

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

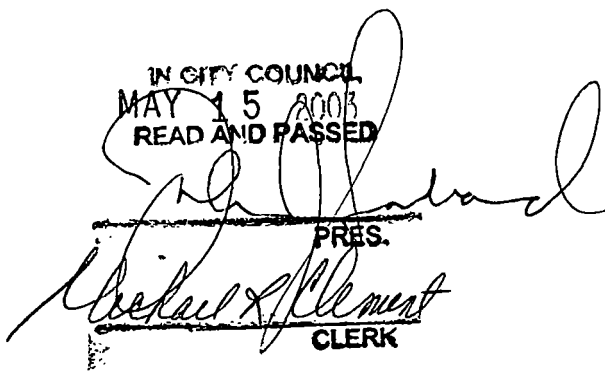
RESOLUTION OF THE CITY COUNCIL

No. 412

Approved May 27, 2003

CLERK
CITY
COUNCIL
RECEIVED
MAY 27 2003
CITY OF PROVIDENCE

RESOLVED, That the Members of the Providence City Council
hereby Endorse and Urge Passage by the General Assembly of House Bill 2003-H
6332, Relative to An Act Relating to Taxation – Urban Mill Restoration Act.

IN CITY COUNCIL
MAY 15 2003
READ AND PASSED

PRES.
CLERK

APPROVED

MAYOR 5/27/03

IN CITY COUNCIL
[APR 22 2003
FIRST READING
REFERRED TO COMMITTEE ON
STATE LEGISLATION

Michael X. Christ CLERK

THE COMMITTEE ON
State Legislative
Recommendation Be Approved
Carol Bestard
4/30/03 CLERK

Councilman Aponte (By Bequest)

LC02942

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

A N A C T

RELATING TO TAXATION – URBAN MILL RESTORATION ACT

Introduced By: Representatives Moura, Smith, DeSimone, and Fox

Date Introduced: April 10, 2003

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative findings.

2 WHEREAS, Industrial mill buildings are an important part of the historic fabric and
3 architectural heritage of our state; and

4 WHEREAS, Rhode Island's mill buildings employed 140,000 people, more than half of
5 the state's workforce, at their peak in 1920, and were among the largest and most productive
6 factories in the world; and

7 WHEREAS, Many of these buildings today are suited to new residential, commercial,
8 and institutional uses because of their large floor areas, strong masonry construction, high
9 ceilings, large windows, and ability to support heavy floor loads; and

10 WHEREAS, Commercial and fine artists have given new life to old mills by establishing
11 new working and/or living spaces in these buildings; and

12 WHEREAS, Federal, state and municipal restrictions discourage the indiscriminate
13 demolition of many of these mill buildings; and

14 WHEREAS, Many mill buildings are vacant or underutilized because of their
15 deteriorated physical condition, environmental concerns, or isolated location; and

16 WHEREAS, Most mill buildings are located in urban neighborhoods that have suffered
17 from a lack of new residential, commercial and industrial investment; now, therefore be it

18 RESOLVED, It is the policy of the state to preserve its industrial heritage, and to
19 promote the adaptive reuse of industrial mill buildings so that they may contribute to the

1 revitalization of economically challenged urban neighborhoods; and be it further

2 RESOLVED, It is the policy of the state to encourage commercial and fine artists to live
3 and work in Rhode Island and in settings that are suitable to their work.

4 SECTION 2. Section 44-30-1.1 of the General Laws in Chapter 44-30 entitled "Personal
5 Income Tax" is hereby amended to read as follows:

6 **44-30-1.1. Exemption from tax for writers, composers and artists.** -- (A) This section
7 shall only apply to writers, composers and artists residing within a section of the defined
8 economic development zone within the cities of Providence or Pawtucket, or the economic
9 development zone within the town of Westerly as defined in section 44-18-30B(c)(1)(i), and who
10 create such work while residing in the zone. For the purposes of this section, a "work" shall mean
11 an original and creative work, whether written, composed, created or executed for "one-of-a-kind,
12 limited" production, before or after the passing of this section, which falls into one of the
13 following categories:

- 14 (1) A book or other writing;
- 15 (2) A play or the performance of said play;
- 16 (3) A musical composition or the performance of said composition;
- 17 (4) A painting or other like picture;
- 18 (5) A sculpture;
- 19 (6) Traditional and fine crafts;
- 20 (7) The creation of a film or the acting of said film;
- 21 (8) The creation of a dance or the performance of said dance;

22 For purposes of this section, a "work" does not apply to any piece or performance
23 created or executed for industry oriented or related production.

