

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Antonio F.D. Cabral

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to promote economic development in gateway cities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Antonio F.D. Cabral	13th Bristol
Stephen J. Buoniconti	Hampden
Mark C. Montigny	Second Bristol and Plymouth
Benjamin B. Downing	Berkshire, Hampshire and Franklin
Michael J. Rodrigues	8th Bristol
Stephen R. Canessa	12th Bristol
Angelo J. Puppolo, Jr.	12th Hampden
Stephen L. DiNatale	3rd Worcester
Christine E. Canavan	10th Plymouth
Robert P. Spellane	13th Worcester
William Lantigua	16th Essex
Michael R. Knapik	Second Hampden and Hampshire

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROMOTE ECONOMIC DEVELOPMENT IN GATEWAY CITIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 3A of Chapter 23A is hereby amended by adding the following definition:

2 "Gateway Cities" or "Gateway City", municipalities or a municipality in the commonwealth
3 designated by the Secretary of Housing and economic Development pursuant to section 3I.

4

5 **Section 2**

6 Chapter 23A is hereby amended by adding the following section:

7 The Secretary of Housing and Economic Development shall designate as Gateway Cities
8 municipalities which meet the following criteria, no later than January 31 of each year:

9 (a) population exceeding 35,000 people;

10 (b) median household income below the state average;

11 (c) per capita income below the state average; and

12 (d) percentage of the city or town's population having attained a bachelor's degree or
13 higher below the state's average.

14 Any municipality named a Gateway City shall remain a Gateway City for at least three
15 consecutive calendar years.

16

17 **Section 3**

18 Section 6J(b)(1)(i) of Chapter 62 is hereby amended by striking the words “an amount not to
19 exceed \$50,000,000 per year” and inserting in its place the following words: “an unlimited amount for
20 Gateway Cities as defined in Chapter 23A, and an amount not to exceed \$100,000,000 annually for all
21 other municipalities combined.”

22

23 **Section 4**

24 Section 38R(b)(1)(i) of Chapter 63 is hereby amended by striking the words “an amount not to
25 exceed \$50,000,000 per year” and inserting in its place the following words: “an unlimited amount for
26 Gateway Cities as defined in Chapter 23A, and an amount not to exceed \$100,000,000 annually for all
27 other municipalities combined.”

28

29 **Section 5**

30 Chapter 63 is hereby amended by adding the following:

31 Definitions –

- 32 (1) “Commissioner” means the Commissioner of the Department of Revenue as
33 described in Section 2 of Chapter 14
34 (2) “Department of Revenue” means the Massachusetts Department of Revenue as
35 described in Section 1 of Chapter 14
36 (3) “Full-time employee” means, for the purposes of this Section only, an individual
37 who is employed for consideration for at least an average of thirty-five
38 hours a week, who renders any other standard of service generally accepted
39 by custom or specified by contract as full-time employment, or who is
40 employed for consideration for such time or renders such service but is on
41 family or medical leave under the federal Family and Medical Leave Act of
42 1993, Pub. L. No. 103-3, 107 Stat. 6, as amended, or on active military duty
43 reserve or Massachusetts national guard service.
44 (4) “New employee” means, for the purposes of this Section only, a full-time
45 employee first employed by a taxpayer in the project that is the subject of
46 the agreement after the taxpayer enters into a tax credit agreement with
47 the tax credit authority under this section
48

49

50 The Department of Revenue shall have the authority to provide a credit for a
51 corporation against its corporate income tax to foster job creation in Gateway Cities in the
52 commonwealth as defined in Chapter 23A of these laws. The credit shall be claimed for the
53 taxable years or tax periods specified in the taxpayer’s agreement with the Department of

54 Revenue. The amount of the credit available for a taxable year cannot exceed either \$2500 per
55 new employee or ten percent (10%) of that corporation's state income tax

56

57 A taxpayer or potential taxpayer who proposes a project to create new jobs in the
58 commonwealth may apply to the Department of Revenue to enter into an agreement for a tax
59 credit under this section. The Commissioner of the Department of Revenue shall prescribe the
60 form of the application. After receipt of an application, the Department may enter into an
61 agreement with the taxpayer for a credit under this section if it determines all of the following:

62 (1) The taxpayer's project will create new jobs in this state;

63 (2) The taxpayer's project is economically sound and will benefit the people of this state
64 by increasing opportunities for employment and strengthening the economy of this state; and

65 (3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward
66 with the project.

