

2020 -- H 7615

=====
LC004374
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

—————
A N A C T

AN ACT RELATING TO TOWNS AND CITIES -- RHODE ISLAND COMMUNITY
RESILIENCY AND PRESERVATION ACT

Introduced By: Representatives Ruggiero, Bennett, Slater, Cortvriend, and Chippendale

Date Introduced: February 14, 2020

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 69

4 RHODE ISLAND COMMUNITY RESILIENCY AND PRESERVATION ACT

5 **45-69-1. Short Title.**

6 This chapter shall be known and may be cited as the "Rhode Island Community
7 Resiliency and Preservation Act".

8 **45-69-2. Findings and Purposes.**

9 The general assembly finds and declares that:

10 (1) Capital investments in our communities are essential to protecting their character,
11 environment, heritage, quality of life, climate resilience, and economic vitality;

12 (2) Cities and towns need capital funding to protect special open spaces, working farms,
13 forests, natural areas, and historic landmarks, as well as, to create parks and outdoor recreation
14 facilities that support all residents' health and wellbeing;

15 (3) Cities and towns need capital funding to restore and improve the climate resilience of
16 vulnerable coastal habitats, river and stream floodplains, and critical infrastructure for improving
17 community resilience to impacts from climate change;

18 (4) Cities and towns need a reliable "pay as you go" source of funding for these capital

1 investments to reduce dependence on bond funding; and
2 (5) Cities and towns need a reliable source of funding to provide the matching funds
3 required to receive state, federal and foundation grants.

4 Therefore, the general assembly is providing cities and towns with the authority to
5 propose, for consideration and decision by their voters, a reliable source of capital funding for
6 investing in their community.

7 **45-69-3. Definitions.**

8 As used in this chapter, the following words shall have the following meaning:

9 (1) “Acquire” means to obtain by gift, purchase, devise, grant, or otherwise.

10 (2) “Capital improvement” means the reconstruction or alteration of real property that:

11 (i) Materially adds to the value of the real property;

12 (ii) Appreciably prolongs the useful life of the real property;

13 (iii) Becomes part of the real property or is permanently affixed to the real property to the
14 extent that removal would cause material damage to the property or article itself; and

15 (iv) Is intended to become a permanent installation or is intended to remain there for an
16 indefinite period of time.

17 (3) “Community preservation” means the acquisition, creation, preservation and
18 restoration of open space; the acquisition and creation and preservation of historic resources; and
19 the creation and restoration of infrastructure necessary to adapt to rising sea levels, severe storms
20 and other impacts from changing climate.

21 (4) “Community resiliency and preservation committee” means the committee
22 established by the city or town council of a city or town to make recommendations for
23 community preservation, as provided in § 45-69-6.

24 (5) “Community resiliency and preservation fund” means the municipal fund established
25 under § 45-69-8.

26 (6) “Historic resources” means any real property, structure, natural object, place,
27 landmark, landscape, archaeological site or configuration or any portion or group of the preceding
28 which has been listed on the federal or state register of historic places or that is considered by the
29 Rhode Island Historical Preservation and Heritage Commission to meet the eligibility criteria for
30 listing on the state register of historic places pursuant to § 42-45-5, or is located in a historic
31 district established by a municipality in accordance with chapter 24.1 of title 45.

32 (7) “Maintenance” means the incidental repairs which neither materially add to the value
33 of the property nor, appreciably prolong the property’s life, but keep the property in a condition
34 of fitness, efficiency or readiness.

1 (8) “Open space” means and includes, but is not limited to, land to protect existing and
2 future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands,
3 fields, forest land, fresh and salt water marshes and other wetlands, ocean, river, stream, lake and
4 pond frontage, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for
5 wildlife habitat or nature preserve and land for outdoor recreational use.

6 (9) “Preservation” means the protection of personal or real property from injury, harm or
7 destruction.

8 (10) “Real property” means land, buildings, appurtenant structures and fixtures attached
9 to buildings or land, including, where applicable, real property interests.

10 (11) “Real property interest” means a present or future legal or equitable interest in or to
11 real property, including easements and restrictions, and any beneficial interest therein, including
12 the interest of a beneficiary in a trust which holds a legal or equitable interest in real property, but
13 shall not include an interest which is limited to the following:

14 (i) An estate at will or at sufferance and any estate for years having a term of less than
15 thirty (30) years;

16 (ii) The reversionary right, condition or right of entry for condition broken; or

17 (iii) The interest of a mortgagee or other secured party in a mortgage or security
18 agreement.

19 (12) “Recreational use” means the active or passive recreational use including, but not
20 limited to, the use of land for community gardens, trails, and noncommercial youth and adult
21 sports, and the use of land as a park, playground or athletic field. “Recreational use” shall not
22 include horse or dog racing or the use of land for a stadium, gymnasium or similar structure.

