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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO TAXATION -- LEVY AND ASSESSMENT OF LOCAL TAXES

Introduced By: Senators DiPalma, F Lombardi, Miller, Seveney, and Sosnowski

Date Introduced: April 23, 2021

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

SECTION 1. Sections 44-5-3 and 44-5-12 of the General Laws in Chapter 44-5 entitled "Levy and Assessment of Local Taxes" are hereby amended to read as follows:

44-5-3. Ratable property of a city or town -- Definitions.

(a) The ratable property of the city or town consists of the ratable real estate and the ratable tangible personal property (which do not include manufacturer's manufacturing machinery and equipment of a manufacturer) and the ratable tangible personal property of manufacturers consisting of manufacturer's manufacturing machinery and equipment of a manufacturer.

(b)(1) For the purposes of this section and §§ 44-5-20, 44-5-22, 44-5-38, and § 9 of chapter 245, public laws of Rhode Island, 1966, "manufacturing" includes the handling and storage of manufacturer's inventories as defined in § 44-3-3(20)(ii).

(2) "Manufacturer's machinery and equipment" or "manufacturing machinery and equipment" is defined as:

(i) Machinery and equipment which is used exclusively in the actual manufacture or conversion of materials or goods in the process of manufacture by a manufacturer as defined in § 44-3-3(20) and machinery, fixtures, and equipment used exclusively by a manufacturer for research and development or for quality assurance of its manufactured products; and

(ii) Machinery and equipment which is partially used in the actual manufacture or conversion of raw materials or goods in the process of manufacture by a manufacturer as defined in § 44-3-3(20) and machinery, fixtures, and equipment used by a manufacturer for research and

development or for quality assurance of its manufactured products, to the extent to which the machinery and equipment is used for the manufacturing processes, research, and development or quality assurance. In the instances where machinery and equipment is used in both manufacturing activities, the assessment on machinery and equipment is prorated by applying the percentage of usage of the equipment for manufacturing, research, and development and quality assurance activity to the value of the machinery and equipment for purposes of taxation, and the portion of the value used for manufacturing, research, and development and quality assurance is exempt from taxation. The burden of demonstrating this percentage usage of machinery and equipment for manufacturing and for research and development and/or quality assurance of its manufactured products rests with the manufacturer.

(3) This definition of "manufacturing" or "manufacturer's machinery and equipment" does not include:

(i) Motor vehicles required by law to be registered with the division of motor vehicles;

(ii) Store fixtures and other equipment situated in or upon a retail store or other similar selling place operated by a manufacturer, whether or not the retail establishment store or other similar selling place is located in the same building in which the manufacturer operates his or her manufacturing plant; and

(iii) Fixtures or other equipment situated in or upon premises used to conduct a business which is unrelated to the manufacture of finished products for trade and their sale by the manufacturer of the products, whether or not the premises where the unrelated business is conducted is in the same building in which the manufacturer has his or her manufacturing plant. The levy on tangible personal property of manufacturers consisting of manufacturer's manufacturing machinery and equipment of a manufacturer is at the rate provided in § 44-5-38.

(c) Notwithstanding any exemption provided by this section, and except for the exemptions created by §§ 44-3-3(a)(22), 44-3-3(a)(48) and 44-3-3(a)(49), which exemptions shall remain intact, cities and towns may, by ordinance or resolution, tax any renewable energy resources, as defined in § 39-26-5, and associated equipment only pursuant to rules and regulations that will be established by the office of energy resources in consultation with the division of taxation after the rules are adopted, no later than November 30, 2016. The rules will provide consistent and foreseeable tax treatment of renewable energy to facilitate and promote installation of grid-connected generation of renewable energy and shall consider the following criteria in adopting appropriate and reasonable, tangible property tax rates for commercial renewable energy systems:

(1) State policy objectives to promote renewable energy development;

(2) Tax agreements between municipalities and renewable energy developers executed and

effective after 2011, including net metering or lease agreements that address tax treatment;

