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MEMORANDUM

To: The Honorable Marvin L. Abney, Chairman, House Finance Committee
The Honorable Louis P. DiPalma, Chairman, Senate Finance Committee

From: Joseph Codega Jr., Budget Officer *John M. Codega Jr.*

Date: April 22, 2024

Subject: Amendments to the FY 2025 Appropriations Act (24-H-7225)

Governor's Budget Amendment #13

The Governor requests amendments to the FY 2025 Appropriations Act within Article 2, Relating to State Funds and Article 6, Relating to Taxes and Fees. The provisions and policy goals underlying these amendments are set forth below, with associated legislative changes and/or additions detailed in the subsequent technical section.

If you have any questions regarding these amendments, please feel free to call me or my staff at 222-6300.

- **Dedicated Homelessness Funding Source.** This amendment creates a permanent funding source for housing stability and homeless. By applying the 5 percent Hotel Tax to whole-home short-term rentals, this amendment closes a loophole whereby partial home short-term rentals are currently taxed at a significantly higher rate (13%) than whole home short-term rentals (8%) without any policy justification for this distinction. Revenues will fund the Housing Resources and Homelessness restricted receipts account (formerly the Housing Resources Commission restricted receipt account). This new revenue source will provide an estimated \$2.5 million in FY 2025 and \$5.0 million in FY 2026 to fund housing stability and homelessness efforts. Furthermore, this amendment empowers the Department of Housing, in consultation with Housing Resources Commission Coordinating Committee, to administer these funds.
- **Housing Production and Stabilization Fund.** This amendment expands eligible uses for the existing Housing Production Fund to include housing stabilization, housing problem solving, housing subsidies, and homelessness prevention. The amendment also authorizes the Department of Housing to administer funds in consultation with the Housing Resources Commission Coordinating Committee. The Department of Housing anticipates spending \$1.3 million on housing stability and homelessness prevention in FY 2025.

If you have any questions regarding these amendments, please feel free to call me or my staff at 222-6300.

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Brian Daniels, Director, Office of Management and Budget
Jonathan Womer, Director of Administration

24-H-7225 RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2025

Article 2 – Relating to State Funds

Page 48, line 28: Strike “Executive Office of Commerce” and replace with “Department of Housing”.

Page 48, line 29: Strike “Commission” and replace with “and Homelessness” and insert “Receipt” after “Restricted” and before “Account”.

Page 48, line 30: Insert “and Stabilization” after “Production” and before “Fund”.

Article 6 – Relating to Taxes and Fees

Page 156, after line 2: Insert new Sections 11 and 12 and renumber subsequent sections accordingly.

SECTION 11. Sections 42-63.1-2 and 42-63.1-3 of the General Laws in Chapter 42-63.1 entitled “Tourism and Development” is hereby amended to read as follows:

42-63.1-2. Definitions.

For the purposes of this chapter:

(1) “Consideration” means the monetary charge for the use of space devoted to transient lodging accommodations.

(2) “Corporation” means the Rhode Island commerce corporation.

(3) “District” means the regional tourism districts set forth in § 42-63.1-5.

(4) “Hotel” means any facility offering a minimum of one (1) room for which the public may, for a consideration, obtain transient lodging accommodations. The term “hotel” shall include hotels, motels, tourist homes, tourist camps, lodging houses, and inns. The term “hotel” shall also include houses, condominiums or other residential dwelling units, regardless of the number of rooms, which are used and/or advertised for rent for occupancy. The term “hotel” shall not include schools, hospitals, sanitariums, nursing homes, and chronic care centers.

(5) “Hosting platform” means any electronic or operating system in which a person or entity provides a means through which an owner may offer a residential unit for “tourist or transient” use. This service is usually, though not necessarily, provided through an online or web-based system which generally allows an owner to advertise the residential unit through a hosted website and provides a means for a person or entity to arrange tourist or transient use in exchange for payment, whether the person or entity pays rent directly to the owner or to the hosting platform. All hosting platforms are required to collect and remit the taxes owed under this section.