23 (13) “Rehabilitation” means capital improvements, or the making of extraordinary repairs
24 to historic resources, open spaces, lands for recreational use and for the purpose of making such
25 historic resources, open spaces and lands for recreational use for their intended uses, including
26 but not limited to, improvements to comply with the Americans with Disabilities Act of 1990,
27 and other federal, state or local building or access codes; provided, that with respect to historic
28 resources, “rehabilitation” shall comply with the Standards for Rehabilitation stated in the United
29 States Secretary of the Interior’s Standards for the Treatment of Historic Properties codified in 36
30 C.F.R. Part 68; and provided further, that with respect to land for recreational use,
31 “rehabilitation” shall include the replacement of playground equipment and other capital
32 improvements to the land or the facilities thereon which make the land or the related facilities
33 more functional for the intended recreational use.

34 **45-69-4. Voter approval required.**

1 (a) Any ordinance providing for the implementation of §§ 45-69-4 through 45-69-8,
2 which has been duly adopted by a city or town, shall only be effective upon its approval by the
3 voters of the city or town through a ballot question pursuant to this section.

4 (b) The city or town council may vote to accept §§ 45-69-4 through 45-69-8, inclusive,
5 by approving a surcharge on real property of not more than three percent (3%) of the real estate
6 tax levy against real property, as determined annually by the assessor. The amount of the
7 surcharge shall not be included in a calculation of total maximum levy for purposes of § 44-5-2.

8 (c) All exemptions and abatements of real property authorized by chapter 3 of title 44, or
9 any other law for which a taxpayer qualifies as eligible shall not be affected by this section. A
10 taxpayer receiving an exemption of real property authorized by chapter 3 of title 44, or any other
11 law shall be exempt from any surcharge on real property established under this section. The
12 surcharge to be paid by a taxpayer receiving an abatement of real property authorized by chapter
13 3 of title 44, or any other law shall be reduced in proportion to the amount of such abatement.

14 (d) Any amount of the surcharge not paid by the due date shall bear interest at the rate per
15 annum provided in § 44-5-9.

16 (e) The city or town council may vote to accept one or more of the following exemptions:

17 (1) For property owned and occupied as a domicile by a person who would qualify for
18 low- or moderate-income housing in the city or town;

19 (2) For commercial and industrial, properties in cities or towns with classified tax rates;

20 (3) For the tax levy on one hundred thousand dollars (\$100,000) of the value of each
21 taxable parcel of residential real property; or

22 (4) For the tax levy on one hundred thousand dollars (\$100,000) of the value of each
23 taxable parcel of commercial property and industrial property.

24 (f) Upon approval by the city or town council, the actions of the body shall be submitted
25 for acceptance to the voters of a city or town at the next regular or special municipal or state
26 election. The city or town clerk or the secretary of state shall place the proposition on the ballot
27 in the form of the following question:

28 "Shall this (city or town) accept §§ 45-69-4 through 45-69-8, as approved by its (city or
29 town) council, a summary of which appears below?"

30 (Set forth here a fair, concise summary and purpose of the law to be acted upon, as
31 determined by the city or town solicitor, including, in said summary, the percentage of the
32 surcharge to be imposed.)

33 If a majority of the voters voting on said question vote in the affirmative, then its
34 provisions shall take effect in the city or town, but not otherwise.

1 **45-69-5. Imposition of surcharge.**

2 (a) Upon acceptance of §§ 45-69-4 through 45-69-8, inclusive, and upon the assessor's
3 warrant to the tax collector, the accepted surcharge shall be imposed.

4 (b) After receipt of the warrant, the tax collector shall collect the surcharge in the amount
5 and according to the computation specified in the warrant and shall pay the amounts so collected,
6 quarterly according to the schedule for collection of property taxes for the tax on real property, to
7 the city's or town's treasurer. The tax collector shall cause appropriate books and accounts to be
8 kept with respect to such surcharge, which shall be subject to public examination upon reasonable
9 request from time to time.

10 (c) The remedies provided by chapter 7 of title 44 for the collection of taxes upon real
11 estate shall apply to the surcharge on real property pursuant to this section.