24 (B) (1) This section shall apply to any individual:

25 (a) Who is a resident within the section of the economic development zone designated as
26 the urban mill restoration program or as the Arts and Entertainment District in the downtown area
27 of the city of Providence or in the city of Pawtucket, and deriving the income exempted from
28 within said district while a resident of said zone, or who is a resident within the section of the arts
29 and entertainment district in the town of Westerly, as defined in section 44-18-30B(C)(1)(i) and
30 who derives the income exempted from within said district while a resident of said zone. For the
31 purposes of this section, the arts and entertainment district in Providence is defined as the area
32 bounded by Pine Street to the southeast, Dorrance Street to the northeast, Sabin Street to the
33 northwest and Empire Street to the southwest. The entire abovementioned streets shall be
34 included in the abovementioned Arts and Entertainment District. Also, for the purposes of this

1 section, the urban mill restoration program is defined as that listed on the landmark list approved
2 by ordinance in the city of Providence. The Westerly arts and entertainment district is defined in
3 section 44-18-30B(C)(1)(i). The abovementioned streets shall be included in the district; and in
4 Pawtucket shall be defined as the area beginning at the point of intersection of Dexter Street and
5 the Central Falls line, then east along the Central Falls Line to the Blackstone River, then north
6 along the city boundary on the Blackstone River to the Cumberland line, then west along the
7 Pawtucket city boundary line to I-95, then south along I-95 to Pine Street, then north on Pine
8 Street to AMTRAK Right of Way, then northwest along the AMTRAK Right of Way to Dexter
9 Street, then north on Dexter Street to the Central Falls line. The abovementioned streets shall be
10 included in the district.

11 (b) Who is determined by the tax administrator, after consideration of any evidence in
12 relation to the matter which the individual submits to him or her and after such consultation as
13 may seem to him or her to be necessary with such person or body of persons as in his or her
14 opinion may be of assistance to him or her, to have written, composed or executed either solely or
15 jointly with another individual, a work or works would fall into one of the categories listed in
16 section (A) above.

17 (C) (1) An individual to whom this section applies and who duly makes a claim to the
18 tax administrator in that behalf shall, subject to paragraph (2) below, be entitled to have the
19 profits or gains arising to him or her from the publication, production or sale of a work or works
20 in relation to which the tax administrator has made a determination under subsection (B)(1)(b) of
21 this section to be taken as a modification reducing federal adjusted gross income.

22 (2) The modification authorized by this section shall apply to the year in which the profit
23 or gain from the publication, production or sale of a work is realized.

24 (D) The tax administrator may serve on an individual who makes a claim under this
25 subsection a notice or notices in writing requiring him or her to make available within such time
26 as may be specified in the notice of all such books, accounts and documents in his or her
27 possession or power as may be requested, being books, accounts and documents relating to the
28 publication, production or sale of the work in respect of the profits or gains of which exemption is
29 claimed.

30 (E) For the purpose of determining the amount of profits or gains subject to modification
31 under this section, the tax administrator may make such apportionment of receipts and expenses
32 as may be necessary.

33 (F) Notwithstanding any other provisions of this chapter, any individual seeking relief
34 under this section shall file a Rhode Island personal income tax return listing the modification

1 reducing federal adjusted gross income relating to profits or gains realized from the works as
2 defined in this section.

3 (G) The city of Providence may, by ordinance, provide special tax consideration for
4 designated properties on the landmark list as part of the mill restoration program and in the Arts
5 and Entertainment District in the city of Providence.

6 Upon enactment, property taxes levied on eligible properties as of December 31, 2002
7 shall reflect adapted tax considerations. Owners of eligible properties are required to begin
8 renovations by December 31, 2007 in order to qualify for continued tax considerations.
9 Properties that fail to meet this deadline will be required retroactively to pay the difference
10 between their actual tax payments and what they would have paid if ineligible for the specified
11 tax considerations.

12 Eligible properties shall be taxable properties located on the landmark list approved by
13 ordinance in the city of Providence and shall be eligible if certified by the city building inspector
14 as in need of substantial rehabilitation.

15 Tax benefits for eligible properties shall be transferable to new owners or tenants, but the
16 life of the tax consideration shall not be extended.

17 "Substantial rehabilitation" shall mean rehabilitation that adheres to the applicable
18 building and fire codes, extends to all occupiable floors of the building, and equals at least fifty
19 percent (50%) of the current replacement value of the structure, as certified by the city building
20 inspector.

21 This section shall not diminish the authority of any body to review and approve the
22 construction plans for overall appearance or historical preservation standards.

23 During the period of eligibility, the city of Providence shall also be authorized to use
24 special consideration in taxing tangible property located in businesses in eligible properties. For
25 the ten (10) year period, the rate of thirty-three dollars and forty-four cents (\$33.44) shall be
26 applied annually to tangible property value, as it is determined, and may change from year to
27 year. This consideration shall apply to all taxable businesses occupying eligible properties during
28 the period of eligibility, regardless of when they first occupied the property.

