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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS

Introduced By: Senators Seveney, DiPalma, Coyne, and Euer

Date Introduced: February 27, 2019

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"  
2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 89

4 TRANSPARENCY AND SUSTAINABILITY STANDARDS FOR RHODE ISLAND

5 BUSINESSES ACT

6 **5-89-1. Purpose.**

7 The purpose of this chapter is to support Rhode Island business entities in their global  
8 sustainability efforts by providing this enabling legislation that permits a Rhode Island entity to  
9 signal its commitment to global sustainability. This chapter does not purport to prescribe which  
10 sustainability standards an entity chooses to adopt. Thus, a Rhode Island entity is free to choose  
11 standards promulgated or developed by any entity.

12 **5-89-2. Legislative findings.**

13 The legislature finds that:

14 (1) The state of Rhode Island is committed to initiatives designed to support  
15 sustainability practices by providing a platform for manufacturers and businesses to demonstrate  
16 their corporate commitment to social responsibility and sustainability.

17 (2) In recognition of the increasing interest from investors, customers and employees for  
18 greater transparency in sustainability practices, this legislation provides Rhode Island businesses  
19 a means to demonstrate to their customers, investors, and employees that they are committed to

1 sustainability that embodies business practices and systems that are designed to foster innovation  
2 and long-term profits as well as environmental and societal benefits.

3 (3) Rhode Island's program shall be implemented by way of voluntary enabling  
4 legislation and applies only to those who seek to become certified as reporting entities. There is  
5 no single blueprint for best practices in sustainability among or within industries, and this  
6 legislation shall allow businesses to craft a sustainability blueprint that meets their specific needs  
7 provided that the entity's governing body approves its standards and assessment measures and  
8 that they are made publicly available.

9 **5-89-3. Definitions.**

10 As used in this chapter only, the following terms shall have the following meanings:

11 (1) "Acknowledged" means with respect to any document or instrument required to be  
12 executed by an authorized person pursuant to this chapter, the authorized person executing such  
13 document or instrument has certified, under penalty of perjury, that the information set forth in  
14 such document or instrument is accurate and complete to the best of such authorized person's  
15 actual knowledge after due inquiry.

16 (2) "Assessment measures" means with respect to any entity, the policies, procedures or  
17 practices adopted by such entity to adduce objective factual information to assess the entity's  
18 performance in meeting its standards, including any procedures for internal or external  
19 verification of such information.

20 (3) "Authorized person" means, with respect to any entity, any person or entity who has  
21 been duly authorized in accordance with the organizational documents of the entity and the laws  
22 of this state (whether statutory, common law or otherwise) under which the entity is incorporated,  
23 formed or organized to execute such documents and instruments and make such  
24 acknowledgments as are required by this chapter.

25 (4) "Certification of adoption of transparency and sustainability standards" means a  
26 certificate, issued by the secretary of state, attesting that a reporting entity has filed with the  
27 secretary of state a standards statement pursuant to this chapter. Such certificate shall state on its  
28 face that the state has not reviewed the contents or implementation of the matters referenced in  
29 the standards statement, nor verified any reports made by the reporting entity.

30 (5) "Control," including the terms "controlling," "controlled by" and "under common  
31 control with," means the possession, directly or indirectly, of the power to direct or cause the  
32 direction of the management and policies of a person or entity, whether through the ownership of  
33 equity or other voting securities, by contract or otherwise.

34 (6) "Entity" means any:

1           (i) Corporation (stock or nonstock), partnership (whether general (including a limited  
2 liability partnership) or limited (including a limited liability limited partnership)), limited liability  
3 company, or statutory trust validly existing under the applicable laws of this state; or

4           (ii) Any association of the kind commonly known as a joint-stock association or joint-  
5 stock company, and any unincorporated association, trust or other enterprise having members or  
6 having outstanding shares of stock or other evidences of financial or beneficial interest therein,  
7 the internal affairs of which are governed by the laws of this state and which has not otherwise  
8 been dissolved (whether voluntarily or by any order or decree of any court of competent  
9 jurisdiction) or otherwise terminated.

10           (7) "Governing body" means the board of directors or equivalent governing body, person  
11 or entity having the power to manage and direct the business and affairs of the entity, and shall  
12 include any duly authorized and empowered committee of the board of directors or equivalent  
13 governing body.

14           (8) "Nonreporting entity" means any person or entity (including any entity) that is not a  
15 reporting entity.

16           (9) "Organizational documents" means the certificate of incorporation, bylaws,  
17 partnership agreement, limited liability company agreement, articles of association or other  
18 agreement, document or instrument containing the provisions by which an entity is formed or  
19 organized and by which its internal affairs are governed, in each case as amended, modified,  
20 supplemented and/or restated and in effect as of any date of determination.

21           (10) "Provider" means, as to any entity, any third party that is engaged to provide  
22 professional consulting services or advice to assist entities or enterprises in measuring, managing  
23 or reporting the impact of their business and operations on issues of social and environmental  
24 impact.

