

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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 create the community development partnership program.

PETITION OF:

NAME:

Harriette L. Chandler

DISTRICT/ADDRESS:

First Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01708 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO CREATE THE COMMUNITY DEVELOPMENT PARTNERSHIP PROGRAM.

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 1. Chapter 62 of the General Laws, as appearing in the 2004 Official Edition, is hereby
2 amended by inserting after Section 6I the following new section:—
3 Section 6L. Community Investment Tax Credit. (a) For purposes of this section, the following terms shall
4 have the following meanings:— “Community Investment Activities,” those activities carried out
5 in furtherance of community preservation and revitalization in an low- or moderate-community to
6 improve the housing and economic conditions of the community; and shall include, without limitation,
7 initiatives, projects, programs, and plans to:—
8 i.) foster the preservation, rehabilitation and construction of housing affordable to low- or moderate-
9 households, including planning, outreach and design of affordable housing, home improvement, lead
10 abatement, pre-purchase and post-purchase home buyer counseling and related activities;
11 ii.) increase the business activity within the neighborhood including the provision of assistance to small
12 business entities;

- 13 iii.) increase the income and labor force participation of low- or moderate-community residents, including
14 provision of education and training programs;
- 15 iv.) increase the financial assets of LMI households through financial literacy programs, Individual
16 Development Accounts, and other programs;
- 17 v.) undertake community based planning activities that help low and moderate income communities
18 develop strategies for community improvement;
- 19 vi.) combat crime and increase public safety;
- 20 vii.) increase, preserve, and maintain open space, including the purchase of land for open or conservation
21 space;
- 22 viii.) undertake measures to involve youth in job training, education, or community development
23 activities.

24 All activities must be developed for the benefit of low- or moderate-income households or low or
25 moderate income communities and with the involvement of the community which they intend to serve,
26 and be certified by the department as meeting the definition of a community investment activity as
27 described in this section. Investments in real estate purchase or construction are not eligible under this
28 section.

29 “Community Partner” is defined as a community development corporation. The organization must be a
30 non profit organization organized under Chapter 180 of the General Laws and include the following:

- 31 (1) The organization must be designated as a 501c3 tax-exempt organization by the U.S. Internal
32 Revenue Service.
- 33 (2) The organization must focus a substantial majority of its efforts on serving one or more specific
34 neighborhoods or municipalities or serving a region of the Commonwealth or serving a constituency
35 that is economically disadvantaged.
- 36 (3) A primary purpose of the organization is to engage local residents and businesses to work together to
37 undertake community development programs, projects and activities which develop and improve

38 urban, rural and suburban communities in sustainable ways that create and expand economic
39 opportunities for low and moderate income people.

40 (4) The organization must be able to demonstrate to the Department that the organization's constituency,
41 including low and moderate income people, is meaningfully represented on the board of directors of
42 the organization. In making such determination, the Department shall consider the following criteria
43 (a) the percentage, if any, of the board is elected by the general membership; (b) the percentage of the
44 board members are residents of the service area; (c) the percentage of board members that are people
45 of low or moderate income, (d) the racial and ethnic composition of the board in comparison to the
46 racial and ethnic composition of the community being served, (e) other mechanisms, including
47 committees, membership meetings, and others that the organization uses to ensure that their
48 constituency has a meaningful role in the governance and direction of the organization, and (f) other
49 criteria as determined by the Department.

50

51 "Community Partnership Fund," a fund administered by the department of housing and community
52 development to receive qualified investments from taxpayers for the purpose of allocating such
53 investments to community partners.

54 "Low and moderate income community," an economic target area as defined pursuant to Section 3A of
55 Chapter 23A of the General Laws, an enhanced economic enterprise community or empowerment zone as
56 designated by the United States Department of Housing and Urban Development, or one or more
57 contiguous census tracts as designated by a city or town, in which either:—

58 (1) a majority of the households are low and moderate income households as defined herein; or (2) the
59 unemployment rate is at least 25 per cent higher than the annual statewide average unemployment rate
60 where such statewide unemployment rate is less than or equal to 5 per cent; provided that, if the annual
61 statewide average unemployment rate is greater than 5 per cent, the community's unemployment rate
62 need only be 10 per cent higher to qualify for a community investment tax credit.