29 SECTION 3. Section 44-18-30.B of the General Laws in Chapter 44-18 entitled "Sales
30 and Use Taxes - Liability and Computation" is hereby amended to read as follows:

31 **44-18-30.B. Exemption from sales tax for sales by writers, composers, artists --**
32 **Findings.** -- (a) The general assembly makes the following findings of facts:

33 (1) The downtown area of the city of Providence has been characterized by blighted
34 areas, and dilapidated and abandoned structures;

1 (2) As a result, the downtown area has been designated an economic development zone
2 in order to stop the deterioration and stimulate economic activity;

3 (3) The capitol center area of the city of Providence has become an attractive location,
4 especially with the construction of the Providence Place Mall;

5 (4) In order to promote, revitalize and redevelop the "Old Downtown" area of the city of
6 Providence it is necessary to provide tax exemptions to this area as it has been designated as an
7 economic development zone;

8 (5) In order to promote, revitalize, and redevelop the "Downtown or other industrial or
9 manufacturing buildings" located in the City of Pawtucket, it is necessary to provide tax
10 exemptions to this area as it has been designated as an economic development zone;

11 (6) The development of an active artistic community, including "artists in residence", in
12 this area would promote economic development, revitalization, tourism, employment
13 opportunities, and encourage business development by providing alternative commercial
14 enterprises while in Providence creating a link between the Old Downtown and the Capital Center
15 Area.

16 (7) There is a separate artistic community in the town of Westerly which is important to
17 preserve, promote, and revitalize, and which is distinct from that in the city of Providence.

18 (b) (1) This section only applies to sales by writers, composers and artists residing in and
19 conducting a business within a section of the defined economic development zone in the cities of
20 Providence or Pawtucket, or the defined economic development zone in the town of Westerly.
21 For the purposes of this section, a "work" means an original and creative work, whether written,
22 composed or executed for "one-of-a-kind limited" production and which falls into one of the
23 following categories:

- 24 (i) A book or other writing;
- 25 (ii) A play or the performance of said play;
- 26 (iii) A musical composition or the performance of said composition;
- 27 (iv) A painting or other like picture;
- 28 (v) A sculpture;
- 29 (vi) Traditional and fine crafts;
- 30 (vii) The creation of a film or the acting within the film;
- 31 (viii) The creation of a dance or the performance of the dance.

32 (2) For the purposes of this section, a "work" includes any product generated as a result
33 of any of the above categories.

34 (3) For the purposes of this section, a "work" does not apply to any piece or performance

1 created or executed for industry oriented or related production.

2 (c) (1) This section applies to sales by any individual:

3 (i) Who is a resident of and has a principal place of business situated in the section of the
4 economic development zone designated as the urban mill restoration program or as the arts and
5 entertainment district in the downtown area of the city of Providence or in the city of Pawtucket,
6 or the defined economic development zone in the town of Westerly. For the purposes of this
7 section, the Providence arts and entertainment district in Providence is defined as the area
8 bounded by Pine Street to the southeast, Dorrance Street to the northeast, Sabin Street to the
9 northwest and Empire Street to the southwest. The named streets are included in the Providence
10 district; and in Pawtucket is defined as the area beginning at the point of intersection of Dexter
11 Street and the Central Falls line, then east along the Central Falls line to the Blackstone River,
12 then north along the city boundary on the Blackstone River to the Cumberland line, then west
13 along the Pawtucket city boundary line to I-95, then south along I-95 to Pine Street, then north on
14 Pine Street to AMTRAK Right of Way, then northwest along the AMTRAK Right of Way to
15 Dexter Street, then north on Dexter Street to the Central Falls line. The named streets are included
16 in the district. The Westerly arts and entertainment district is defined as assessor's plat 56, lots 1
17 through 24, lot 48, lots 50 through 62, and lots 71 through 82, and assessors plat 66, lots 22
18 through 26, and lots 29 through 36. For the purposes of this section, the mill restoration program
19 is defined as that listed on the landmark list approved by ordinance in the city of Providence; and

20 (ii) Who is determined by the tax administrator, after consideration of any evidence he or
21 she deems necessary or which is submitted to him or her by the individual, to have written,
22 composed, or executed, either solely or jointly, a work or works which would fall into one of the
23 categories listed in subsection (b)(1).

24 (2) This section also applies to sales by any other gallery located in the arts and
25 entertainment district described in subsection (c)(1)(i) as well as any other arts and entertainment
26 district designated by the general assembly.

27 (3) The tax administrator shall not make a determination unless:

28 (i) The individual(s) concerned duly make(s) an application to the tax administrator for
29 the sales tax exemption which applies to the works defined in this section; and

30 (ii) The individual has complied and continues to comply with any and all requests made
31 by the tax administrator.

32 (d) Any individual to whom this section applies and who makes an application to the tax
33 administrator is entitled to a sales tax exemption for the sale of a work or works sold from the
34 individual's business located in the economic development zone which would, apart from this

1 section, be subject to the tax rate imposed by the state of Rhode Island.

2 (e) When an individual makes a request for the exemption, the tax administrator is
3 entitled to all books, documents, or other evidence relating to the publication, production or
4 creation of the works that may be deemed necessary by the tax administrator for the purposes of
5 the exemption. The time period in which to provide this information is in the sole discretion of
6 the tax administrator and specified in the notice.