25           (11) "Report" means a report with respect to a reporting period for a reporting entity  
26 containing the following:

27           (i) A summary of the standards and assessment measures in effect during the applicable  
28 reporting period, which summary shall include the third-party criteria and any other source used  
29 to develop the entity's standards and assessment measures and the process by which they were  
30 identified, developed and approved by the entity;

31           (ii) A summary of the actions or activities by which the entity has sought to meet the  
32 standards during the applicable reporting period, including engagement with and disclosure to  
33 stakeholders, if any;

34           (iii) The most recent available objective and factual information developed pursuant to

1 the assessment measures, if any, with respect to the entity's performance in meeting its standards  
2 during the reporting period, and an assessment by the governing body whether the entity has been  
3 successful in meeting the standards, and in the case of any failure to meet such standards, a  
4 summary of any additional efforts the governing body has determined the entity will undertake to  
5 improve its performance in respect thereof, or its determination not to undertake such additional  
6 efforts;

7 (iv)(A) The identity of any provider assisting the entity in measuring, managing or  
8 reporting the impact of the entity's business and operations in light of its standards; or

9 (B) A statement that the entity has not engaged the services of any provider for such  
10 purposes;

11 (v) A summary of any changes to the standards, assessment measures or reporting period,  
12 the process by which such changes were identified, developed and approved by the entity, and the  
13 third-party criteria used to develop any changes to the standards;

14 (vi) A summary of the actions or activities planned for the next succeeding reporting  
15 period with respect to measuring, managing and reporting with respect to the standards if such  
16 actions and activities are materially different from those described for the applicable reporting  
17 period; and

18 (vii) Notwithstanding the foregoing, no entity shall be required to include in any report  
19 any information that such entity determines in good faith is subject to an attorney-client or other  
20 applicable privilege or would result in the disclosure of trade secrets or other competitively  
21 sensitive information.

22 (12) "Reporting entity" means an entity that has been issued a certificate of adoption of  
23 transparency and sustainability standards and that has not become and continues to be a  
24 nonreporting entity pursuant to § 5-89-6.

25 (13) "Reporting period" means a period of one year, the initial such period to begin not  
26 more than one year following the filing of the standards statement, and subsequent reporting  
27 periods to begin on the day following the last date of the prior reporting period, unless a  
28 governing body elects to shorten the duration of a reporting period that has not begun in order to  
29 change the start date for subsequent reporting periods.

30 (14) "Standards" means, with respect to an entity, the principles, guidelines or standards  
31 adopted by the entity to assess and report the impacts of its activities on society and the  
32 environment, which principles, guidelines or standards shall be based on or derived from third-  
33 party criteria.

34 (15) "Standards statement" means the filing described in § 5-89-5.

1 (16) "Third party" means, with respect to any entity, any person or entity other than any  
2 person or entity that controls, is controlled by or under common control with such entity,  
3 including any governmental or nongovernmental organization that provides services, standards,  
4 or criteria with respect to measuring, managing or reporting the social and environmental impact  
5 of businesses or other enterprises.

6 (17) "Third-party criteria" means any principles, guidelines or standards developed and  
7 maintained by a third party (including a provider) that are used to assist businesses or other  
8 enterprises in measuring, managing or reporting the social and environmental impact of  
9 businesses or other entities.

10 **5-89-4. Certificate of adoption of transparency and sustainability standards.**

11 (a) The secretary of state shall issue a certificate of adoption of transparency and  
12 sustainability standards to any entity if the secretary of state shall have determined that the  
13 following conditions have been satisfied:

14 (1) Such entity shall have executed and acknowledged, and delivered to the secretary of  
15 state, a standards statement;

16 (2) Such entity shall have paid all fees and costs assessed by the secretary of state; and

17 (3) Such entity remains a reporting entity, and if such entity is registered or formed with  
18 the secretary of state, it is in good standing upon the records of the secretary of state.

19 (b) Each reporting entity shall, for all purposes of the laws of this state, be authorized and  
20 permitted to disclose, publicly or privately, that it is a reporting entity.

21 (c) The secretary of state is hereby authorized to promulgate rules and regulations  
22 necessary to implement this chapter and shall issue any such certificate required pursuant to this  
23 chapter and shall further be permitted to charge a reasonable fee for any certificates issued and /or  
24 renewed.

25 **5-89-5. Statement of adoption of transparency and sustainability standards.**

26 If the governing body of an entity has adopted resolutions setting forth the entity's  
27 standards and assessment measures, the entity may file a standards statement that:

28 (1) Acknowledges that the governing body of the entity has adopted resolutions setting  
29 forth the entity's standards and assessment measures;

30 (2) Identifies an Internet link on the principal website maintained by or on behalf of the  
31 entity at which the standards and assessment measures, the third-party criteria used to develop the  
32 standards, a description of the process by which such standards were identified, developed and  
33 approved and any report filed or to be filed by the entity are and will be readily available at no  
34 cost and without the requirement of the provision of any information, and will remain available

1 for so long as the entity remains a reporting entity (the "website");

2 (3) Acknowledges that the entity has agreed to acknowledge and deliver to the secretary  
3 of state, within thirty (30) days after a request therefor by the secretary of state, its most recent  
4 report;

5 (4) Acknowledges that the entity has committed to:

6 (i) Use the assessment measures to assess the entity's performance in meeting its  
7 standards;

8 (ii) Review and assess its standards and assessment measures from time to time, and  
9 make such changes thereto as the governing body in good faith determines are necessary or  
10 advisable in furtherance of meeting the entity's standards;

11 (iii) Prepare and make readily available to the public at no cost and without the  
12 requirement of the provision of any information (by posting on the website at the identified  
13 Internet link) a copy of its report within ninety (90) days of the end of each reporting period;

14 (5) Sets forth the address within the state to which the secretary of state shall mail any  
15 notices; and

16 (6) Is acknowledged by an authorized person.