(6) “Occupancy” means a person, firm or corporation’s use of space for transient lodging accommodations not to exceed thirty (30) days. Excluded from “occupancy” is the use of space for which the occupant has a written lease for the space, which lease covers a rental period of twelve (12) months or more. Furthermore, any house, condominium or other residential dwelling rented, for which the occupant has a documented arrangement for the space covering a rental period of more than thirty (30) consecutive days or for one calendar month is excluded from the definition of occupancy.

(7) “Tax” means the hotel tax and whole home short-term rental tax imposed by § 44-18-36.1(a) and (d).

(8) “Owner” means any person who owns real property and is the owner of record. Owner shall also include a lessee where the lessee is offering a residential unit for “tourist or transient” use.

(9) “Residential unit” means a room or rooms, including a condominium or a room or a dwelling unit that forms part of a single, joint or shared tenant arrangement, in any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied for non-commercial use.

(10) “Tour operator” means a person that derives a majority of his or her or its revenue by providing tour operator packages.

(11) “Tour operator packages” means travel packages that include the services of a tour guide and where the itinerary encompasses five (5) or more consecutive days.

(12) “Tourist or transient” means any use of a residential unit for occupancy for less than a thirty (30) consecutive day term of tenancy, or occupancy for less than thirty (30) consecutive days of a residential unit leased or owned by a business entity, whether on a short-term or long-terms basis, including any occupancy by employee or guests of a business entity for less than thirty (30) consecutive days where payment for the residential unit is contracted for or paid by the business entity.

42-63.1-3. Distribution of tax.

(a) For returns and tax payments received on or before December 31, 2015, except as provided in § 42-63.1-12, the proceeds of the hotel tax, excluding the portion of the hotel tax collected from residential units offered for tourist or transient use through a hosting platform, shall be distributed as follows by the division of taxation and the city of Newport:

(1) Forty-seven percent (47%) of the tax generated by the hotels in the district, except as otherwise provided in this chapter, shall be given to the regional tourism district wherein the hotel is located; provided, however, that from the tax generated by the hotels in the city of Warwick, thirty-one percent (31%) of the tax shall be given to the Warwick regional tourism district established in § 42-63.1-5(a)(5) and sixteen percent (16%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors’ Bureau established in § 42-63.1-11; and provided further, that from the tax generated by the hotels in the city of Providence, sixteen percent (16%) of that tax shall be given to the Greater Providence-Warwick Convention and Visitors’ Bureau established by § 42-63.1-11, and thirty-one percent (31%) of that tax

shall be given to the Convention Authority of the city of Providence established pursuant to the provisions of chapter 84 of the public laws of January, 1980; provided, however, that the receipts attributable to the district as defined in § 42-63.1-5(a)(7) shall be deposited as general revenues, and that the receipts attributable to the district as defined in § 42-63.1-5(a)(8) shall be given to the Rhode Island commerce corporation as established in chapter 64 of this title.

(2) Twenty-five percent (25%) of the hotel tax shall be given to the city or town where the hotel that generated the tax is physically located, to be used for whatever purpose the city or town decides.

(3) Twenty-one (21%) of the hotel tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title, and seven percent (7%) to the Greater Providence-Warwick Convention and Visitors' Bureau.

(b) For returns and tax payments received after December 31, 2015, except as provided in § 42-63.1-12, the proceeds of the hotel tax, excluding the portion of the hotel tax collected from residential units offered for tourist or transient use through a hosting platform, shall be distributed as follows by the division of taxation and the city of Newport:

(1) For the tax generated by the hotels in the Aquidneck Island district, as defined in § 42-63.1-5, forty-two percent (42%) of the tax shall be given to the Aquidneck Island district, twenty-five (25%) of the tax shall be given to the city or town where the hotel that generated the tax is physically located, five percent (5%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-eight percent (28%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(2) For the tax generated by the hotels in the Providence district as defined in § 42-63.1-5, twenty eight percent (28%) of the tax shall be given to the Providence district, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel that generated the tax is physically located, twenty-three (23%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-four (24%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(3) For the tax generated by the hotels in the Warwick district as defined in § 42-63.1-5, twenty-eight percent (28%) of the tax shall be given to the Warwick District, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel that generated the tax is physically located, twenty-three percent (23%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-four (24%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(4) For the tax generated by the hotels in the Statewide district, as defined in § 42-63.1-5, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel that generated the tax is physically located, five percent (5%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and seventy percent (70%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(5) With respect to the tax generated by hotels in districts other than those set forth in subsections (b)(1) through (b)(4) of this section, forty-two percent (42%) of the tax shall be given to the regional tourism district, as defined in § 42-63.1-5, wherein the hotel is located, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel that

generated the tax is physically located, five percent (5%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-eight (28%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(c) For returns and tax payments received before July 1, 2019, the proceeds of the hotel tax collected from residential units offered for tourist or transient use through a hosting platform shall be distributed as follows by the division of taxation and the city of Newport: twenty-five percent (25%) of the tax shall be given to the city or town where the residential unit that generated the tax is physically located, and seventy-five percent (75%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(d) The Rhode Island commerce corporation shall be required in each fiscal year to spend on the promotion and marketing of Rhode Island as a destination for tourists or businesses an amount of money of no less than the total proceeds of the hotel tax it receives pursuant to this chapter for the fiscal year.

(e) Notwithstanding the foregoing provisions of this section, for returns and tax payments received on or after July 1, 2016, and on or before June 30, 2017, except as provided in § 42-63.1-12, the proceeds of the hotel tax, excluding the portion of the hotel tax collected from residential units offered for tourist or transient use through a hosting platform, shall be distributed in accordance with the distribution percentages established in subsections (a)(1) through (a)(3) of this section by the division of taxation and the city of Newport.

(f) For returns and tax payments received on or after July 1, 2018, except as provided in § 42-63.1-12, the proceeds of the hotel tax, excluding the portion of the hotel tax collected from residential units offered for tourist or transient use through a hosting platform, shall be distributed as follows by the division of taxation and the city of Newport:

(1) For the tax generated by the hotels in the Aquidneck Island district, as defined in § 42-63.1-5, forty-five percent (45%) of the tax shall be given to the Aquidneck Island district, twenty-five (25%) of the tax shall be given to the city or town where the hotel that generated the tax is physically located, five percent (5%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-five percent (25%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(2) For the tax generated by the hotels in the Providence district as defined in § 42-63.1-5, thirty percent (30%) of the tax shall be given to the Providence district, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel that generated the tax is physically located, twenty-four (24%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-one (21%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(3) For the tax generated by the hotels in the Warwick district as defined in § 42-63.1-5, thirty percent (30%) of the tax shall be given to the Warwick District, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel that generated the tax is physically located, twenty-four percent (24%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-one (21%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(4) For the tax generated by the hotels in the Statewide district, as defined in § 42-63.1-5, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel that generated the tax is physically located, five percent (5%) of the tax shall be given to the

Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and seventy percent (70%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(5) With respect to the tax generated by hotels in districts other than those set forth in subsections (b)(1) through (b)(4) of this section, forty-five percent (45%) of the tax shall be given to the regional tourism district, as defined in § 42-63.1-5, wherein the hotel is located, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel that generated the tax is physically located, five percent (5%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-five (25%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(g) For returns and tax payments received on or after July 1, 2019, except as provided in § 42-63.1-12, the proceeds of the hotel tax, including the portion of the hotel tax collected from residential units offered for tourist or transient use through a hosting platform except as provided in subsection (h) of this section, shall be distributed as follows by the division of taxation and the city of Newport:

(1) For the tax generated in the Aquidneck Island district, as defined in § 42-63.1-5, forty-five percent (45%) of the tax shall be given to the Aquidneck Island district, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel or residential unit that generated the tax is physically located, five percent (5%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-five percent (25%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(2) For the tax generated in the Providence district as defined in § 42-63.1-5, thirty percent (30%) of the tax shall be given to the Providence district, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel or residential unit that generated the tax is physically located, twenty-four percent (24%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-one percent (21%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(3) For the tax generated in the Warwick district as defined in § 42-63.1-5, thirty percent (30%) of the tax shall be given to the Warwick District, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel or residential unit that generated the tax is physically located, twenty-four percent (24%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-one percent (21%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(4) For the tax generated in the Statewide district, as defined in § 42-63.1-5, twenty-five percent (25%) of the tax shall be given to the city or town where the hotel or residential unit that generated the tax is physically located, five percent (5%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and seventy percent (70%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(5) With respect to the tax generated in districts other than those set forth in subsections (g)(1) through (g)(4) of this section, forty-five percent (45%) of the tax shall be given to the regional tourism district, as defined in § 42-63.1-5, wherein the hotel or residential unit is located, twenty-five percent (25%) of the tax shall be given to the city or town where the

hotel or residential unit that generated the tax is physically located, five percent (5%) of the tax shall be given to the Greater Providence-Warwick Convention and Visitors Bureau established in § 42-63.1-11, and twenty-five percent (25%) of the tax shall be given to the Rhode Island commerce corporation established in chapter 64 of this title.

(h) [Effective January 1, 2025.] Distribution of whole home short-term rental tax. The proceeds of the whole home short-term rental tax established in § 44-18-36.1(d) shall be given by the division of taxation and the city of Newport to the Department of Housing (“Department”), which shall deposit the proceeds into the Housing Resources and Homelessness restricted receipt account, established pursuant to § 42-128-2(3).

SECTION 12. Sections 42-128-2 and 42-128-2.1 of the General Laws in Chapter 42-128 entitled, “Rhode Island Housing Resources Act of 1998” are hereby amended to read as follows:

42-128-2. Rhode Island housing resources agency created.

There is created within the executive department a housing resources agency with the following purposes, organization, and powers:

(1) Purposes:

(i) To provide coherence to the housing programs of the state of Rhode Island and its departments, agencies, commissions, corporations, and subdivisions.

(ii) To provide for the integration and coordination of the activities of the Rhode Island housing and mortgage finance corporation and the Rhode Island housing resources commission.

(2) Coordinating committee — Created — Purposes and powers:

(i) The coordinating committee of the housing resources agency shall be comprised of the chairperson of the Rhode Island housing and mortgage finance corporation; the

chairperson of the Rhode Island housing resources commission; the director of the department of administration, or the designee of the director; and the executive director of the Rhode Island housing and mortgage finance corporation. The chairperson of the Rhode Island housing resources commission shall be chairperson of the coordinating committee.

(ii) The coordinating committee:

(A) Shall develop and implement, with the approval of the Rhode Island housing and mortgage finance corporation and the Rhode Island housing resources commission, a memorandum of agreement describing the fiscal and operational relationship between the Rhode Island housing and mortgage finance corporation and the Rhode Island housing resources commission and shall define which programs of federal assistance will be applied for on behalf of the state by the Rhode Island housing and mortgage finance corporation and the Rhode Island housing resources commission.

(B) Is authorized and empowered to negotiate and to enter into contracts and cooperative agreements with agencies and political subdivisions of the state, not-for-profit corporations, for profit corporations, and other partnerships, associations and persons for any lawful purpose necessary and desirable to effect the purposes of this chapter, subject to the provisions of chapter 2 of title 37 as applicable.

(3) There is hereby established a restricted receipt account within the general fund of the state. Funds from this account shall be used to provide for housing and homelessness initiatives including housing production, lead hazard abatement, housing rental subsidy, housing retention assistance, and homelessness services and prevention assistance with priority to veterans.

(4) [Effective July 1, 2024]. As of July 1, 2024, the restricted receipt account established under § 42-128-2(3) shall be known as the Housing Resources and

Homelessness restricted receipt account. Funds in this account will be used in accordance with the uses established in § 42-128-2(3) and will be administered by the Department of Housing in consultation with the Housing Resources Commission Coordinating Committee.

42-128-2.1 Housing Production and Stabilization Fund.