7 (f) In addition to the information required in subsection (e), the tax administrator may
8 require the individual(s) to submit an annual certified accounting of the numbers of works sold,
9 the type of work sold, and the date of the sale. Failure to file this report may, in the sole discretion
10 of the tax administrator, terminate the individual's eligibility for the exemption.

11 (g) Any person storing, using, or otherwise consuming in this state any work or works
12 which is deemed to be exempt from the sales tax pursuant to this section is not liable for the use
13 tax on the work or works.

14 (h) Notwithstanding the provisions of this section, any individual to whom this section
15 may apply shall comply with all the administration, collection, and other provisions of chapters
16 18 and 19 of this title.

17 (i) This section shall also apply to sales by any gallery located in an Arts and
18 Entertainment District as identified in subsection (c)(1)(i) of this section, as well as to any other
19 Arts and Entertainment District designated by the general assembly.

20 SECTION 4. This act shall take effect upon passage.

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LC02942
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION – URBAN MILL RESTORATION ACT

- 1 This act would provide sales and use tax and personal income tax incentives to
- 2 individuals residing and conducting business in designated urban mill restoration areas.
- 3 This act would take effect upon passage.

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LC02942
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PROVIDENCE LEGISLATIVE PACKAGE

SUMMARY SHEET

An Act Relating To: Taxation - Urban Mill Restoration Act

Amends: R.I.G.L. §§ 44-30-1.1 and 44-18-30B

Summary: This act would expand tax incentives for artists to mill buildings which have great historical significance but are underutilized or completely vacant. Because of their condition, many of these buildings are vulnerable to fire, vandalism and decay. This act would offer an incentive to artists and to developers to revitalize these buildings, and subsequently, the neighborhoods in which they are situated.

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

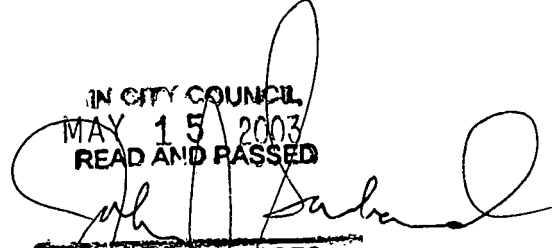
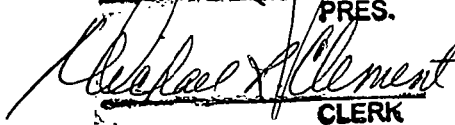
RESOLUTION OF THE CITY COUNCIL

No. 413

Approved May 27, 2003

STATE RECORDS
DIVISION
FILED TO COMMITTEE
MAY 27 2003
IN CITY COUNCIL

RESOLVED, That the Members of the Providence City Council
hereby Endorse and Urge Passage by the General Assembly of House Bill 2003-H
6333, Relative to An Act Relating to Remediation of Brownfields.

IN CITY COUNCIL
MAY 15 2003
READ AND PASSED

PRES.

CLERK

APPROVED

MAYOR 5/27/03

IN CITY COUNCIL
APR 22 2003
FIRST READING
REFERRED TO COMMITTEE ON
STATE LEGISLATION

Michael R. Clement CLERK

THE COMMITTEE ON

State Legislation
Recommends Be Approved
Craig E. Bertone
4/30/03 CLERK

Councilman Aponte (By Request)

LC02944

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

A N A C T

RELATING TO REMEDIATION OF BROWNFIELDS

Introduced By: Representatives Moura, Tejada, Almeida, Smith, and Costantino

Date Introduced: April 10, 2003

Referred To: House 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 33.3

4 BROWNFIELD REMEDIATION TAX CREDIT

5 44-33.3-1. Legislative findings. – (a) Rhode Island, as an historically industrialized
6 state, contains several hundred Brownfields properties.

7 (b) Brownfield revitalization is a critical element of urban renewal and smart growth
8 strategies.

9 (c) The revitalization of Brownfields contributes to the reduction of environmental
10 contamination.

11 (d) Many abandoned or idle Brownfields would contribute much more to the state's
12 economy and tax base if remediated and restored to their full capacity.

13 (e) Dredged material can be beneficially reused to remediate Brownfield sites thus
14 creating alternatives to in-water disposal.

15 (f) Buildings and structures within Brownfields may have historical significance.

16 (g) There is a need to amend chapter 23-19.14 (The Industrial Property Remediation and
17 Reuse Act) and chapter 42-64 (Rhode Island Economic Development Corporation) as necessary
18 in order for Rhode Island Brownfields sites and programs to be eligible for federal funding made
19 available in the Small Business Liability Relief and Brownfields Revitalization Act, which was

1 passed January 11th, 2002.

2 **44-33.3-2. Purpose.** -- To stimulate the revitalization of Rhode Island's Brownfields by
3 creating economic incentives for the remediation of Brownfield's sites and the beneficial reuse of
4 dredged material as part of the remedy.

5 **44-33.3-3. Definitions.** -- As used in this chapter:

6 (a) "Brownfields" shall mean abandoned or underutilized commercial or industrial sites
7 whose redevelopment has been hampered by real or perceived environmental contamination.