17 **5-89-6. Reporting entity status - Renewal statement.**

18 (a) A renewal statement shall be submitted to the secretary of state between October 1  
19 and December 31 of each year. A reporting entity shall become a nonreporting entity on January  
20 1 of the following year if the reporting entity shall have failed to submit the renewal statement to  
21 the secretary of state in accordance with this chapter without the need for further action by the  
22 secretary of state. A reporting entity's renewal statement shall:

23 (1) Acknowledge that any changes since its most recent filing of a renewal statement or  
24 restoration statement, or, if no renewal statement or restoration statement has been filed, since the  
25 filing of its standards statement, to its address within the state or standards and assessment  
26 measures, and a description of the process by which such changes were identified, developed and  
27 approved by the entity and the third-party criteria used to develop any changes to the standards  
28 are available on the website;

29 (2) Acknowledge that, for the most recent reporting period for which a report was  
30 required to be made available on or prior to October 1, if any, a report was made available on the  
31 website in accordance with this chapter within the time period provided for in § 5-89-5(4)(iii);

32 (3) Provide an Internet link to the report for the most recent reporting period, if any, on  
33 the website;

34 (4) Be acknowledged by an authorized person.

1 (b) No standards statement shall be accepted by the secretary of state for an entity if it has  
2 become a nonreporting entity pursuant to subsection (a) of this section within the prior year.

3 (c) On or before September 1 of each year, the secretary of state shall mail to each  
4 reporting entity at its address as specified in § 5-89-5(5), a notice specifying that the renewal  
5 statement together with applicable fees shall be due on October 1 of the current year and stating  
6 that the reporting entity shall become a nonreporting entity on January 1 of the following year if  
7 such renewal statement is not filed.

8 **5-89-7. Restoration statement.**

9 (a) If any reporting entity shall become a nonreporting entity for failure to file a renewal  
10 statement, it may, at any time during the calendar year following such failure, file a restoration  
11 statement. The restoration statement shall:

12 (1) Acknowledge that any changes since its most recent filing of a renewal statement or  
13 restoration statement, or, if no renewal statement or restoration statement has been filed, since the  
14 filing of its standards statement, to its address within the state or standards and assessment  
15 measures, and a description of the process by which such changes were identified, developed and  
16 approved by the entity and the third-party criteria used to develop any changes to the standards  
17 are available on the website;

18 (2) Acknowledge that a report for all the reporting periods ended more than ninety (90)  
19 days prior to filing the restoration statement have been made available on the website in  
20 accordance with this chapter;

21 (3) Provide an Internet link on the website to the report for the most recent reporting  
22 period and any other reporting period for which an Internet link has not been previously provided  
23 in a renewal statement or restoration statement; and

24 (4) Be acknowledged by an authorized person.

25 (b) Any nonreporting entity that files a restoration statement shall thereupon  
26 automatically become a reporting entity, without the need for further action by the secretary of  
27 state.

28 **5-89-8. Limitation of liability.**

29 Neither the failure by an entity to satisfy any of its standards, nor the selection of specific  
30 assessment measures, nor any other action taken by or on behalf of the entity pursuant to this  
31 chapter or any omission to take any action required by this chapter to seek, obtain or maintain  
32 status as a reporting entity, shall, in and of itself, create any right of action on the part of any  
33 person or entity or otherwise give rise to any claim for breach of any fiduciary or similar duty  
34 owed to any person or entity.

1           **5-89-9. Fees.**

2           No document required to be filed under this chapter shall be effective until the applicable  
3 fees required by this section are paid and upon the receipt of a statement under § 5-89-5 or a  
4 renewal statement under § 5-89-6, or a registration statement under § 5-89-7, a fee in the amount  
5 of up to two hundred dollars (\$200) shall be paid to and collected by the secretary of state.

6           **5-89-10. Enabling.**

7           This act is enabling and applies only to those businesses who seek to become certified as  
8 a reporting entity and, who comply with all applicable registration requirements. Reporting  
9 entities are enabled to craft whatever sustainability blueprint they require that meets their specific  
10 needs as there is no single blueprint for best practices in sustainability among or within industries.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO BUSINESSES AND PROFESSIONS

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1           This act would create the Certificate of adoption of transparency and sustainability  
2 standards act that would enable Rhode Island businesses to voluntarily promulgate standards to  
3 guide its business activities in a sustainable and responsible manner, as well as metrics for  
4 assessing whether it has met its objectives.

5           This act would take effect upon passage.

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