

RESOLUTION OF THE CITY COUNCIL

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 1988

A N A C T

PROVIDING FOR SALES TAX INCREMENT FINANCING

Introduced By:

Date Introduced:

Referred to:

It is enacted by the General Assembly as follows:

SECTION 1. Title 45 of the General Laws is hereby amended by adding thereto the following chapter:

CHAPTER 33.3

SALES TAX INCREMENT FINANCING

45-33.3-1 Short title. - This act may be referred to and cited as the "Sales Tax Increment Financing Act."

45-33.3-2. Legislative findings. - It is found and declared that for the public health, safety, morals and welfare of the people of the State generally, the increase of their commerce, welfare and prosperity and the improvement of their living conditions and in order to further remedy the conditions found to exist in the State as declared in §45-31-3, it is essential to provide new employment opportunities to prevent, arrest, and

alleviate blighted, decayed and substandard areas in cities and towns, to increase the supply of housing available at low rentals, to increase the tax base and to improve the general economy of the State; and that it is the purpose of this act to provide an additional and alternative means to cities and towns to finance public facilities and residential, commercial and industrial development and revitalization, all to public benefit and good, in the manner provided herein.

45-33.3-3. Definitions. - As used in this act, unless a different meaning clearly appears from the context, the following words shall have the following meanings:

(1) "Base year" means the fiscal year ending June 30 next preceding the adoption of the project plan.

(2) "Project", means the undertaking of the following activities in accordance with a project plan: (i) the acquisition of land and improvements thereon, if any, within the project area and the assembly and clearance of the land so acquired, or (ii) the development, redevelopment, revitalization or conservation of the project area through rehabilitation of buildings or other improvements or through acquisition by gift, purchase or eminent domain of land and any improvements thereon, if any, and demolition, removal or rehabilitation of any such improvements, whenever the foregoing activities are necessary to provide land for needed public facilities or industrial or commercial development or revitalization, or to eliminate unhealthful, unsanitary or unsafe conditions or lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare or otherwise remove or prevent the spread of blight or

deterioration. A project may involve a combination of the foregoing activities. A project may include the provision of financial and other assistance in the relocation of persons and organizations displaced thereby, and the planning and construction, reconstruction or rehabilitation of public facilities.

(3) "Project area" means a project area designated in a project plan approved pursuant to §45-33.3-4. The project area may consist of one or more parcels or lots of land, whether or not contiguous, or one or more buildings or structures, whether or not adjacent, on one or more parcels of land subject to the following conditions: (1) substantially all of the area designated as a project area shall be located in zone which permits, among other uses, business or commercial uses, and (2) upon the adoption of a project plan, the aggregate area of land within all project areas within the city or town does not exceed 10 percent of the total land area within the city or town.

(4) "Project plan" means a written plan, which is part of a "redevelopment plan", as that term is defined in §45-31-8(17), approved in the manner provided in §45-33.3-4, for a project. The project plan shall set forth an estimate of project costs and the amounts and sources of funds to be used to defray such costs and shall include provisions for tax increment financing of project costs in whole or in part. The tax increment financing provisions of the project plan shall set forth the estimated amount of indebtedness to be incurred pursuant to this act, shall set forth an estimate of the tax increment to be generated as a result of the project, shall set forth the method of calculating the tax increment, together with any provisions for adjustment of

the method of calculation, and shall designate the board or officer of the city or town responsible for calculating the tax increment. Funds may be provided to carry out the plan from any lawful source including the issuance of bonds under this act, but may not be provided by the issuance of general obligation bonds for any purpose for which general obligation bonds could not be issued in the absence of this act. The plan may include such other provisions as may be deemed necessary in order to carry out the tax increment financing of the project. The project shall be consistent with such comprehensive plan for the city or town as is then applicable, shall be sufficiently complete to indicate the location and boundaries of the project area and of the tax increment area and such land acquisition, such acquisition, demolition, removal and rehabilitation of structures and such development, redevelopment and general public improvements as are proposed to be carried out within the project area and indicate the proposed method for relocation of such persons or organizations as may be displaced as a result of carrying out the project.

(5) "Project revenues" means any receipts of a city or town with respect to a project including, without limiting the generality of the foregoing, tax increments, repayments of loans made under subsection (m) of §45-33.3-5, investment earnings, proceeds of insurance or disposition of property and proceeds of borrowing under this act.

(6) "Sales tax" means the sales tax imposed by Chapter 44-18 of the General Laws.

(7) "Tax increment" means the sales tax payable with respect to sales at retail (as defined in Chapter 44-18 of the General

Laws) made within the project area to the extent that the sales tax collections are in excess of the total sales tax collected by the State with respect to sales at retail made within the project area in the base year. In calculating the tax increment with respect to fiscal years succeeding the base year, the sales tax rate applicable to sales at retail in the base year will be applied.

