

2024 -- S 2638

LC005282

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND HOUSING
AND CONSERVATION TRUST FUND ACT

Introduced By: Senators Bissailon, McKenney, Mack, DiPalma, Gu, Felag, DiMario,
Valverde, and LaMountain

Date Introduced: March 01, 2024

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-113-3, 42-113-4, 42-113-5, 42-113-6 and 42-113-7 of the
2 General Laws in Chapter 42-113 entitled "Rhode Island Housing and Conservation Trust Fund Act"
3 are hereby amended to read as follows:

4 **42-113-3. Definitions.**

5 As used in this chapter:

6 (1) "Board" means the Rhode Island housing and conservation board established by this
7 chapter.

8 (2) "Eligible activity" means any activity which will carry out either or both of the dual
9 purposes of creating and sustaining low and moderate income housing and conserving and
10 protecting important Rhode Island lands, including activities which will encourage or assist:

11 (i) The preservation, rehabilitation, or development of residential dwelling units which are
12 affordable to ~~lower~~ low- or moderate-income Rhode ~~Islanders~~ Island households;

13 (ii) The protection of important wildlife habitat and important natural areas;

14 (iii) The preservation of historic properties of resources;

15 (iv) The protection of areas suited for outdoor public recreational activity;

16 (v) The retention of agricultural land for agricultural use; and

17 (vi) The development of capacity on the part of an eligible applicant to engage in an eligible
18 activity.

1 (3) “Eligible applicant” means any municipality or department of state government of the
2 state, nonprofit organization qualifying under 26 U.S.C. § 501(c)(3) or limited equity cooperative
3 housing corporation, a company that is licensed to do business in the State of Rhode Island where
4 the proposed application creates or preserves housing that serves or intends to serve ~~whose purpose~~
5 ~~is either the creation or preservation of~~ low and moderate income households; or any municipality
6 or department of state government of this state, nonprofit organization qualifying under 26 U.S.C.
7 § 501(c)(3) that conserves or protects important natural areas, wildlife habitat, ~~housing for lower~~
8 ~~income Rhode Islanders or the conservation of~~ open lands or agricultural lands.

9 (4) “Fund” means the Rhode Island housing and conservation trust fund established by this
10 chapter.

11 (5) “Historic property or resource” means any building, structure, object, district, area, or
12 site that is significant in the history, architecture, archeology, or culture of this state, its
13 communities, or the nation.

14 (6) “Important natural area” means any area containing one or more state or federal
15 endangered or threatened species as defined in the general laws or any area essential to maintaining
16 the ecological diversity or natural heritage of the state.

17 ~~(7) “Lower income” means households whose incomes do not exceed sixty percent (60%)~~
18 ~~of the median family income by family size for the area of the state in which the family lives as~~
19 ~~determined annually by the U.S. Department of Housing and Urban Development.~~

20 (8) “Low- or moderate-income households” means households that meet the definition of
21 low- and moderate-income under § 45-53-3.

22 (9) “Agricultural land” means any land which is actively devoted to agricultural or
23 horticultural use, including, but not limited to, a commercial enterprise or community garden
24 enterprise which has its primary purpose horticulture, viticulture, viniculture, floriculture, forestry,
25 composting, stabling of horses, dairy farming, or aquaculture, or the raising of livestock, fur-
26 bearing animals, poultry or bees.

27 **42-113-4. Creation of the Rhode Island housing and conservation board.**

28 (a) There is hereby authorized, created and established a body politic and corporate to be
29 known as the “Rhode Island housing and conservation board” to carry out the provisions of this
30 chapter. The board is constituted a public instrumentality exercising public and essential
31 governmental functions, and the exercise by the board of the powers conferred by this chapter are
32 deemed and held to be the performance of an essential governmental function of the state.

33 (b) The board shall consist of ~~nine (9)~~ fifteen (15) members:

34 (1) The four (4) non-voting ex-officio members shall include the director of the department

1 of environmental management, or a designee; ~~the director of the office of intergovernmental affairs/~~
2 the secretary of the department of housing, or designee; the executive director of the Rhode Island
3 housing and mortgage finance corporation, or designee; and the director of the office of statewide
4 planning, or designee.

5 (2) The governor, with the advice and consent of the senate, shall appoint ~~five (5)~~ eleven
6 (11) voting members of the general public. The public appointees shall include at least one member
7 representing the interests of the environmental community, one member representing the interests
8 of the conservation and land trust community, one member representing family farm interests, a
9 municipal planner representing a city or town with more than seventy thousand (70,000) residents,
10 a municipal planner representing a city or town with less than fifteen thousand (15,000) residents,
11 one member representing the interests of nonprofit community development corporations, one
12 member representing the interests the housing land trust community, one member representing the
13 interests of the for-profit developer/builder community, one member representing land use
14 planning/smart growth interests, one member representing a tenant advocacy organization, and one
15 member representing historic preservation. The public appointees should, as best as possible,
16 represent the demographic makeup of the state. ~~In making these appointments, the governor shall~~
17 ~~give due consideration to recommendations made by the Rhode Island Community Reinvestment~~
18 ~~Association, Environment Council of Rhode Island, Rhode Island Association of Land Trusts, and~~
19 ~~representatives of tenancy advocacy and family farm associations.~~

20 (3) Any designee of the four (4) governmental members serving ex-officio as stipulated in
21 subsection 42-113-4(b)(1) or of the three (3) members who is a chair or president of a non-
22 governmental organization as stipulated in subsection 42-113-4(b)(2) shall be a subordinate of the
23 designator within his or her respective department, office, or nongovernmental organization. These
24 designees shall represent him or her at all meetings of the board.