63 “Low and moderate income households,” households which have incomes that do not exceed 80 per cent
64 of the median income for the area, with adjustments made for smaller and larger families, as such median
65 shall be determined from time to time by the Secretary of Housing and Urban Development pursuant to
66 42 USC section 1437(a)(B)(2).

67 “Qualified investment,” a cash contribution made to a community partner or to the community
68 partnership fund for a community investment activity, as defined by this section.

69 (b) There is hereby established a Massachusetts community partnership investment tax credit.

70 (1) The commissioner or revenue (hereinafter, “the commissioner”), in consultation with the department
71 of housing and community development (hereinafter, “the department”), shall authorize annually, for the
72 5 year period beginning January 1, 2008 and ending December 31, 2012, under this section an amount not
73 to exceed \$5,000,000 per year. The department of housing and community development shall determine
74 the criteria for eligibility for the credit, such criteria to be set forth in regulations promulgated under this
75 section.

76 (2) The total of all tax credits granted to a tax payer pursuant to this section shall not exceed five hundred
77 thousand dollars (\$500,000) in any one tax year and no tax credit shall be granted to any tax payer for any
78 individual qualified in a community investment activity of less than five thousand dollars (\$5,000).

79 (c) A community partner may receive a qualified investment for a certified community investment
80 activity directly from a taxpayer or the department may make an allocation of a qualified investment from
81 the community partnership fund to the community partner provided:—

82 (1) Before receiving a qualified investment from a taxpayer or from the department, the community
83 partner shall first receive certification from the department that an activity is an eligible community
84 investment activity, as prescribed by this section. A certification shall be allowed for multi-year
85 community investment activities.

86 (2) No community partner shall receive more than two hundred thousand dollars (\$200,000) worth of
87 contributions in qualified investments in any one tax year.

88 (3) the department shall promulgate regulations for how community partners can apply for certification
89 and shall design a competitive process to review such applications if the department believes that such
90 applications will exceed the available credits.

91 (d) A taxpayer that makes a qualified investment to a community partner or to the community partnership
92 fund shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this
93 chapter. The credit shall be equal to 80 per cent of the total qualified investment made by the taxpayer for
94 each community investment activity, in which the taxpayer invests, and which has received certification
95 from the department pursuant to this section. In order to receive a credit, a taxpayer must receive a
96 certification that the taxpayer made a qualified investment to the community partnership fund or to a
97 community partner in the tax year. The taxpayer may make a qualified investment to a community partner
98 for a specified and certified community investment activity or for those taxpayers who have not identified
99 a particular community investment activity through a community partner, a taxpayer may make a
100 qualified investment to the community partnership fund for allocation by the department. The department
101 shall issue a certification to the taxpayer after the taxpayer makes a qualified investment to the fund or to
102 a community partner. Such certification shall be acceptable as proof that the expenditures related to such
103 investment qualify as qualified investment for purposes of the credit allowed under this section.

104 (e) The credit allowable under this section shall be allowed for the taxable year in which a qualified
105 investment is made. A taxpayer allowed a credit under this section for a taxable year may carry over and
106 apply to the tax imposed by this chapter in any of the succeeding 5 taxable years, the portion, as reduced
107 from year to year, of those credits which exceed the tax for the taxable year.

108 (f) Community partnership tax credits allowed to a partnership, or a limited liability company taxed as a
109 partnership shall be passed through to the persons designated as partners, members or owners,
110 respectively, pro rata or pursuant to an executed agreement among the persons designated as partners,
111 members or owners documenting an alternative distribution method without regard to their sharing of
112 other tax or economic attributes of the entity.

113 (g) Taxpayers eligible for the community investment tax credit may, with prior notice to and in
114 accordance with regulations adopted by the commissioner, transfer the credits, in whole or in part, to any
115 individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same
116 effect as if the transferee had incurred the qualified rehabilitation expenditures itself. The transferee shall
117 use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the
118 transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent
119 taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the
120 taxable year; but, the carryover period shall not exceed 5 taxable years after the close of the taxable year
121 during which the qualified historic structure received final certification and was placed in service as
122 provided for in this section.