45-33.3-4. Approval of Project Plan. - (a) A project plan for a city or town shall include a finding, certified by the mayor of a city or the president of the town council of a town, to the effect that:

(1) With respect to any portion of the project providing public facilities or land therefor, the facilities are needed and the financing of such portion of the project in accordance with the plan is in the public interest; or

(2) With respect to any portion of the project providing land for housing for persons or families of low income, there is not within the city or town an adequate supply of low-rent housing for persons or families of low income generally, or for veterans, or for elderly or handicapped persons, as the case may be, available for rents they can afford to pay, that the rents which such persons or families can afford to pay would not warrant private enterprise in providing housing for them and that the financing of such portion of the project in accordance with the plan is in the public interest;

(3) With respect to any portion of the project providing financing under subsection (m) of §45-33.3-5, unemployment or the threat thereof exists in the city or town or security against future unemployment is required, the project is needed, it will

provide employment or security against loss of employment, having a reasonable relationship to the probable cost of acquiring, establishing, improving or rehabilitating the facilities in which the employment is to be provided or maintained, and the financing of such portion of the project in accordance with the plan is in the public interest; or

(4) With respect to any portion of the project providing land for industrial or commercial development or revitalization, (i) the requirements of subsection (c) of this section are satisfied or (ii) the requirements of subsection (e) of this section are satisfied; or

(5) With respect to any other portion of the project (i) it is located in a "blighted and substandard area" as that term is defined in §45-31-8(2) or the project is needed to arrest blight or decay in the city or town and to prevent the area from becoming a blighted and substandard area, (ii) the project area would not by private exercise of governmental powers be developed or revitalized in a manner so as to prevent, arrest or alleviate the spread of blight or decay, (iii) the plan will afford maximum opportunity to privately financed development or revitalization consistent with the sound needs of the city or town as whole, and (iv) the financing of such portion of the project in accordance with the plan is in the public interest.

(b) No project shall be undertaken pursuant to this chapter until a project plan with respect to the same, containing the finding referred to in subsection (a) hereof, shall have been approved by the General Assembly.

45-33.3-5. Authorization to undertake projects - Powers. -

Cities and towns are hereby authorized to undertake projects

pursuant to duly adopted project plans. In addition to powers granted by any other law, for the purposes of carrying out a project as authorized by this chapter, a city or town shall have the following powers:

(a) To incur indebtedness as hereinafter provided and to pledge tax increments and other project revenues for repayment thereof;

(b) To designate a board or officer of the city or town to be responsible for administering the project plan;

(c) To make and enter into all contracts and agreements necessary in order to carry out the project;

(d) To receive from the federal government or the state loans or grants for or in aid of a project and to receive contributions from any other source to defray project costs;

(e) To purchase or otherwise acquire such property or interests therein within a project area as the city or town may deem necessary in order to carry out the project;

(f) To make relocation payments to such persons, businesses or organizations as may be displaced as a result of carrying out the project;

(g) To clear and improve property acquired by it pursuant to the project plan and construct public facilities thereon or contract for the construction, development, redevelopment, rehabilitation, remodeling, alteration or repair of such property;

(h) To cause parks, playgrounds or schools or water, sewer or drainage facilities or any other public improvements which it otherwise is authorized to undertake, to be laid out, constructed or furnished in connection with the project;

(j) To cause private ways, sidewalks, ways for vehicular travel, playgrounds, or water, sewer or drainage facilities and similar improvements to be constructed within the project area for the particular use of the project area of those dwelling or working therein;

(k) To adopt ordinances or repeal or modify such ordinances or establish exceptions to existing ordinances regulating the design, construction and use of buildings;

(l) To sell, mortgage, lease as lessor, transfer or dispose or any property or interest therein acquired by it pursuant to the project plan for development, redevelopment or rehabilitation in accordance with the plan;

(m) To loan the proceeds of any issue of bonds or notes pursuant to this chapter to a private enterprise in order to finance the cost of acquiring land for, and constructing or rehabilitating and equipping industrial or commercial facilities, within the project area in accordance with the plan or to loan bond or note proceeds in order to refinance any such loans;

(n) To invest project revenues as hereinafter provided; and

(o) To do all things reasonably necessary or convenient to carry out the powers granted in this chapter.