67

68 An agreement under this section shall include all of the following:

69 (1) A detailed description of the project that is the subject of the agreement;

70 (2) The term of the tax credit, which shall not exceed ten years, and the first taxable
71 year, or first calendar year that includes a tax period, for which the credit may be claimed;

72 (3) A requirement that the taxpayer shall maintain operations at the project location for
73 at least twice the number of years as the term of the tax credit;

74 (4) A letter of support from the Mayor or Town Manager of the Gateway City in which
75 the jobs will be created;

76 (5) A specific method for determining how many new employees are employed during a
77 taxable year or during a calendar year that includes a tax period;

78 (6) A requirement that the taxpayer annually shall report to the Commissioner of the
79 Department of Revenue the number of new employees, the new income tax revenue withheld
80 in connection with the new employees, and any other information the Commissioner may need;
81 and

82 (7) A provision requiring that the taxpayer shall not relocate employment positions from
83 elsewhere in this state to the project site that is the subject of the agreement;

84

85 If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax
86 credit agreement, the Department of Revenue may amend the agreement to reduce the
87 percentage or term of the tax credit. The reduction of the percentage or term may take effect in
88 the immediate taxable year in which the Commissioner of Revenue notifies the taxpayer in
89 writing of such failure. If the taxpayer fails to annually report any of the information required by
90 this section within the time required by the Commissioner, the reduction of the percentage or
91 term shall take effect in the current taxable year.

92
93 Projects that consist solely of point-of-final-purchase retail facilities, as defined by the
94 Department of Revenue, are not eligible for a tax credit under this section. If a project consists
95 of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the
96 project consisting of the nonretail facilities is eligible for a tax credit and only the new income
97 tax revenue from new employees of the nonretail facilities shall be considered when computing
98 the amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail
99 facility and supplies only that facility, the warehouse facility is not eligible for a tax credit.
100 Catalog distribution centers are not considered point-of-final-purchase retail facilities for the
101 purposes of this division, and are eligible for tax credits under this section.

102
103 Financial statements and other information submitted to the Department of Revenue
104 by an applicant or recipient of a tax credit under this section, and any information taken for any
105 purpose from such statements or information, are not public records subject to Massachusetts
106 General Laws. However, the Commissioner of Revenue may make use of the statements and
107 other information for purposes of issuing public reports or in connection with court proceedings
108 concerning tax credit agreements under this section. The Commissioner shall preserve the
109 confidentiality of the statement or information.

110
111 **Section 6**

112 Chapter 63 is hereby amended by adding the following section:

113 Section 38U

114 (a) For the purposes of this section, unless the context clearly requires otherwise, the
115 following words shall have the following meanings:-

116 "Commissioner", the Commissioner of the Department of Revenue

117 "Department", the Department of Housing and Community Development,
118 or its successor agency.

119 "Gateway City", a municipality as defined by Chapter 23A

120 "Gateway City housing project", a project to build, convert from non-
121 residential uses or rehabilitate housing in a Gateway City.

122 "Secretary", the Secretary of Housing and Economic Development

123 (b)(1) There shall be a tax credit for Gateway City housing projects. The
124 department may authorize annually under this section the total sum of \$25,000,000
125 collectively amongst the Gateway Cities as defined in Chapter 23A.

126 (2) The department shall allocate the total available Gateway City housing project
127 tax credit among as many qualified projects as fiscally feasible, with the goal of
128 increasing market rate housing the commonwealth's Gateway Cities.

129 (c)(1) The Gateway City housing tax credit shall be taken against the taxes
130 imposed under this chapter, claimed equally for five years, subtracted from the amount of
131 state tax otherwise due for each taxable period and shall not be refundable. The tax credit
132 shall not exceed the amount of state tax owed annually by the claimant.

133 (2) An owner of a Gateway City housing project shall certify to the commissioner
134 the amount of credit allocated to such owner. The owner of the Gateway City
135 housing project shall provide to the commissioner appropriate information as
136 needed by the Commissioner.

137 (d) The owner of a Gateway City housing project eligible for the Gateway City
138 housing tax credit shall submit, at the time of filing the project owner's state tax return, a
139 letter of support from the Mayor or Town Manager of the Gateway City in which the
140 project is located, and a copy of the required statements issued by the department with
141 respect to such Gateway City housing project. In the case of failure to attach the required
142 statements, a credit under this section shall not be allowed with respect to such qualified
143 Gateway City housing project for that year until the copy is provided to the
144 Commissioner.

145 (e) The Commissioner, through the promulgation of regulations, may require the
146 filing of additional documentation necessary to determine the eligibility or accuracy of a
147 tax credit claimed under the provisions of this section.

148 (f)(1) All or any portion of tax credits issued in accordance with the provisions of
149 this section may be transferred, sold or assigned to parties who are eligible under the
150 provisions of paragraph (1) of subsection (c).