123 (h) The commissioner, in consultation with the department, shall prescribe regulations necessary to carry
124 out this section.

125 SECTION 2. Chapter 63 of the General Laws, as so appearing, is hereby amended by inserting after
126 Section 38T the following new section:—

127 Section 38U. Community Investment Tax Credit. (a) For purposes of this section, the following terms
128 shall have the following meanings:—

129 "Community Investment Activities," those activities carried out in furtherance of community preservation
130 and revitalization in an low or moderate-community to improve the housing and economic conditions
131 of the community; and shall include, without limitation, initiatives, projects, programs, and plans to:—

132 i.) foster the preservation, rehabilitation and construction of housing affordable to low- or moderate-
133 households, including planning, outreach and design of affordable housing, home improvement,
134 lead abatement, pre-purchase and post-purchase home buyer counseling and related activities;

135 ii.) increase the business activity within the neighborhood including the provision of assistance to small
136 business entities;

137 iii.) increase the income and labor force participation of low- or moderate-community residents, including
138 provision of education and training programs;

- 139 iv.) increase the financial assets of LMI households through financial literacy programs, Individual
140 Development Accounts, and other programs;
- 141 v.) undertake community based planning activities that help low and moderate income communities
142 develop strategies for community improvement; combat crime and increase public safety;
- 143 vi.) increase, preserve, and maintain open space, including the purchase of land for open or conservation
144 space;
- 145 vii.) undertake measures to involve youth in job training, education, or community development
146 activities.

147 All activities must be developed for the benefit of low- or moderate-income households or low or
148 moderate income communities and with the involvement of the community which they intend to serve,
149 and be certified by the department as meeting the definition of a community investment activity as
150 described in this section. Investments in real estate purchase or construction are not eligible under this
151 section.

152 “Community Partner” is defined as a community development corporation. The organization must be a
153 non profit organization organized under Chapter 180 of the General Laws and include the following:

- 154 (1) The organization must be designated as a 501c3 tax-exempt organization by the U.S. Internal
155 Revenue Service.
- 156 (2) The organization must focus a substantial majority of its efforts on serving one or more specific
157 neighborhoods or municipalities or serving a region of the Commonwealth or serving a constituency
158 that is economically disadvantaged.
- 159 (3) A primary purpose of the organization is to engage local residents and businesses to work together to
160 undertake community development programs, projects and activities which develop and improve
161 urban, rural and suburban communities in sustainable ways that create and expand economic
162 opportunities for low and moderate income people.
- 163 (4) The organization must be able to demonstrate to the Department that the organization's constituency,
164 including low and moderate income people, is meaningfully represented on the board of directors of

165 the organization. In making such determination, the Department shall consider the following criteria
166 (a) the percentage, if any, of the board is elected by the general membership; (b) the percentage of the
167 board members are residents of the service area; (c) the percentage of board members that are people
168 of low or moderate income, (d) the racial and ethnic composition of the board in comparison to the
169 racial and ethnic composition of the community being served, (e) other mechanisms, including
170 committees, membership meetings, and others that the organization uses to ensure that their
171 constituency has a meaningful role in the governance and direction of the organization, and (f) other
172 criteria as determined by the Department.

173
174 “Community Partnership Fund,” a fund administered by the department of housing and community
175 development to receive qualified investments from a corporation, for the purpose of allocating such
176 investments to community partners.

177 “Low and moderate income community,” an economic target area as defined pursuant to Section 3A of
178 Chapter 23A of the General Laws, an enhanced economic enterprise community or empowerment
179 zone as designated by the United States Department of Housing and Urban Development, or one or more
180 contiguous census tracts as designated by a city or town, in which either: (1) a majority of the households
181 are low and moderate income households as defined herein; or (2) the unemployment rate is at least 25
182 per cent higher than the annual statewide average unemployment rate where such statewide
183 unemployment rate is less than or equal to 5 per cent; provided that, if the annual statewide average
184 unemployment rate is greater than 5 per cent, the community’s unemployment rate need only be 10 per
185 cent higher to qualify for a community investment tax credit.