(3) The valuation of local property tax in the ceiling prices set for the distributed-generation standard contract or renewable-energy-growth programs by the distributed-generation board;

(4) Assessment practices used by Rhode Island municipal property tax assessors; ~~and~~

(5) Five dollars ($5.00) per kilowatt of nameplate capacity and the average kilowatt value of the tax agreements and associated payments executed between municipalities and renewable-energy developers between 2011 and 2016 shall be the benchmarks for consideration of reasonable revenue generated by a city or town from renewable-energy facilities provided that evidence to the contrary may be incorporated in final rules and regulations; and

(6) Cities and towns may only assess a tax on the real property upon which a renewable energy resource is located pursuant to § 44-5-12 (a)(5) and § 44-27-10.1(b), as applicable.

(d) The dollar amount adopted through the rules and regulations that municipalities will be required to use for commercial renewable-energy systems shall be based on the alternating current (AC) nameplate capacity of the renewable-energy resource.

(e) Any renewable-energy resource projects that have executed interconnection service agreements with the electric-distribution company as of December 31, 2016, shall not be subject to the rules developed under subsection (c) and shall maintain the tax status applicable before the rules are adopted, unless otherwise agreed pursuant to § 44-3-9(a).

44-5-12. Assessment at full and fair cash value.

(a) All real property subject to taxation shall be assessed at its full and fair cash value, or at a uniform percentage of its value, not to exceed one hundred percent (100%), to be determined by the assessors in each town or city; provided, that:

(1) Any residential property encumbered by a covenant recorded in the land records in favor of a governmental unit or Rhode Island housing and mortgage finance corporation restricting either or both the rents that may be charged or the incomes of the occupants shall be assessed and taxed in accordance with § 44-5-13.11;

(2) In assessing real estate that is classified as farm land, forest, or open space land in accordance with chapter 27 of this title, the assessors shall consider no factors in determining the full and fair cash value of the real estate other than those that relate to that use without regard to neighborhood land use of a more intensive nature;

(3) Warwick. The city council of the city of Warwick is authorized to provide, by ordinance, that the owner of any dwelling of one to three (3) family units in the city of Warwick who makes any improvements or additions on his or her principal place of residence in the amount up to fifteen thousand dollars ($15,000), as may be determined by the tax assessor of the city of

Warwick, is exempt from reassessment of property taxes on the improvement or addition until the next general citywide reevaluation of property values by the tax assessor. For the purposes of this section, "residence" is defined as voting address. This exemption does not apply to any commercial structure. The property owner shall supply all necessary plans to the building official for the improvements or addition and shall pay all requisite building and other permitting fees as now are required by law; and

(4) Central Falls. The city council of the city of Central Falls is authorized to provide, by ordinance, that the owner of any dwelling of one to eight (8) units who makes any improvements or additions to his or her residential or rental property in an amount not to exceed twenty-five thousand dollars ($25,000), as determined by the tax assessor of the city of Central Falls, is exempt from reassessment of property taxes on the improvement or addition until the next general citywide reevaluation of property values by the tax assessor. The property owner shall supply all necessary plans to the building official for the improvements or additions and shall pay all requisite building and other permitting fees as are now required by law.

(5) Tangible property shall be assessed according to the asset classification table as defined in § 44-5-12.1. Renewable energy resources shall only be taxed as tangible property under § 44-5-3(c) and the real property on which they are located shall not be reclassified, revalued or reassessed due to the presence of renewable energy resources, excepting only reclassification of farmland as addressed in § 44-27-10.1.

(6) Provided, however, that, for taxes levied after December 31, 2015, new construction on development property is exempt from the assessment of taxes under this chapter at the full and fair cash value of the improvements, as long as:

(i) An owner of development property files an affidavit claiming the exemption with the local tax assessor by December 31 each year; and

(ii) The assessor shall then determine if the real property on which new construction is located is development property. If the real property is development property, the assessor shall exempt the new construction located on that development property from the collection of taxes on improvements, until such time as the real property no longer qualifies as development property, as defined herein.

