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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO TAXATION -- RHODE ISLAND OPPORTUNITY ZONE TAX CREDIT AND
TAX EXEMPTION ACT

Introduced By: Senators Conley, Nesselbush, Crowley, and Cano

Date Introduced: March 21, 2019

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 70

4 RHODE ISLAND OPPORTUNITY ZONE TAX CREDIT AND TAX EXEMPTION ACT

5 **44-70-1. Short title.**

6 This chapter shall be known and may be cited as "Rhode Island Opportunity Zone Tax
7 Credit and Tax Exemption Act."

8 **44-70-2. Definitions.**

9 The following words and phrases used in this chapter shall have the meanings given to
10 them in this chapter unless the context indicates otherwise:

11 (1) "Corporation" means the governmental agency and public instrumentality, formerly
12 known as the "Rhode Island port authority and economic development corporation" and/or also
13 formerly known as the "Rhode Island economic development corporation," and now known as the
14 Rhode Island commerce corporation authorized, created, and established pursuant to § 42-64-4,
15 or any subsidiary corporation thereof which is established pursuant to § 42-64-7.1.

16 (2) "Director" means the chief executive officer of the Rhode Island commerce
17 corporation.

18 (3) "Placed in service" means the earlier of:

1 (i) The date the owner of the Rhode Island qualified opportunity zone business property
2 receives, for any portion of the Rhode Island qualified opportunity zone business property, a
3 certificate or other authorization for occupancy;

4 (ii) The year in which, under the depreciation practice of the owner of the qualified
5 opportunity zone property, the period for depreciation with respect to the property begins; or

6 (iii) The year in which the qualified opportunity zone business property is placed in a
7 condition or state of readiness and availability for its specifically assigned function.

8 (4) "Qualified opportunity fund" means a qualified opportunity fund, as defined in 26
9 U.S.C. 1400Z-2(d), that invests, either directly or through a qualified opportunity zone business,
10 not less than two hundred fifty thousand dollars (\$250,000) in a qualified opportunity zone.

11 (5) "Qualified opportunity zone" means a qualified opportunity zone as defined in 26
12 U.S.C. 1400ZO-1(a).

13 (6) "Qualified opportunity zone business" means a qualified opportunity zone business as
14 defined in 26 U.S.C. 1400Z-2(d)(3).

15 (7) "Qualified opportunity zone business property" means qualified opportunity zone
16 business property as defined in 26 U.S.C. 1400Z-2(d)(2)(D) that is located in a qualified
17 opportunity zone in the state of Rhode Island.

18 (8) "Rule or regulation" means any directive promulgated by the Rhode Island commerce
19 corporation not inconsistent with the laws of the United States or the state.

20 **44-70-3. Rhode Island opportunity zone tax credit.**

21 (a) A taxpayer shall be allowed a nonrefundable credit, to be computed as provided in
22 this chapter, against the tax imposed by chapters 11, 14, 17 and 30 of this title. The credit shall be
23 claimed for the taxable year in which the Rhode Island qualified opportunity zone business
24 property acquired, constructed, or renovated by a Rhode Island qualified opportunity fund is
25 placed in service, and shall equal twenty percent (20%) of the amount of the investment in Rhode
26 Island qualified opportunity zone business property.

27 (b) If the amount of the tax credit exceeds a Rhode Island qualified opportunity fund's
28 total tax liability for the year in which the Rhode Island qualified opportunity zone business
29 property is placed in service, the amount that exceeds the Rhode Island qualified opportunity
30 fund's tax liability may be carried forward for credit against the taxes imposed for the succeeding
31 seven (7) years, or until the full credit is used, whichever occurs first. Credits allowed to a Rhode
32 Island qualified opportunity fund that is a partnership or a limited liability company taxed as a
33 partnership shall be passed through to the persons designated as partners or members respectively
34 pro rata or pursuant to an executed agreement among such persons designated as partners or

1 members documenting an alternate distribution method without regard to their sharing of other
2 tax or economic attributes of such entity.