25 (4) No one shall be eligible for public appointment unless he or she is a resident of this
26 state.

27 (5) Newly appointed and qualified public members and designees of ex-officio members
28 shall, within six (6) months of their qualification or designation, attend a training course that is
29 developed by non-voting exofficio members with board approval and conducted by the chair or his
30 or her designee and shall include instruction in the subject area of chapter 113 of this title and
31 chapters 46 of this title, 14 of title 36, and 2 of title 38 of Rhode Island general laws; and the board's
32 rules and regulations.

33 (c) ~~Those members of the board as of July 9, 2005 who were appointed to the board by~~
34 ~~members of the general assembly shall cease to be members of the commission on July 9, 2005.~~

1 Appointments to the board shall be made by December 31, 2025. Public members of the board
2 appointed by the governor will be appointed for three (3) year terms and cannot serve more than
3 two (2) consecutive terms.

4 (d) Annually, the ~~board~~ governor shall ~~elect~~ select from among its public members a
5 chairperson. The board shall elect from among its members a ~~and~~ vice-chairperson. ~~The board may~~
6 ~~elect from among its members~~ and any other officers it deems necessary. Meetings shall be held at
7 the call of the chairperson or at the request of three (3) members. A majority of the sitting members
8 shall constitute a quorum and action taken by the board under the provisions of this chapter may be
9 authorized by a majority of the members present and voting at any regular or special meeting.

10 (e) ~~Three (3) or more voting members of the board shall constitute a quorum for the~~
11 ~~transaction of business.~~ A majority vote of those present shall be required for action. No vacancy
12 in the membership of the board shall impair the right of a quorum to exercise all of the rights and
13 perform all of the duties of the board.

14 (f) Any vacancy which may occur in the board shall be filled accordingly in the same
15 manner as prescribed above.

16 (g) The governor may remove any member for cause or misconduct in office after giving
17 the member a copy of the charges/allegations against them and an opportunity to be heard, in
18 person, or with or by counsel, in their defense, upon not less than ten (10) days notice. If any
19 member shall be removed, the governor shall file in the office of the secretary of state a complete
20 statement of charges made against the member and the governor's findings, together with a
21 complete record of the proceedings.

22 (h) Whenever public hearings are required under this chapter, or whenever the board
23 determines a public hearing is appropriate, the board shall use reasonable efforts to hold those
24 hearings at a place or places that will reasonably accommodate the interested parties.

25 ~~(g)~~(i) The ~~board shall~~ governor may appoint and employ an executive director, and it shall
26 be ~~his or her~~ their duty to:

27 (1) Supervise and administer allocations made through the trust fund in accordance with
28 this chapter and with the rules and regulations of the board;

29 (2) Act as the chief administrative officer having general charge of the office and records
30 and to employ temporarily, subject to the approval of the board, necessary personnel to serve at his
31 or her pleasure and who shall be in the unclassified service and whose salaries shall be set by the
32 board;

33 (3) Act as executive secretary of the board; and

34 (4) Perform other duties as determined by the board, which are in accordance with this

1 chapter and with the rules and regulations of the board.

2 ~~(j)~~ The board shall use the office of the attorney general for legal services.

3 ~~(k)~~ Within ninety (90) days after the end of each fiscal year, the board shall approve and
4 submit an annual report to the governor, the speaker of the house of representatives, the president
5 of the senate, and the secretary of state of its activities during that fiscal year. The report shall
6 provide: an operating statement summarizing meetings or hearings held, meeting minutes if
7 requested, subjects addressed, decisions rendered, rules or regulations promulgated, studies
8 conducted, policies and plans developed, approved, or modified, and programs administered or
9 initiated; a consolidated financial statement of all funds received and expended including the source
10 of the funds, a listing of any staff supported by these funds, and a summary of any clerical,
11 administrative or technical support received; a summary of performance during the previous fiscal
12 year including accomplishments, shortcomings and remedies; a synopsis of hearings, complaints,
13 suspensions, or other legal matters related to the authority of the board; a summary of any training
14 courses held pursuant to subdivision 42-113-4(b)(5); a briefing on anticipated activities in the
15 upcoming fiscal year; and findings and recommendations for improvements. The report shall be
16 posted electronically on the general assembly and the secretary of state's websites as prescribed in
17 § 42-20-8.2.