8 (b) "Placed in service" shall mean the point in time at which:

9 (i) Department of environmental management certifies that the remedial action has been
10 implemented or the letter of compliance has been issued; and

11 (ii) The property or some identifiable portion thereof is suitable for occupancy under the
12 Rhode Island building code or has been remediated for recreational use or open space that has
13 been certified by the planning official from the host community as being consistent with the
14 objectives of the municipal comprehensive plan.

15 (c) "Remediation expenditures" shall mean all costs incurred and paid in furtherance of
16 the analysis, investigation and design required for the development of a settlement agreement and
17 any remedial action taken pursuant to a settlement agreement for a Brownfield property,
18 including, but not limited to, environmental testing, engineering, legal, architectural and other
19 professional fees associated with development of the settlement agreement and remediation,
20 environmental insurance costs, material and labor costs necessary for implementation of the
21 remedial action, cost of beneficial reuse of dredged material as contemplated under chapter 46-
22 6.1, demolition and disposal costs if demolition is an integral part of the approved remedial
23 action, remediation of hazardous materials or petroleum products and short or long-term
24 environmental monitoring.

25 **44-33.3-4. Tax credit.** -- (a) Any person, firm, partnership, trust, estate, limited liability
26 company, corporation (including both business and nonprofit corporations) or other business
27 entity that is not a responsible party as defined in section 23-19.14-6 and incurs expenditures for
28 the remediation of a Brownfield property or properties, shall be entitled to a credit against
29 payment of tax liability of such person or entity pursuant to chapter 11, 12, 13, 14, 17 or 30 of
30 title 44 in an amount equal to thirty percent (30%) of the remediation expenditures. If the
31 remediation action incorporates the beneficial reuse of a minimum amount of two thousand
32 (2,000) cubic yards of dredged material then any remediation expenditures will be subject to an
33 additional ten percent (10%) credit.

34 (b) Tax credits allowed pursuant to this chapter shall be allowed in the same taxable year

1 as the date the property or properties, or an identifiable portion thereof, are placed in service or at
2 a later date at the discretion of the taxpayer.

3 (c) If the amount of the tax credit exceeds a taxpayer's total tax liability for the first year
4 in which the tax credit is claimed, the amount that exceeds the taxpayer's tax liability may be
5 carried forward for credit against the taxes imposed for the succeeding ten (10) years, or until the
6 full credit is used, whichever occurs first.

7 (d) Credits allowed to a partnership, a limited liability company taxed as a partnership, or
8 multiple owners of property shall be passed through to the persons designated as partners,
9 members, or owners respectively pro rata or pursuant to an executed agreement among such
10 persons designated as partners, members, or owners documenting an alternate distribution method
11 without regard to their sharing of other tax or economic attributes of such entity.

12 (e) Parties eligible for such tax credits, without regard to whether such party has any tax
13 liability of its own in any given year, may assign, transfer, or convey the credits, in whole or in
14 part, by sale or otherwise, to any individual or entity. The assignee of the tax credits may use
15 acquired credits to offset up to one hundred percent (100%) of the tax liabilities otherwise
16 imposed pursuant to chapter 11, 12, 13, 14, 17 or 30 of title 44. The assignor shall perfect such
17 transfer by notifying the state of Rhode Island division of taxation in writing within thirty (30)
18 calendar days following the effective date of said transfer and shall provide any information as
19 may be required by the division of taxation to administer and carry out the provisions of this
20 section. Such credits may be assigned, transferred, conveyed to or from, and used by the assignee
21 without regard to the ability of the assignor to use those credits to offset tax liabilities of the
22 assignor. For purposes of this chapter, the proceeds of any assignment, conveyance, or sale
23 received by any taxpayer for its assignment, conveyance, or sale of the tax credits allowed
24 hereunder shall be exempt from taxation under title 44.

25 (f) To claim the credit or credits authorized under this section, appropriate evidence of
26 the qualification as a Brownfield property under section 44-33.3-3(a) of this title shall be attached
27 to all state tax returns on which the credit is claimed. The tax administrator and his or her agents,
28 for the purpose of ascertaining the correctness of any credit claimed under the provisions of this
29 section, may examine any books, paper, records, or memoranda bearing upon the matters required
30 to be included in the return, report, or other statement, and may require the attendance of the
31 person executing the return, report, or other statement, or of any officer or employee of any
32 taxpayer, or the attendance of any other person, and may examine the person under oath
33 respecting any matter which the tax administrator or his or her agent deems pertinent or material
34 in determining the eligibility for credits claimed.