(a) There is hereby established a restricted receipt account within the general fund of the state, to be known as the housing production and stabilization fund. Funds from this account shall be administered by the Department of Housing, or by the Rhode Island housing and mortgage finance corporation, if established in a memorandum of understanding with the Department of Housing at the Department of Housing's request, subject to program and reporting guidelines ~~adopted by~~ developed in consultation with the coordinating committee of the Rhode Island housing resources commission ~~for~~ to support housing production initiatives, including:

(1) Financial assistance by loan, grant, or otherwise, for the planning, production, or preservation of affordable housing in Rhode Island as well as for housing stabilization, housing problem solving, housing subsidy, or homelessness prevention for households earning not more than eighty percent (80%) of area median income; and

(2) Technical and financial assistance for cities and towns to support increased local housing production, including by reducing regulatory barriers and through the housing incentives for municipalities program.

(b) In administering the housing production and stabilization fund, the Department of Housing and the Rhode Island housing and mortgage finance corporation shall give priority to households either exiting homelessness or earning not more than thirty percent (30%) of area median income.

Page 163, after line 29: Insert new Section 14 and renumber subsequent sections accordingly.

SECTION 14. Section 44-18-36.1 of the General Laws in Chapter 44-18 entitled “Sales and Use Taxes – Liability and Consumption” is hereby amended to read as follows:

44-18-36.1. Hotel tax and Whole Home Short-Term Rental Tax [Effective January 1, 2025].

(a) There is imposed a hotel tax of five percent (5%) upon the total consideration charged for occupancy of any space furnished by any hotel, travel packages, or room reseller or reseller as defined in § 44-18-7.3(b) in this state. A house, condominium, or other resident dwelling shall be exempt from the five percent (5%) hotel tax under this subsection if the house, condominium, or other resident dwelling is rented in its entirety. The hotel tax is in addition to any sales tax imposed. This hotel tax is administered and collected by the division of taxation and unless provided to the contrary in this chapter, all the administration, collection, and other provisions of chapters 18 and 19 of this title apply. Nothing in this chapter shall be construed to limit the powers of the convention authority of the city of Providence established pursuant to the provisions of chapter 84 of the public laws of 1980, except that distribution of hotel tax receipts shall be made pursuant to chapter 63.1 of title 42 rather than chapter 84 of the public laws of 1980.

(b) There is hereby levied and imposed, upon the total consideration charged for occupancy of any space furnished by any hotel in this state, in addition to all other taxes and fees now imposed by law, a local hotel tax at a rate of one percent (1%). The local hotel tax shall be administered and collected in accordance with subsection (a).

(c) All sums received by the division of taxation from the local hotel tax, penalties or forfeitures, interest, costs of suit and fines shall be distributed at least quarterly, credited and

paid by the state treasurer to the city or town where the space for occupancy that is furnished by the hotel is located. Unless provided to the contrary in this chapter, all of the administration, collection, and other provisions of chapters 18 and 19 of this title shall apply.

(d) There is hereby levied and imposed, upon the total consideration charged for occupancy, as defined in § 42-63.1-2(6), of a house, condominium, or other resident dwelling in this state rented in its entirety furnished by any room reseller or reseller as defined in § 44-18-7.3(b) or any other taxpayer, in addition to all other taxes and fees now imposed by law, a whole home short-term rental tax at a rate of five percent (5%). The whole home short-term rental tax shall be administered, collected, and distributed in accordance with subsection (a).

(de) Notwithstanding the provisions of subsection (a) of this section, the city of Newport shall have the authority to collect from hotels and a room reseller or reseller as defined in § 44-18-7.3(b) located in the city of Newport the taxes imposed by subsection (a), subsection (b), and subsection (d) of this section.

(1) Within ten (10) days of collection of the ~~tax~~ taxes, the city of Newport shall distribute the ~~tax~~ taxes imposed by subsections (a) and (d) of this section as provided in § 42-63.1-3. No later than the first day of March and the first day of September in each year in which the ~~tax is~~ taxes are collected, the city of Newport shall submit to the division of taxation a report of the ~~tax~~ taxes collected and distributed during the six (6) month period ending thirty (30) days prior to the reporting date.