12 **45-69-6. Community resiliency and preservation committee.**

13 (a) A city or town that accepts §§ 45-69-4 through 45-69-8, inclusive, shall establish by
14 ordinance a community resiliency and preservation committee. The committee shall consist of not
15 less than five (5) nor more than nine (9) members. The ordinance shall determine the composition
16 of the committee, the length of its term, and the method of selecting its members, whether by
17 election or appointment or by a combination thereof. The committee shall include, but not be
18 limited to: one member of the planning board established under § 45-22-1, as designated by the
19 board; one member of the municipal land trust or nonprofit land trust established pursuant to §
20 42-17.1-2(28)(ii), designated by the land trust; if no land trust exists, one member of the
21 conservation commissions established under chapter 35 of this title, as designated by the
22 commissions; one member representing historical preservation interests; one member
23 representing park and outdoor recreation interests; and one member representing community
24 adaptation to climate change impacts; and/or persons, as determined by the ordinance, acting in
25 the capacity of or performing like duties of the commissions, board or authority if they have not
26 been established in the city or town. If there are no persons acting in the capacity of or
27 performing like duties of any such commission, board or authority, the ordinance shall outline an
28 appointment process that assures that membership of the community resiliency and preservation
29 committee shall include individuals appointed with knowledge and interest in each subject matter:
30 land conservation, parks, historic preservation, and adaptation to climate impacts. A city or town
31 ordinance establishing this committee may designate the planning board established under § 45-
32 22-1 as the community resiliency and preservation committee.

33 (b)(1) The community resiliency and preservation committee shall study the needs,
34 possibilities and resources of the city or town regarding community preservation, including the

1 consideration of regional projects for community preservation. The committee shall consult with
2 existing municipal boards, including the conservation commissions, the historical commission,
3 the planning board, and the park department, or persons acting in those capacities or performing
4 like duties, in conducting such studies. As part of its study, the committee shall hold one or more
5 public informational hearings on the needs, possibilities and resources of the city or town
6 regarding community preservation possibilities and resources, notice of which shall be posted
7 publicly and published for each of two (2) weeks preceding a hearing in a newspaper of general
8 circulation in the city or town.

9 (2) The community resiliency and preservation committee shall make recommendations
10 to the city or town council for the acquisition, creation and preservation of open space; for the
11 acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition,
12 creation, preservation, rehabilitation and restoration of land for recreational use; for rehabilitation
13 or restoration of open space that is acquired or created as provided in this section; and for capital
14 investments for improving the community's climate resilience as provided in this section;
15 provided, however, that funds expended pursuant to this section shall not be used for maintenance
16 and upkeep. With respect to recreational use, the acquisition of artificial turf for athletic fields
17 shall be prohibited.

18 (3) The community resiliency and preservation committee may include in its
19 recommendation to the city or town council a recommendation to set aside for later spending
20 funds for specific purposes that are consistent with community preservation but for which
21 sufficient revenues are not then available in the community preservation fund to accomplish that
22 specific purpose.

23 (c) The community resiliency and preservation committee shall not meet or conduct
24 business without the presence of a quorum. A majority of the members of the community
25 resiliency and preservation committee shall constitute a quorum. The community resiliency and
26 preservation committee shall approve its actions by majority vote. Recommendations to the city
27 or town council shall include their anticipated costs.

28 (d) After receiving recommendations from the community resiliency and preservation
29 committee, the city or town council shall take such action and approve such appropriations from
30 the community preservation fund, as set forth in § 45-69-8, and such additional non-community
31 preservation fund appropriations as it deems appropriate to carry out the recommendations of the
32 community resiliency and preservation committee.

33 (f) No real property, or interest therein, shall be acquired by any city or town for a price
34 exceeding the value of the property as determined by such city or town through procedures

1 customarily accepted by the appraising profession as valid.

2 **45-69-7. Minimum spending requirements for community preservation fund.**

3 (a) In each fiscal year and upon the recommendation of the community resiliency and
4 preservation committee, the city or town council shall spend, or set aside for later spending, not
5 less than ten percent (10%) of the annual revenues in the community preservation fund for open
6 space, parks and outdoor recreation facilities; not less than ten percent (10%) of the annual
7 revenues for historic resources; and not less than ten percent (10%) of the annual revenues for
8 climate resilience. In each fiscal year, the city or town council shall make appropriations from
9 the community preservation fund as it deems necessary for the administrative and operating
10 expenses of the community resiliency and preservation committee and such appropriations shall
11 not exceed five percent (5%) of the annual revenues in the community preservation fund.

12 (b) Funds that are set aside shall be held in the community preservation fund and spent in
13 that year or later years; provided, however, that funds set aside for a specific purpose shall be
14 spent only for the specific purpose. Any funds set aside may be expended in any city or town.
15 The community preservation funds shall not replace existing operating funds, only augment them.

16 **45-69-8. Establishment of community preservation fund.**

17 (a) A city or town that accepts §§ 45-69-4 through 45-69-8, inclusive, shall establish a
18 separate account to be known as the community preservation fund of which the municipal
19 treasurer shall be the custodian. The authority to approve expenditures from the fund shall be
20 limited to the city or town council upon recommendation from the community resiliency and
21 preservation committee, and the municipal treasurer shall pay such expenses.