1 (g) If the Brownfield property includes one or more structures that are more than fifty
2 (50) years old, the Rhode Island Historical Preservation and Heritage Commission (RIHP & HC)
3 shall review the structures to determine whether they are listed on the National Register of
4 Historic Places or eligible for listing. Plans for demolition of structures that are listed on the
5 National Register or eligible for listing shall be submitted to the RIHP & HC for review of such
6 plans. No Brownfield tax credits shall be allowed for projects involving demolition of structures
7 subject to RIHP & HC review unless the demolition work has been approved by the RIHP & HC.
8 Demolition plans submitted for review to RIHP & HC shall be deemed approved if not rejected
9 within thirty (30) days from the time of submission.

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

LC02944

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO REMEDIATION OF BROWNFIELDS

- 1 This act would create a tax credit for Brownfield Remediation.
- 2 This act would take effect upon passage.

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LC02944
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PROVIDENCE LEGISLATIVE PACKAGE

SUMMARY SHEET

An Act Relating To: Remediation of Brownfields

Amends: R.I.G.L. Title 44 by adding Chapter 33.3

Summary: This act would establish a tax credit for the developer who buys and rehabilitates a parcel of real property which has been abandoned or underutilized and has been hampered by real or perceived environmental contamination. There are possibly many of these sites in the City of Providence due to the heavy concentration of industrial and mill buildings that were a major part of the state's economy for many decades. This piece of legislation would serve to revitalize abandoned, unutilized and underutilized parcels of property in the city and serve as economic engines.

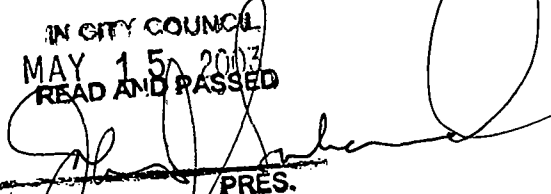

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 414

Approved May 27, 2003

RESOLVED, That the Members of the Providence City Council
hereby Endorse and Urge Passage by the General Assembly of House Bill 2003-H
5533, Relative to An Act Relating to Public Utilities and Carriers-Renewable
Energy Standard.

IN CITY COUNCIL
MAY 15 2003
READ AND PASSED

PRES.

CLERK

APPROVED

MAYOR 5/27/03

IN CITY COUNCIL
APR 22 2003
FIRST READING
REFERRED TO COMMITTEE ON
STATE LEGISLATION

Michael R. Alvest
CLERK

THE COMMITTEE ON
State Legislative
Recommends Be Approved
Clair A. Bequith
4/30/03
CLERK

Councilman Legal (By Bequith)

LC00956

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RENEWABLE ENERGY
STANDARD

Introduced By: Representatives Moura, Long, Ajello, Palumbo, and Naughton

Date Introduced: February 06, 2003

Referred To: Joint Environment & Energy

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "Public Utilities and Carriers" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 26

4 RENEWABLE ENERGY STANDARD

5 39-26-1. Legislative findings.--The legislature finds that:

6 (a) Ozone resulting from the burning of fossil fuels continues to impact our health, and
7 that from 1999-2002 there were sixty-three (63) days when ozone levels were so high that
8 breathing the air was hazardous to the health of Rhode Islanders;

9 (b) The particulates from burning fossil fuels causes one thousand six hundred sixty
10 (1,660) asthma attacks and eighty-eight (88) deaths in Rhode Island each year;

11 (c) Fossil fuel prices are extremely variable, and create economic hardships for
12 employers and families, and that increased use of renewable energy can both lower and stabilize
13 energy costs;

14 (d) Our nation's continued reliance on energy from distant sources is a threat to our
15 economic and political security;

16 (e) Electricity generation using fossil fuels is the leading cause of global warming;

17 (f) Global warming threatens the lives and property of Rhode Islanders due to rising sea
18 levels, more frequent and intense storms, and increased prevalence of disease;

1 (g) The New England Governors and Eastern Canadian Premiers have pledged to reduce
2 greenhouse gas emission across the region to 1990 levels by 2010, and Rhode Island has been
3 developing a greenhouse gas action plan that includes a renewable energy standard;

4 (h) The increased use of renewable energy would present opportunities for Rhode Island
5 businesses that could lead to job creation and stimulate the state's economy;

6 (i) A renewable energy standard is a market-oriented policy for accelerating the
7 introduction of renewable energy sources into the deregulated electric sector;

8 (j) In a deregulated electric market such as Rhode Islands, consumers are in need of
9 information as to the generation sources of their electricity so that they may make informed
10 decisions in choosing electricity suppliers;

11 (k) Therefore, it is necessary to establish renewable energy portfolio standards and
12 energy source disclosure requirements.

13 **39-26-2. Renewable energy portfolio standard. –** The public utilities commission is
14 directed to develop and enforce by June 1, 2004, renewable energy portfolio standard regulations
15 that shall apply to all electric suppliers in the state, including the supplier of standard offer and
16 last resort services. These regulations shall:

17 (a) Require that at least one percent (1%) of the electricity provided by any electricity
18 supplier, and any given electric energy product or program offered by an electricity supplier, be
19 generated using eligible renewable energy sources during the year ending December 31, 2005.
20 These regulations shall further require that each year thereafter, an additional one and one-half
21 percent (1.5%) of the electricity provided by any electricity supplier, and any given electric
22 energy product or program offered by an electricity supplier shall come from eligible renewable
23 energy sources until December 31, 2015, and that by December 31 of each year thereafter an
24 additional one percent (1%) of the electricity provided by any electricity supplier, and any given
25 electric energy product or program offered by an electricity supplier, be generated using eligible
26 renewable energy sources.