(2) The city of Newport shall have the same authority as the division of taxation to recover delinquent hotel and whole home short-term rental taxes pursuant to chapter 44-19, and the amount of any hotel and/or whole home short-term rental tax, penalty and interest imposed by the city of Newport until collected constitutes a lien on the real property of the taxpayer.

Page 179, after line 15: Insert new Section 22 and renumber subsequent sections accordingly.

SECTION 22. Section 44-25-1 of the General Laws in Chapter 44-25 entitled “Real Estate Conveyance Tax” is hereby amended to read as follows:

44-25-1. Tax imposed – Payment – Burden.

(a) There is imposed, on each deed, instrument, or writing by which any lands, tenements, or other realty sold is granted, assigned, transferred, or conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, or on any grant, assignment, transfer, or conveyance or such vesting, by such persons that has the effect of making any real estate company an acquired real estate company, when the consideration paid exceeds one hundred dollars (\$100), a tax at the rate of two dollars and thirty cents (\$2.30) for each five hundred dollars (\$500), or fractional part of it, that is paid for the purchase of property or the interest in an acquired real estate company (inclusive of the value of any lien or encumbrance remaining at the time the sale, grant, assignment, transfer or conveyance or vesting occurs, or in the case of an interest in an acquired real estate company, a percentage of the value of such lien or encumbrance equivalent to the percentage interest in the acquired real estate company being granted, assigned, transferred, conveyed or vested). The tax is payable at the time of making, the execution, delivery, acceptance or presentation for recording of any instrument affecting such transfer grant, assignment, transfer, conveyance or vesting. In the absence of an agreement to the contrary, the tax shall be paid by the grantor, assignor, transferor or person making the conveyance or vesting.

(b) In addition to the tax imposed by subsection (a), there is imposed, on each deed, instrument, or writing by which any residential real property sold is granted, assigned,

transferred, or conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, or on any grant, assignment, transfer, or conveyance or such vesting, by such persons that has the effect of making any real estate company an acquired real estate company, when the consideration paid exceeds eight hundred thousand dollars (\$800,000), a tax at the rate of two dollars and thirty cents (\$2.30) for each five hundred dollars (\$500), or fractional part of it, of the consideration in excess of eight hundred thousand dollars (\$800,000) that is paid for the purchase of property or the interest in an acquired real estate company (inclusive of the value of any lien or encumbrance remaining at the time the sale, grant, assignment, transfer, or conveyance or vesting occurs, or in the case of an interest in an acquired real estate company, a percentage of the value of such lien or encumbrance equivalent to the percentage interest in the acquired real estate company being granted, assigned, transferred, conveyed, or vested). The tax imposed by this subsection shall be paid at the same time and in the same manner as the tax imposed by subsection (a).

(c) In the event no consideration is actually paid for the lands, tenements, or realty, the instrument or interest in an acquired real estate company of conveyance shall contain a statement to the effect that the consideration is such that no documentary stamps are required.

(d) The tax shall be distributed as follows:

(1) With respect to the tax imposed by subsection (a): the tax administrator shall contribute to the distressed community relief program the sum of thirty cents (\$.30) per two dollars and thirty cents (\$2.30) of the face value of the stamps to be distributed pursuant to § 45-13-12, and to the housing resources ~~commission~~ and homelessness restricted receipts account the sum of thirty cents (\$.30) per two dollars and thirty cents (\$2.30) of the face value of the stamps. Funds will be administered by the ~~office of housing and community~~

~~development through the housing resources commission~~ Department of Housing in consultation with the Housing Resources Commission Coordinating Committee established under § 42-128-2(3). The state shall retain sixty cents (\$.60) for state use. The balance of the tax shall be retained by the municipality collecting the tax.

(2) With respect to the tax imposed by subsection (b): the tax administrator shall contribute the entire tax to the housing production fund established pursuant to § 42-128-2.1.

