it is proposed to invest
11 is an eligible business. The Corporation, not later than the fifteenth business day after the date of
12 receipt of the request, shall notify the small business development fund of its determination. If the
13 Corporation fails to notify the small business development fund by the fifteenth business day of its
14 determination, the business in which the small business development fund proposes to invest shall
15 be considered an eligible business.

16 **42-64.33-7. Reporting obligations.**

17 (a) Each small business development fund shall submit a report to the Corporation on or
18 before the fifth business day after the third anniversary of the closing date. The report shall provide
19 documentation as to the small business development fund's qualified investments and include:

20 (1) A bank statement evidencing each qualified investment;

21 (2) The name, location, status as a minority business enterprise if applicable, and industry
22 of each business receiving a qualified investment, including either the determination letter set forth
23 in § 42-64.33-6 or evidence that the business qualified as an eligible business at the time the
24 investment was made; and

25 (3) The number of employment positions created or retained as a result of the small
26 business development fund's qualified investments as of the last day of the preceding calendar year;

27 (b) On or before the last day of February of each year following the year in which the report
28 required in subsection (a) of this section is due, the small business development fund shall submit
29 an annual report to the Corporation including the following:

30 (1) The number of employment positions created or retained as a result of the small
31 business development fund's qualified investments as of the last day of the preceding calendar year;

32 (2) The number of minority business enterprises that have received qualified investments
33 and the amount of qualified investment that such minority business enterprises have received;

34 (3) The average annual salary of the positions described in subsection (b)(1) of this section;

1 and

2 (4) The follow-on capital investment that has occurred along with or after the small
3 business development fund's investment as of the last day of the preceding calendar year.

4 (c) A copy of the reports required under this section must also be sent concurrently to the
5 speaker of the house, president of the senate, house finance chairperson, senate finance chairperson,
6 and the general treasurer.

7 **42-64.33-8. Limitations.**

8 The incentives provided under this chapter shall not be granted in combination with any
9 other job specific benefit provided by the state, the commerce corporation, or any other state
10 agency, board, commission, quasi-public corporation or similar entity without the express
11 authorization of the commerce corporation.

12 **42-64.33-9. Rules and regulations.**

13 The Corporation and Division of Taxation may issue reasonable rules and regulations,
14 consistent with this chapter, as are necessary to carry out the intent and purpose and implementation
15 of the responsibilities under this chapter.

16 SECTION 11. This article shall take effect upon passage.

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