18 **42-113-5. Creation of Rhode Island housing and conservation trust fund.**

19 (a) There is created a special account ~~in the state general fund~~ distributed by the Rhode
20 Island infrastructure bank and administered by the housing and conservation board to be known as
21 the "Rhode Island housing and conservation trust fund." The fund is administered by the board and
22 expenditures from the fund are made only to implement and effectuate the policies and purposes of
23 this chapter. The board is authorized to accept any federal funding, private grant, devise, bequest,
24 donation, gift, loan or assignment of money, bonds, or other valuable securities for deposit in and
25 credit of the Rhode Island housing and conservation trust fund.

26 (b) Unexpended balances and any earnings shall not revert to the general fund but shall
27 remain in the ~~fund~~ designated account created by the Rhode Island infrastructure bank for use in
28 accord with the purposes of this chapter.

29 (c) The members of the board ~~and the executive director~~ shall be appointed upon ~~June 23,~~
30 ~~1994~~ December 31, 2025.

31 **42-113-6. General powers and duties.**

32 (a) The board has all of the powers necessary and convenient to carry out and effectuate
33 the purposes and provisions of this chapter, including without limitation those general powers
34 provided to a business corporation by and including, without limiting the generality of the

1 foregoing, the power to:

2 (1) Upon application from an eligible applicant in a form prescribed by the board, provide
3 funding in the form of grants or loans for eligible activities;

4 (2) Enter into cooperative agreements with private organizations or individuals or with any
5 agency or instrumentality of the United States or of this state to carry out the purposes of this
6 chapter;

7 (3) Issue rules in accordance with the administrative procedures act, chapter 35 of this title,
8 for the purpose of administering the provisions of this chapter; and

9 ~~(4)~~(b) The board shall promulgate ~~Make~~ rules and regulations governing the appropriate
10 transfer and/or conversion of open space lands, provided that these rules and regulations are in
11 accordance with federal and state guidelines for the conversion of open space lands.

12 ~~(b)~~(c) All meetings, records and other documents or functions of the board shall be open
13 to full public scrutiny.

14 **42-113-7. Allocation system.**

15 (a) In determining the allocation of funds available for the purposes of this chapter, the
16 board shall evaluate each proposal on the basis of the following criteria:

17 (1) The need to maintain balance between the dual goals in allocating resources;

18 (2) The need for a timely response to unpredictable circumstances or special opportunities
19 to serve the purposes of this chapter;

20 (3) The level of funding or other participation by private or public sources in the activity
21 being considered for funding by the board;

22 (4) What resources will be required in the future to sustain the project;

23 (5) The need to pursue the goals of this chapter without displacing ~~lower~~ low- and
24 moderate-income Rhode ~~Islanders~~ Island households; ~~and~~

25 (6) The long-term effect of proposed activity and, with respect to low and moderate income
26 ~~housing~~ households and, the likelihood that the activity will prevent the loss of subsidized housing
27 units and will result in the preservation of affordability; ~~and in perpetuity.~~

28 (7) The eligible applicant has demonstrated a commitment to long-term affordability.

29 (b) The board's allocation system shall include a method, defined by rule, that evaluates
30 the need for, impact of, and quality of, activities proposed by applicants.

31 (c) Any eligible owner or prospective eligible owner of a development where eligible units
32 are located will specifically agree to make at least fifty percent (50%) of all units located in the
33 development available and affordable to eligible tenants ~~on a perpetual basis~~ subject to a long-term
34 deed restriction as defined in § 45-53-3.

1 (d) ~~Twenty-five percent (25%)~~ Thirty-five percent (35%) of the annual funds will be
2 utilized to fund housing projects, ~~twenty-five percent (25%)~~ thirty-five percent (35%) will support
3 conservation projects, and the remaining ~~fifty percent (50%)~~ thirty percent (30%) of the total annual
4 fund can be used for either type of project with projects combining these goals and satisfying the
5 above factors receiving highest priority.

6 (e) No more than five percent (5%) of the total annual budget of the board, including funds
7 to be distributed, shall be devoted to the costs of administration of this chapter.

8 (f) Housing projects must result in units which are affordable for at least ninety-nine (99)
9 years with the housing and conservation board retaining first right of refusal in the event of sale or
10 transfer of property for which funds from this trust fund have been used. Open space conservation
11 projects for which funds from this trust fund were used must remain for the purpose specified in
12 the application for which they were granted.

13 (g) The board shall have the authority to establish, remove or modify from time to time
14 according to the administrative procedures act, chapter 35 of this title, rules and regulations
15 governing application and allocation procedures for grants and other functions necessitated by
16 administration of this chapter.

17 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 STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND HOUSING
AND CONSERVATION TRUST FUND ACT

1 This act would restructure the Rhode Island Housing and Conservation Trust Fund,
2 increase its membership to fifteen (15) members, eleven (11) of whom are to be from the general
3 public and reallocate the percentage of the funds for housing, conservation and other goals.

4 This act would take effect upon passage.

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