151 (2) An owner or transferee desiring to make a transfer, sale or assignment as
152 described in paragraph (1) of subsection (f) shall submit to the Commissioner a
153 statement which describes the amount of Gateway City housing tax credit for
154 which such transfer, sale or assignment of Gateway City housing tax credit is

155 eligible. The owner shall provide to the commissioner appropriate information so
156 that the housing tax credit can be properly allocated.

157 (3) In the event that recapture of Gateway City housing tax credits is required, any
158 statement submitted to the commissioner as provided in paragraph (2) of
159 subsection (f) shall include the proportion of the Gateway City housing tax credit
160 required to be recaptured, the identity of each transferee subject to recapture and
161 the amount of credit previously transferred to such transferee.

162 (4) The commissioner, in consultation with the department, shall promulgate
163 regulations necessary for the administration of the provisions of paragraph (f).

164 (g) The department, in consultation with the commissioner, shall monitor and
165 oversee compliance with the Gateway City housing tax credit program and may
166 promulgate regulations requiring the filing of additional documentation deemed
167 necessary to determine continuing eligibility for the Gateway City housing tax credit. The
168 department or the commissioner shall report specific occurrences of noncompliance to
169 appropriate state, federal and local authorities.

170 **Section 7**

171

172 Chapter 62 is hereby amended by adding the following section:

173

174 (a) Definitions

175

176 For the purposes of this section, unless the context clearly requires otherwise, the following
177 words shall have the following meanings:-

178 "Certified housing structure", a housing structure within a Gateway City Housing Rehabilitation
179 Zone which meets the rehabilitation requirements set forth by the Department of Housing and
180 Community Development.

181 "Department", the department of housing and community development, or its successor agency.

182 "Gateway City", a municipality as defined by Chapter 23A

183 "Gateway City Rehabilitation Zone", an area of a Gateway City designed pursuant to Subsection
184 (b)

185 "Qualified rehabilitation expenditure" means any amount that is properly chargeable to the
186 homeowner, is expended in the rehabilitation of a structure that, by the end of the taxable year in
187 which the certified rehabilitation is completed, is a certified heritage structure, is expended in

188 compliance with a plan of proposed rehabilitation that has been approved by the Department, and
189 is not funded, financed, or otherwise reimbursed by any state or local grant, grant made from the
190 proceeds of tax-exempt bonds issued by the Commonwealth, a political subdivision of the
191 Commonwealth, or an instrumentality of the Commonwealth or of a political subdivision of the
192 Commonwealth, State tax credit other than the tax credit provided for under the Act, or other
193 financial assistance from the Federal government, the Commonwealth, or a political subdivision
194 of the Commonwealth.

195 "Rehabilitation" means the process of returning a structure to a state of utility, through repair or
196 alteration, which makes possible an efficient use while preserving those portions and features of
197 the structure and its site and environment which make the structure and its site and environment
198 historically, architecturally, or culturally significant.

199 "Secretary" means the Secretary of Housing and Economic Development.

200 "Substantial rehabilitation" means rehabilitation of a structure for which the qualified
201 rehabilitation expenditures, during the 24-month period selected by the taxpayer ending with or
202 within the taxable year, exceed \$5,000

203 "Taxpayer" means resident of the Commonwealth that makes qualified rehabilitation
204 expenditures.

205 (b) There shall be a Gateway City Homeowner Rehabilitation Tax Credit. The Secretary, or
206 her designee, in an agreement with the Gateway City shall establish a Gateway City
207 Rehabilitation Zone within which homes will be eligible for the Gateway City
208 Homeowner Rehabilitation Tax Credit. The Secretary shall establish standards to
209 determine an application process by which a taxpayer may request the Gateway City
210 Homeowner Rehabilitation Tax Credit. The application shall include proof of ownership,
211 rehabilitation plans, estimated rehabilitation expenses, and any other information he
212 needs to be able to award the Gateway City Homeowner Rehabilitation Tax Credit.

213 A taxpayer may file an application with the Secretary or his designee. An incomplete
214 application may not be processed until all required application information has been received.

215 The Gateway City Homeowner Rehabilitation Tax Credit shall be for individual
216 homeowners who make substantial rehabilitation to their home. The credit shall not exceed 25%
217 of the home appraised value. The credit shall be awarded annually in an amount not to exceed
218 \$5,000. If the credit allowable for any taxable year exceeds the annual limit for that tax year, the
219 taxpayer may carry forward and apply in the next nine subsequent taxable years, the remaining
220 portion, still subject to the annual limit. The carryover period shall not exceed 9 taxable years
221 after the close of the taxable year during which the Gateway City Homeowner Rehabilitation Tax
222 Credit was first taken.

223 The Secretary or her designee shall determine whether the proposed substantial
224 rehabilitation for which a complete application is received meets the Standards in determining
225 awarding of the tax credit.

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