3 (c)(1) If the Rhode Island qualified opportunity fund or its partners or members have not
4 claimed the tax credits in whole or part, the Rhode Island qualified opportunity fund eligible for
5 the tax credits may assign, transfer or convey the credits, in whole or in part, by sale or otherwise
6 to any individual or entity. The assignee of the tax credits may use acquired credits to offset up to
7 one hundred percent (100%) of the tax liabilities otherwise imposed pursuant to chapter 11, 14,
8 17 or 30 of this title. The assignee may apply the tax credit against taxes imposed on the assignee
9 until the end of the seventh calendar year after the year in which the Rhode Island qualified
10 opportunity zone business property acquired, constructed, or renovated by the Rhode Island
11 qualified opportunity fund investment is placed in service or until the full credit assigned is used,
12 whichever occurs first. Fiscal year assignees may claim the credit until the expiration of the fiscal
13 year that ends within the seventh year after the year in which the Rhode Island qualified
14 opportunity zone business property acquired, constructed, or renovated by the Rhode Island
15 qualified opportunity fund investment is placed in service. The assignor shall perfect the transfer
16 by notifying the state of Rhode Island division of taxation, in writing, within thirty (30) calendar
17 days following the effective date of the transfer and shall provide any information as may be
18 required by the division of taxation to administer and carry out the provisions of this section.

19 (2) For purposes of this chapter, any assignment or sales proceeds received by a taxpayer
20 for the assignment or sale of the tax credits allowed pursuant to this section shall be exempt from
21 this title. If a tax credit is subsequently revoked or adjusted, the seller's tax calculation for the
22 year of revocation or adjustment shall be increased by the total amount of the sales proceeds,
23 without proration, as a modification under chapter 30 of this title. In the event that the seller is not
24 a natural person, the seller's tax calculation under chapters 11, 14, 17, or 30 of this title, as
25 applicable, for the year of revocation or adjustment, shall be increased by including the total
26 amount of the sales proceeds without proration.

27 **44-70-4. Tax administrator information requests.**

28 The tax administrator and his or her agents, for the purpose of ascertaining the
29 correctness of any credit claimed under the provisions of this chapter, may examine any books,
30 papers, records, or memoranda bearing upon the matters required to be included in the return,
31 report, or other statement, and may require the attendance of the person executing the return,
32 report, or other statement, or of any officer or employee of any taxpayer, or the attendance of any
33 other person, and may examine the person under oath respecting any matter which the tax
34 administrator or his or her agent deems pertinent or material in determining the eligibility for

1 credits claimed. A taxpayer may request information regarding the credit authorized by this
2 chapter from the tax administrator, and the tax administrator shall provide the information in all
3 cases, to the extent not otherwise prohibited by law.

4 **44-70-5. Sales and use tax exemption.**

5 The sales and use taxes imposed by chapters 18 and 19 of this title shall not apply to
6 gross receipts from the sale:

7 (1) To contractors of tangible personal property incorporated into the construction of an
8 improvement on or to real property that is a Rhode Island qualified opportunity zone business
9 property, or

10 (2) To a Rhode Island qualified opportunity fund of tangible personal property that is
11 placed in service as a Rhode Island qualified opportunity zone business property.

12 **44-70-6. Rules and regulations -- Enforcement.**

13 The director of the Rhode Island commerce corporation shall have all the powers
14 conferred by chapter 64 of title 42 to promulgate and enforce rules and regulations to carry into
15 effect the provisions of this chapter.

16 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 TAXATION -- RHODE ISLAND OPPORTUNITY ZONE TAX CREDIT AND
TAX EXEMPTION ACT

1 This act would provide a tax credit for qualified investments in "opportunity zones" as
2 defined by federal law and located in Rhode Island. The act would be implemented by rules
3 promulgated by the commerce corporation.

4 This act would take effect upon passage.

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