27 (b) Define as eligible renewable generation sources those generation facilities whose
28 energy or energy attributes trading, or transmission transactions, are managed by or through the
29 independent system operator of New England or the New England power pool, or its successors,
30 and that generate electricity from:

31 (1) the direct radiation of the sun;

32 (2) the wind;

33 (3) hydroelectric facilities that have achieved certification by the low impact hydro
34 institute, and continue to maintain such certification so long as the certification program is in

1 effect;

2 (4) the direct use of the latent heat of the earth or oceans;

3 (5) waste wood (including construction debris that does not contain any painted, treated,
4 or pressurized wood); agricultural crops, waste or by-products including plant oils; animal and
5 other organic waste; digester gas; and landfill gas; so long as:

6 (A) in the case of landfill gas, the generator supplies evidence, which may include
7 information provided through the generation information system, to the public utilities
8 commission that the average weighted NOx emissions from the facility does not exceed three and
9 one-half (3.5) pounds per MWh generated and that the gases used in generation would otherwise
10 be vented from a landfill in the normal course of landfill operations.

11 (B) In the case of other sources described in this paragraph besides landfill gas, that the
12 generator provide evidence, which may include information provided through the generation
13 information system, to the public utilities commission that the average weighted NOx emissions
14 from the facility does not exceed two and one-half (2.5) pounds per MWh generated.

15 (6) the movement of waters with an average annual salinity of twenty (20) parts per
16 thousand or greater, so long as this does not necessitate the construction of new artificial bays,
17 new jetties, or other impediments to the general flow of these waters;

18 (7) hydrogen resulting from electrolysis that was powered by any of the above sources.

19 (c) Utilize the generation information system, as implemented by the New England
20 power pool (NEPOOL) and independent system operator of New England (ISO-NE), or its
21 successor(s). The creation, purchase, transfer and retirement of tradable renewable energy
22 certificates utilized by this system, in proportions required herein, shall be the means for
23 verification, compliance and penalties determinations. For the purpose of determining compliance
24 with the renewable energy portfolio standard, transactions using tradable renewable energy
25 certificates shall be considered independently of any energy purchases or contracts. As such,
26 compliance with the renewable energy portfolio standard shall be required regardless of any other
27 contracts or obligations held by electricity suppliers at the time this law is enacted. Electricity
28 suppliers shall demonstrate compliance by obtaining and retiring tradable renewable energy
29 certificates created by eligible renewable generation sources during the year in question in
30 amounts necessary to meet the annual renewable energy percentage requirements defined herein.
31 In so far as the generation information system accounts for generation and settles certificate
32 transactions at a date later than the time of actual generation, so may the regulations allow for
33 compliance to be demonstrated at a similarly delayed date. Tradable renewable energy certificates
34 obtained by one supplier, and/or as part of any given product or program of a supplier, in excess

1 of the renewable energy portfolio standard requirements may not be applied towards fulfilling the
2 renewable energy portfolio standard requirements of any other supplier, product, program or year.

3 (d) Allow for any electricity supplier to present evidence to the public utilities
4 commission that complying with the renewable energy portfolio standard will, for any given
5 supplier, product, or program, unavoidably increase the retail price of electricity supplied by more
6 than one percent (1%) on average in any given year. Should the public utilities commission
7 concur that the renewable energy portfolio standard will unavoidably increase the cost of
8 electricity supplied by more than one percent (1%) in any year, the public utilities commission
9 shall direct the supplier presenting such evidence to purchase as many tradable renewable energy
10 certificates from eligible renewable sources as the public utilities commission deems possible
11 such that the price of electricity supplied by that supplier, product, or program does not increase
12 by more than one percent (1%) in that year. In hearing requests for exemptions under this section,
13 the public utilities commission shall ensure that the electricity supplier acted in a prudent fashion
14 for the purposes of meeting the renewable portfolio standard requirements. Prudence in meeting
15 obligations of the renewable energy portfolio standard shall include the use of long-term
16 contracts, whenever feasible. Should the public utilities commission find that an electricity
17 supplier requires an exemption under this section because of imprudent practices by the
18 electricity supplier, the public utilities commission may also impose penalties on the electricity
19 supplier, in accordance with subsection (f) herein.

20 (e) Include special regulations to apply specifically and only to electricity suppliers
21 operating on Block Island. These regulations shall:

22 (1) treat any electricity generated from internal combustion engines, turbines, or fuel cells
23 as being in compliance with the renewable energy portfolio standard so long as the fuel used to
24 generate said electricity includes a portion of gas or oil defined as eligible in section (b)(5) herein
25 that is equal to the percentage requirements for the renewable energy portfolio standard for the
26 year in question, and so long as the electricity supplier provides an independently verifiable
27 means for demonstrating compliance with this requirement that is approved by the public utilities
28 commission.