22 (b) The following monies shall be deposited in the fund:

23 (1) All funds collected from the real property surcharge pursuant to § 45-69-5;

24 (2) All funds received from the state or any other source for such purposes;

25 (3) Proceeds from the disposal of real property acquired with funds from the community
26 preservation fund; and

27 (4) All interest, dividends and other income from deposits or investments of the
28 community preservation fund. The expenditure of revenues from the fund shall be limited to
29 implementing the recommendations of the community resiliency and preservation committee and
30 providing administrative and operating expenses to the committee.

31 **45-69-9. Permanent conservation or preservation restrictions.**

32 (a) A real property interest that is acquired with monies from the community
33 preservation fund shall be bound by a permanent conservation or preservation restriction per
34 chapter 39 of title 34, recorded as a separate instrument and limiting the use of the interest to the

1 purpose for which it was acquired. The permanent restriction shall run with the land and shall be
2 enforceable by the city or town or the state. The permanent restriction may also run to the benefit
3 of a nonprofit organization, charitable corporation or foundation selected by the city or town with
4 the right to enforce the restriction. The city or town council may appropriate monies from the
5 community preservation fund to pay a nonprofit organization created pursuant to § 42-17.1-
6 2(28)(ii), to hold, monitor and enforce the deed restriction on said property.

7 (b) Real property interests acquired under this section shall be owned and managed by the
8 city or town, but the city or town council may delegate management of such property to a land
9 trust, conservation commission, historical commission, or park department as appropriate for the
10 property interests acquired, or, in the case of interests to acquire sites for future wellhead
11 development for drinking water, a water board, a water supply district or a fire district. The city
12 or town council may also delegate management of such property to a nonprofit organization
13 created under § 42-17.1-2(28)(ii).

14 **45-69-10. Accounting to be kept.**

15 The community resiliency and preservation committee shall keep a full and accurate
16 account of all of its actions, including its recommendations and the action taken on them, and
17 records of all appropriations or expenditures made from the community preservation fund. The
18 committee shall also keep records of any real property interests acquired, disposed of, or
19 improved by the city or town upon its recommendation, including the names and addresses of the
20 grantors or grantees and the nature of the consideration. The records and accounts shall be public
21 records.

22 **45-69-11. Acceptance of state grants.**

23 (a) Notwithstanding the provisions of any general or special law to the contrary, every
24 city or town that accepts §§ 45-69-4 through 45-69-8, inclusive, shall not be precluded from
25 participating in state grant programs.

26 (b) State grant programs may include local adoption of this section among the criteria for
27 selection of grant recipients. Funds in the community preservation fund may be made available
28 and used by the city or town as the local share for state or federal grants upon recommendation of
29 the community resiliency and preservation committee and the city or town council, as provided
30 for in § 45-69-6, if such grants and such local share are used in a manner consistent with the
31 recommendations of the community resiliency and preservation committee.

32 **45-69-12. Amendment and revocation.**

33 (a) At any time after imposition of the surcharge, the city or town council may approve
34 and the voters may accept an amendment to the amount and computation of the surcharge, or to

1 the amount of exemption or exemptions, in the same manner and within the limitations set forth
2 in this section.

3 (b) At any time after the expiration of five (5) years after the date on which §§ 45-69-4
4 through 45-69-8, inclusive, have been accepted in a city or town, said sections may be revoked in
5 the same manner as they were accepted by such city or town, but the surcharge imposed under §
6 45-69-4 shall remain in effect in any such city or town, with respect to unpaid taxes on past
7 transactions and with respect to taxes due on future transactions, until all contractual obligations
8 incurred by the city or town prior to such termination shall have been fully discharged.

9 SECTION 2. Chapter 44-5 of the General Laws entitled "Levy and Assessment of Local
10 Taxes" is hereby amended by adding thereto the following section:

11 **44-5-87. Community preservation special purpose levy.**

12 (a) Cities and towns that adopt §§ 45-69-4 through 45-69-8 inclusive, according to the
13 procedures specified therein, may levy a surcharge on real property of not more than three percent
14 (3%) of the real estate tax levy against real property, as determined annually by the assessor.

15 (b) Notwithstanding any provision of law or ordinance to the contrary, a special levy
16 adopted in accordance with the provisions of § 45-69-5, is not to be included in the calculation or
17 approval of the maximum levy as set forth in § 44-5-2.

18 (c) The proceeds of said levy, as set forth in subsection (a) of this section, shall be used
19 solely for the purposes set forth in § 45-69-6.

20 SECTION 3. This act shall take effect on July 1, 2020.

=====
LC004374
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

AN ACT RELATING TO TOWNS AND CITIES -- RHODE ISLAND COMMUNITY
RESILIENCY AND PRESERVATION ACT

- 1 This act would authorize cities and towns with the authority to propose, for consideration
- 2 and decision by their voters, a reliable source of capital funding for investing in their community.
- 3 This act would take effect on July 1, 2020.

=====
LC004374
=====