For the purposes of this section, "development property" means: (A) Real property on which a single-family residential dwelling or residential condominium is situated and said single-family residential dwelling or residential condominium unit is not occupied, has never been occupied, is not under contract, and is on the market for sale; or (B) Improvements and/or rehabilitation of single-family residential dwellings or residential condominiums that the owner of

such development property purchased out of a foreclosure sale, auction, or from a bank, and which property is not occupied. Such property described in § 44-5-12(a)(6)(ii) shall continue to be taxed at the assessed value at the time of purchase until such time as such property is sold or occupied and no longer qualifies as development property. As to residential condominiums, this exemption shall not affect taxes on the common areas and facilities as set forth in § 34-36-27. In no circumstance shall such designation as development property extend beyond two (2) tax years and a qualification as a development property shall only apply to property that applies for, or receives, construction permits after July 1, 2015. Further, the exemptions set forth in this section shall not apply to land.

The exemptions set forth in this subsection (a)(6) for development property shall expire as of December 31, 2021.

(b) Municipalities shall make available to every land owner whose property is taxed under the provisions of this section a document that may be signed before a notary public containing language to the effect that they are aware of the additional taxes imposed by the provisions of § 44-5-39 in the event that they use land classified as farm, forest, or open space land for another purpose.

(c) Pursuant to the provisions of § 44-3-29.1, all wholesale and retail inventory subject to taxation is assessed at its full and fair cash value, or at a uniform percentage of its value, not to exceed one hundred percent (100%), for fiscal year 1999, by the assessors in each town and city. Once the fiscal year 1999 value of the inventory has been assessed, this value shall not increase. The phase-out rate schedule established in § 44-3-29.1(d) applies to this fixed value in each year of the phase out.

SECTION 2. Section 44-27-10.1 of the General Laws in Chapter 44-27 entitled "Taxation of Farm, Forest, and Open Space Land" is hereby amended to read as follows:

44-27-10.1. Land withdrawn from classification for commercial renewable-energy production -- Effect on obligation and the land use change tax.

(a) Farmlands classified in the farm, forest, or open-space program in chapter 27 of title 44 shall not be subject to a land use change tax if the landowner converts no more than twenty percent (20%) of the total acreage of land that is actively devoted to agricultural or horticultural use to install a renewable-energy system. Any acreage used for a renewable-energy system that is designated for dual use under subsection (c) of this section shall not be included in the calculation of the twenty percent (20%) restriction. For purposes of this section, land that is actively devoted to agricultural or horticultural use shall be defined by rules and regulations established by the department of environmental management in consultation with the office of energy resources and shall include, at a minimum, any land that is actively devoted to agricultural or horticultural use

that was previously used to install a renewable-energy system. Those rules shall also define renewable-energy system to include, at a minimum, any buffers, access roads, and other supporting infrastructure associated with the generation of renewable energy.

(b) The tax assessor shall only withdraw from farmland classification the actual acreage of the farmland used for a renewable-energy system that is not concurrently used as farmland. The rest of the farmland shall remain eligible as long as it still meets the program qualification criteria. This reclassification of farmlands shall not be considered an exception to the tax treatment for renewable-energy systems prescribed by § 44-5-3(c) and reclassified farmland shall only be reclassified, revalued and taxed to the classification and tax that predated the farmland classification.

(c) The dual purpose designation for installing a renewable-energy system and utilizing the land below and surrounding the system for agriculture purposes, shall be determined pursuant to rules and regulations that will be established by the department of environmental management in consultation with the office of energy resources. The regulations shall be adopted no later than December 30, 2017.

SECTION 3. This act shall take effect upon passage and shall apply retroactively.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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RELATING TO TAXATION -- LEVY AND ASSESSMENT OF LOCAL TAXES

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This act would require cities and towns to assess renewable energy resources to be taxed as tangible property and the real property on which the renewable energy sources are located shall not be reclassified, revalued or reassessed, except farmland, which shall be reclassified, revalued and taxed at the predated farmland classification.

This act would take effect upon passage and would apply retroactively.

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