29 (2) allow eligible sources of generation as defined herein, but operating on a customer's
30 side of the meter, to be applied towards the requirements of the renewable energy portfolio
31 standard for the electricity supplier, so long as:

32 (A) the utility provides an independently verifiable means for accounting for
33 contributions from such sources that is approved by the public utilities commission;

34 (B) the utility provides service to the customer on a reverse or net metering basis, in

1 which the customer receives credit for the full retail price of electricity for any generation from
2 their facility, including electricity that is in excess of their own consumption at any one time;

3 (C) customers sign a written agreement with the utility, so as to ensure that customers
4 understand the terms under which they are ceding their rights to the attributes of the electricity
5 they generated.

6 (3) Allow for electricity suppliers operating on Block Island to make use of the same
7 compliance mechanism described herein, but with predetermined variations in implementation
8 and documentation to facilitate proof of compliance that the public utilities commission may find
9 warranted.

10 (4) Require that should Block Island ever become a member of the New England power
11 pool (NEPOOL), independent system operator of New England (ISO-NE), or its successor(s), all
12 special regulations for Block Island will be nullified, and any utilities operating on Block Island
13 shall then comply with the same regulations applied to mainland utilities.

14 (f) Include automatic fiscal penalties for noncompliance with the regulations, which at a
15 minimum exceed the estimated costs of complying with the regulations by two hundred percent
16 (200%), as determined by the public utilities commission, based on the price of tradable
17 renewable energy certificates, as defined herein. In addition to fiscal penalties, noncomplying
18 entities shall be required to submit a renewable energy portfolio standard compliance plan, to
19 demonstrate that prudent measures will be taken to ensure future compliance with the regulations.
20 In the case of investor owned utilities, these penalties may not be recovered by electric rate
21 increases or reductions in services to ratepayers. Funds generated by these penalties shall be
22 deposited to the renewable energy programs fund, administered by the state energy office, as
23 defined in Rhode Island general laws section 39-2-1.2(b). Funds so deposited shall be used by the
24 state energy office to purchase and retire tradable renewable energy certificates, as defined
25 herein. This purchase of tradable renewable energy certificates shall be on a competitive bid
26 process, and may be delayed up to two (2) years from the date of receipt of the funds, at the
27 discretion of the state energy office, for the purpose of improving the prospects of favorable bids.

28 **39-26-3. Energy source disclosure requirements. – The public utilities commission**
29 **shall, by December 31, 2003, establish and enforce right-to-know regulations requiring any**
30 **electricity supplier, including the supplier of last resort and standard offer services, to disclose to**
31 **their customers the sources of energy used to generate the electricity supplied. These regulations**
32 **shall:**

33 (a) Require that the energy source disclosures be expressed as a percentage of the total
34 amount of electricity provided by the supplier, or particular program or product to which the

1 customer may be enrolled, in any twelve (12) month period within sixteen (16) months of the
2 time of disclosure.

3 (b) Require that energy source disclosures be distributed to consumers as follows:

4 (1) on a monthly basis if it is included with or as part of a monthly bill or invoice; or

5 (2) on a quarterly basis if the disclosure is mailed separately from a bill or invoice, with
6 the words "energy source disclosure" and the electricity provider's name and logo clearly printed
7 on the outside, front of the envelope in which the disclosure is mailed.

8 (c) Require that the energy source disclosure show the percentages of energy obtained
9 from each of the seven (7) eligible renewable energy sources defined in this chapter, as well as
10 the percentage energy obtained from nuclear plants, natural gas, oil (which may include any fossil
11 oil), hydroelectric plants not deemed eligible in this chapter, coal, and any other sources that the
12 public utilities commission may require to be included.

13 (d) In so far as efficiently possible, utilize the same mechanisms for accounting and
14 compliance required in this chapter, so as to minimize the efforts required by suppliers to comply
15 with both the renewable energy portfolio standard and the energy source disclosure requirements.

16 (e) The disclosure presented to any particular customer shall take into consideration and
17 account for voluntary purchases of renewable energy or renewable energy attributes by that
18 customer, including purchases made by the customer from providers other than the energy
19 supplier.

20 **39-26-4. Severability.** – If any provision of this chapter or its application to any person
21 or circumstances is held invalid, the invalidity does not affect other provisions or applications of
22 this chapter which can be given effect without the invalid provision or application, and to this end
23 the provisions of this chapter are severable. The provisions of this chapter shall be liberally
24 construed to give effect to the purposes thereof.

25 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 PUBLIC UTILITIES AND CARRIERS -- RENEWABLE ENERGY
STANDARD

- 1 This act would establish renewable energy portfolio standards and energy source
2 disclosure requirements by requiring the public utilities commission to adopt regulations
3 specifically relating thereto.
4 This act would take effect upon passage.

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LC00956
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