(3) Notwithstanding the above, in the case of the tax on the grant, transfer, assignment or conveyance or vesting with respect to an acquired real estate company, the tax shall be collected by the tax administrator and shall be distributed to the municipality where the real estate owned by the acquired real estate company is located; provided, however, in the case of any such tax collected by the tax administrator, if the acquired real estate company owns property located in more than one municipality, the proceeds of the tax shall be allocated amongst said municipalities in the proportion the assessed value of said real estate in each such municipality bears to the total of the assessed values of all of the real estate owned by the acquired real estate company in Rhode Island. Provided, however, in fiscal years 2004 and 2005, from the proceeds of this tax, the tax administrator shall deposit as general revenues the sum of ninety cents (\$.90) per two dollars and thirty cents (\$2.30) of the face value of the stamps. The balance of the tax on the purchase of property shall be retained by the municipality collecting the tax. The balance of the tax on the transfer with respect to an acquired real estate company, shall be collected by the tax administrator and shall be distributed to the municipality where the property for which interest is sold is physically located. Provided, however, that in the case of any tax collected by the tax administrator with respect to an acquired real estate company where the acquired real estate company owns

property located in more than one municipality, the proceeds of the tax shall be allocated amongst the municipalities in proportion that the assessed value in any such municipality bears to the assessed values of all of the real estate owned by the acquired real estate company in Rhode Island.

(e) For purposes of this section, the term “acquired real estate company” means a real estate company that has undergone a change in ownership interest if (1) The change does not affect the continuity of the operations of the company; and (2) The change, whether alone or together with prior changes has the effect of granting, transferring, assigning, or conveying or vesting, transferring directly or indirectly, 50% or more of the total ownership in the company within a period of three (3) years. For purposes of the foregoing subsection (e)(2), a grant, transfer, assignment, or conveyance or vesting, shall be deemed to have occurred within a period of three (3) years of another grant(s), transfer(s), assignment(s), or conveyance(s) or vesting(s) if during the period the granting, transferring, assigning, or conveying party provides the receiving party a legally binding document granting, transferring, assigning, or conveying or vesting the realty or a commitment or option enforceable at a future date to execute the grant, transfer, assignment, or conveyance or vesting.

(f) A real estate company is a corporation, limited liability company, partnership, or other legal entity that meets any of the following:

(1) Is primarily engaged in the business of holding, selling, or leasing real estate, where 90% or more of the ownership of the real estate is held by 35 or fewer persons and which company either (i) derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or (ii) owns real estate the value of which comprises 90% or more of the value of the entity’s entire tangible asset holdings exclusive of tangible assets that are fairly transferrable and actively traded on an established market; or

(2) Ninety percent or more of the ownership interest in such entity is held by 35 or fewer persons and the entity owns as 90% or more of the fair market value of its assets a direct or indirect interest in a real estate company. An indirect ownership interest is an interest in an entity 90% or more of which is held by 35 or fewer persons and the purpose of the entity is the ownership of a real estate company.

(g) In the case of a grant, assignment, transfer or conveyance or vesting that results in a real estate company becoming an acquired real estate company, the grantor, assignor, transferor, or person making the conveyance or causing the vesting, shall file or cause to be filed with the division of taxation, at least five (5) days prior to the grant, transfer, assignment, or conveyance or vesting, notification of the proposed grant, transfer, assignment, or conveyance or vesting, the price, terms and conditions thereof, and the character and location of all of the real estate assets held by the real estate company and shall remit the tax imposed and owed pursuant to subsection (a). Any such grant, transfer, assignment, or conveyance or vesting which results in a real estate company becoming an acquired real estate company shall be fraudulent and void as against the state unless the entity notifies the tax administrator in writing of the grant, transfer, assignment, or conveyance or vesting as herein required in subsection (g) and has paid the tax as required in subsection (a). Upon the payment of the tax by the transferor, the tax administrator shall issue a certificate of the payment of the tax which certificate shall be recordable in the land evidence records in each municipality in which such real estate company owns real estate. Where the real estate company has assets other than interests in real estate located in Rhode Island, the tax shall be based upon the assessed value of each parcel of property located in each municipality in the state of Rhode Island.