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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO TAXATION -- LEVY AND ASSESSMENT OF LOCAL TAXES

Introduced By: Senator Louis P. DiPalma

Date Introduced: June 17, 2022

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

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

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

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

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

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

13 (i) Machinery and equipment which is used exclusively in the actual manufacture or
14 conversion of materials or goods in the process of manufacture by a manufacturer as defined in §
15 44-3-3(20) and machinery, fixtures, and equipment used exclusively by a manufacturer for research
16 and development or for quality assurance of its manufactured products; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 SECTION 2. Section 44-5-12 of the General Laws in Chapter 44-5 entitled "Levy and
20 Assessment of Local Taxes" is hereby amended to read as follows:

21 **44-5-12. Assessment at full and fair cash value.**

22 (a) All real property subject to taxation shall be assessed at its full and fair cash value, as
23 of December 31 in the year of the last update or revaluation, or at a uniform percentage thereof, not
24 to exceed one hundred percent (100%), to be determined by the assessors in each town or city;
25 provided, that:

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

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

34 (3) Warwick. The city council of the city of Warwick is authorized to provide, by

1 ordinance, that the owner of any dwelling of one to three (3) family units in the city of Warwick
2 who makes any improvements or additions on his or her principal place of residence in the amount
3 up to fifteen thousand dollars (\$15,000), as may be determined by the tax assessor of the city of
4 Warwick, is exempt from reassessment of property taxes on the improvement or addition until the
5 next general citywide reevaluation of property values by the tax assessor. For the purposes of this
6 section, "residence" is defined as voting address. This exemption does not apply to any commercial
7 structure. The property owner shall supply all necessary plans to the building official for the
8 improvements or addition and shall pay all requisite building and other permitting fees as now are
9 required by law; and

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

18 (5) Tangible property shall be assessed according to the asset classification table as defined
19 in § 44-5-12.1. [Renewable energy resources shall only be taxed as tangible property under § 44-5-](#)
20 [3\(c\) and the real property on which they are located shall not be reclassified, revalued or reassessed](#)
21 [due to the presence of renewable energy resources, excepting only reclassification of farmland as](#)
22 [addressed in § 44-27-10.1.](#)

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

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

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

33 For the purposes of this section, "development property" means: (A) Real property on
34 which a single-family residential dwelling or residential condominium is situated and said single-

1 family residential dwelling or residential condominium unit is not occupied, has never been
2 occupied, is not under contract, and is on the market for sale; or (B) Improvements and/or
3 rehabilitation of single-family residential dwellings or residential condominiums that the owner of
4 such development property purchased out of a foreclosure sale, auction, or from a bank, and which
5 property is not occupied. Such property described in subsection (a)(6)(ii) of this section shall
6 continue to be taxed at the assessed value at the time of purchase until such time as such property
7 is sold or occupied and no longer qualifies as development property. As to residential
8 condominiums, this exemption shall not affect taxes on the common areas and facilities as set forth
9 in § 34-36-27. In no circumstance shall such designation as development property extend beyond
10 two (2) tax years and a qualification as a development property shall only apply to property that
11 applies for, or receives, construction permits after July 1, 2015. Further, the exemptions set forth
12 in this section shall not apply to land.

13 (b) Municipalities shall make available to every land owner whose property is taxed under
14 the provisions of this section a document that may be signed before a notary public containing
15 language to the effect that they are aware of the additional taxes imposed by the provisions of § 44-
16 5-39 in the event that they use land classified as farm, forest, or open space land for another purpose.

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

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

25 **44-27-10.1. Land withdrawn from classification for commercial renewable-energy**
26 **production -- Effect on obligation and the land use change tax.**

27 (a) Farmlands classified in the farm, forest, or open-space program in chapter 27 of title 44
28 shall not be subject to a land use change tax if the landowner converts no more than twenty percent
29 (20%) of the total acreage of land that is actively devoted to agricultural or horticultural use to
30 install a renewable-energy system. Any acreage used for a renewable-energy system that is
31 designated for dual use under subsection (c) of this section shall not be included in the calculation
32 of the twenty percent (20%) restriction. For purposes of this section, land that is actively devoted
33 to agricultural or horticultural use shall be defined by rules and regulations established by the
34 department of environmental management in consultation with the office of energy resources and

1 shall include, at a minimum, any land that is actively devoted to agricultural or horticultural use
2 that was previously used to install a renewable-energy system. Those rules shall also define
3 renewable-energy system to include, at a minimum, any buffers, access roads, and other supporting
4 infrastructure associated with the generation of renewable energy.

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

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

17 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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1 This act would require cities and towns to assess renewable energy resources to be taxed
2 as tangible property and the real property on which the renewable energy sources are located shall
3 not be reclassified, revalued or reassessed, except farmland, which shall be reclassified, revalued
4 and taxed at the predated farmland classification.

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

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