44-33.3-5. 1. Duties of State, local officials. - (a) Forthwith upon the adoption of the project plan, the tax assessor of the city or town will survey the project area and prepare a true and accurate list of the persons within the project area who make sales at retail. The tax assessor will thereupon submit the list to the tax administrator. The tax assessor will annually and, in any event, not later than March 31 of each year, resurvey the project area, review the list previously transmitted to the tax

administrator and advise the tax administrator of the persons who are no longer making sales at retail within the project area and of the persons who, after the date of the next preceding list, have commenced making sales at retail within the project area.

(b) Upon the receipt of the first list of submitted to him by the tax assessor of the city or town, pursuant to subsection (a) hereof, the tax administrator will determine the total sales tax receipts collected by the State with respect to sales at retail made within the project area during the base year by the persons whose names are set forth on the list submitted by the tax assessor. Annually, and in any event no later than September 30 of each year, the tax administrator, pursuant to §45-33.3-3(7), will calculate the tax increment and remit the same to the treasurer of the city or town for expenditure in accordance with the provisions of this act.

45-33.3-6. Issuance of special obligation bonds. - (a) A city or town may, in compliance with any applicable provisions of the General Laws borrow money by the issue of special obligation bonds for the purpose of carrying out a project pursuant to a duly adopted project plan. Without limiting the generality of the foregoing, such bonds may be issued for project costs which may include interest prior to and during the carrying out of a project and for a reasonable time thereafter, such reserves as may be required by any agreement securing the bonds and all other expenses incidental to planning, carrying out and financing the project. Bonds issued hereunder shall be payable solely from project revenues and shall not be deemed to be a pledge of faith and credit of the city or town. Every bond issued hereunder shall recite on its face that it is a special obligation bond

payable solely from project revenues pledged for its repayment and shall otherwise comply with any applicable provisions of Chapter 45-12 of the General Laws.

(b) The bonds of each issue shall be dated and may be made redeemable before maturity with or without premium. Subject to the authorizing vote, the officers authorized to sell the bonds shall determine the date or dates of the bonds, their denomination or denominations, the place or places of payment of the principal and interest, which may be at a bank or trust company within or without the state, their interest rate or rates, maturity or maturities, redemption privileges, if any, and the form and other details of the bonds including interest coupons to be attached thereto. The bonds shall be signed by the city or town treasurer, shall be countersigned by the mayor of a city or by the president of the town council of a town either manually or by facsimile, and shall bear the seal of the city or town or facsimile thereof. Any coupons attached thereto shall bear the facsimile signature of the city or town treasurer.

(c) In case any office whose signature or a facsimile of whose signature shall appear on any bonds, coupons or notes issued under this chapter shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

(d) The bonds may be issued in coupon or in registered form or both, and provision may be made for the registration of any coupon bonds as to principal alone and also as to principal and interest, for the reconversion into coupon bonds or bonds registered as to both principal and interest, and for the

interchange of registered and coupon bonds. Subject to the authorizing vote, the officers authorized to sell the bonds may sell the bonds in such manner, either at public or private sale, and for such price, as they may determine will best effect the purposes of this chapter.

(e) Prior to the preparation of definitive bonds, the city or town may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Provision may be made for the replacement of any bonds which shall have become mutilated or shall have been destroyed or lost.

45-33.3-7. Security for bonds. - (a) In the discretion of the officers authorized to sell the bonds, but subject to the provisions of the vote authorizing the bonds, bonds issued hereunder may be secured by one or more trust agreements between city or town and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. A trust agreement hereunder shall be in such form and executed in such manner as may be determined by such officers. A trust agreement may pledge or assign project revenues, in whole or in part. It may contain such provisions for protecting and enforcing the rights, security and remedies of the bondholders as may be reasonable and proper and not in violation of law, including without limitation the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth duties of, and limitations on, the city or town in relation to carrying out and otherwise administering the project of projects, the custody,

safeguarding, investment and application of project revenues, the issue of additional bonds hereunder, the determination of tax increments, the fixing of fees and charges, if any, in relation to the project or projects, the collection of project revenues, the use of any surplus bond proceeds, the establishment of reserves, and the replacement of bonds or coupons which shall become mutilated or be destroyed or lost. Subject to the provisions of this chapter, moneys subject to the trust agreement shall be held, invested and applied as provided therein, provided that moneys not deposited in trust with a corporate trustee shall be in the custody of the city or town treasurer.

(b) It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds or of other moneys under any such trust agreement and to furnish such indemnifying bonds or to pledge such securities as may be required by the trust agreement. Any such trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as current operating expenses.