186 “Low and moderate income households,” households which have incomes that do not exceed 80 per cent
187 of the median income for the area, with adjustments made for smaller and larger families, as such median
188 shall be determined from time to time by the Secretary of Housing and Urban Development pursuant to
189 42 USC Section 1437(a)(B)(2).

190 “Qualified investment,” a cash contribution made to a community partner or to the community
191 partnership fund for a community investment activity, as defined by this section.

192 (b) There is hereby established a Massachusetts community partnership investment tax credit.

193 (1) The commissioner or revenue (hereinafter, “the commissioner”), in consultation with the department
194 of housing and community development (hereinafter, “the department”), shall authorize annually, for the
195 5 year period beginning January 1, 2008 and ending December 31, 2012, under this section an amount not
196 to exceed \$5,000,000 per year. The department of housing and community development shall determine
197 the criteria for eligibility for the credit, such criteria to be set forth in regulations promulgated under this
198 section.

199 (2) The total of all tax credits granted to a tax payer pursuant to this section shall not exceed five hundred
200 thousand dollars (\$500,000) in any one tax year and no tax credit shall be granted to any corporation for
201 any individual qualified in a community investment activity of less than five thousand dollars (\$5,000).

202 (c) A community partner may receive a qualified investment for a certified community investment
203 activity directly from a corporation subject to tax under this chapter or the department may make an
204 allocation of a qualified investment from the community partnership fund to the community partner
205 provided:

206 (1) Before receiving a qualified investment from a corporation subject to tax under this chapter or from
207 the department, the community partner shall first receive certification from the department that an activity
208 is an eligible community investment activity, as prescribed by this section. A certification shall be
209 allowed for multiyear community investment activities.

210 (2) No community partner shall receive more than two hundred thousand dollars (\$200,000) worth of
211 contributions in qualified investments in any one tax year.

212 (3) the department shall promulgate regulations for how community partners can apply for certification
213 and shall design a competitive process to review such applications if the department believes that such
214 applications will exceed the available credits.

215

216 (d) A corporation subject to tax under this chapter that makes a qualified investment to a community
217 partner or to the community partnership fund shall be allowed a credit, to be computed as hereinafter
218 provided, against the tax imposed by this chapter. The credit shall be equal to 80 per cent of the total
219 qualified investment made by the corporation for each community investment activity, in which the
220 corporation invests, and which has received certification from the department pursuant to this section.

221 In order to receive a credit, a corporation must receive a certification that the corporation made a qualified
222 investment to the community partnership fund or to a community partner in the tax year.

223 The corporation may make a qualified investment to a community partner for a specified and certified
224 community investment activity or for those corporations who have not identified a particular community
225 investment activity through a community partner, a corporation may make a qualified investment to the
226 community partnership fund for allocation by the department. The department shall issue a certification to
227 the corporation after the corporation makes a qualified investment to the fund or to a community partner.
228 Such certification shall be acceptable as proof that the expenditures related to such investment qualify as
229 qualified investment for purposes of the credit allowed under this section.

230 (e) The credit allowable under this section shall be allowed for the taxable year in which a qualified
231 investment is made. A corporation allowed a credit under this section for a taxable year may carry over
232 and apply to the tax imposed by this chapter in any of the succeeding 5 taxable years, the portion, as
233 reduced from year to year, of those credits which exceed the tax for the taxable year.

234 (f) Community partnership tax credits allowed to a partnership, or a limited liability company taxed as a
235 partnership shall be passed through to the persons designated as partners, members or owners,
236 respectively, pro rata or pursuant to an executed agreement among the persons designated as partners,
237 members or owners documenting an alternative distribution method without regard to their sharing of
238 other tax or economic attributes of the entity.

239 (g) Corporations eligible for the community investment tax credit may, with prior notice to and in
240 accordance with regulations adopted by the commissioner, transfer the credits, in whole or in part, to any

241 individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same
242 effect as if the transferee had incurred the qualified rehabilitation expenditures itself. The transferee shall
243 use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the
244 transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent
245 taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the
246 taxable year; but, the carryover period shall not exceed 5 taxable years after the close of the taxable year
247 during which the qualified historic structure received final certification and was placed in service as
248 provided for in this section.

249 (h) The commissioner, in consultation with the department, shall prescribe regulations necessary to carry
250 out this section.

251