45-33.3-8. Pledge of project revenues validated. - (a)

Notwithstanding any provision of any other law, including the uniform commercial code: (i) any pledge hereunder shall be valid and binding and shall be deemed continuously perfected from the time it is made; (ii) no filing need be made under the uniform commercial code or otherwise; (iii) unless otherwise provided in the financing instruments, a pledge of project revenues shall be deemed to include a pledge of any accounts of general intangibles

from which such revenues are derived, whether existing at the time of the pledge or thereafter coming into existence and whether held at the time of the pledge or thereafter acquired by the city or town and the proceeds of such accounts or general intangibles; and (iv) the pledge of project revenues, accounts and general intangibles shall be subject to the lien of the pledge without delivery or segregation and the lien of the pledge shall be valid and binding against all parties having claims of contract or tort or otherwise against the city or town.

(b) A pledge of project revenues under this chapter shall constitute a sufficient appropriation thereof for the purposes of any provision for appropriation and such revenues may be applied as required by the pledge without further appropriation.

(c) For the purposes of this section the word "pledge" shall be construed to include the grant of a security interest under the uniform commercial code.

45-33.3-9. Temporary anticipation notes. - In anticipation of the issue of bonds under this chapter, and subject to any provisions of the vote authorizing the bonds, the officers authorized to sell the bonds may without further authorization issue temporary notes. The notes may be secured as in the case of bonds, and except as otherwise provided in this section, the provisions of other sections of this chapter referring to bonds shall also be deemed to refer to the notes. The notes need not bear the seal of the city or town or a facsimile thereof. The notes shall be payable within three (3) years from their respective dates, but the principal of and interest on notes issued for a shorter period may be refunded from time to time by the issue of other notes maturing within three (3) years from the original date of issue of the indebtedness being refunded.

45-33.3-10. Refunding bonds. - A city or town may, subject to any applicable provisions of §45-12-5.2, issue refunding bonds for the purpose of paying any of its bonds issued hereunder at maturity or upon acceleration or redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the city or town deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other purposes from the proceeds of such refunding bonds as may be required by any agreement securing bonds. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of holders thereof, and the rights, duties and obligations of the city or town with respect thereto shall be governed by the provisions of this chapter relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

45-33.3-11. Credit of municipality not pledged. - The bonds and notes issued under this chapter shall be payable solely from project revenues and the city or town issuing the same shall not pledge its faith and credit for the payment thereof. Such bonds and notes shall not at any time be included in the debt of the city or town for the purpose of ascertaining its legal borrowing capacity.

45-33.3-12. Investment of funds. - Subject to any agreement securing bonds or notes issued under this chapter, the proceeds

of such bonds or notes, pledged tax increments and other project revenues may be deposited or invested in (i) obligations of the State or the United States, (ii) obligations of the principal and interest of which are guaranteed by the State or the United States, (iii) obligations of agencies and instrumentalities of the State or the United States or (v) certificates of deposits of, and repurchase agreements, so-called, issued with respect to obligations of the United States by, banks and trust companies organized under the laws of the State or doing business in the State.

45-33.3-13. Trust funds. - All project revenues received pursuant to the provisions of this chapter shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

45-33.3-14. Remedies of bondholders and noteholders. - Any holder of bonds or notes issued under this chapter, or of any of the coupons appertaining thereto, and the trustee under any trust agreement securing the same, except to the extent the rights herein given may be restricted by any agreement securing the same, may bring suit upon the bonds, notes or coupons and may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State or granted under this chapter or under any such agreement, and may enforce or compel the performance of all duties required by this chapter or by such agreement to be performed by the city or town or by any officer thereof.

45-33.3-15. Bonds and notes as legal instruments. - Bonds and notes issued under the provisions of this chapter are hereby made securities in which all public officers and public bodies of

the State and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or obligations of the State is now or may hereafter be authorized by law.

45-33. 3-16. Bonds and notes as investment securities. - Notwithstanding any of the provisions of this chapter or any recitals in any bond or notes issued under this chapter, all such bonds and commercial code.

45-33.3-17. Exemption from taxation. - The bonds and notes issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, shall be at all times free from taxation within the State.

45-33.3-18. Provisions supplementary. - The foregoing provisions of this act shall be deemed to provide an additional and alternative means for the doing of things authorized thereby, and shall be regarded as supplemental and additional to, and not in derogation of, powers conferred upon cities and towns by other laws.

45-33.3-20. Severability. - The provisions of this chapter are severable, and if any provision thereof shall be held invalid in any circumstances, such invalidity shall not affect any other provisions or circumstances. This chapter shall be construed in

all respects so as to meet all constitutional requirements. In carrying on the purposes and provisions of this chapter, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

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

EXPLANATION
OF
AN ACT
PROVIDING FOR SALES TAX INCREMENT FINANCING

This act authorizes cities and towns to undertake various projects which will be financed by sales tax incremental revenues.

This act will take effect upon its passage.