

HOUSE No. 1971

The Commonwealth of Massachusetts

PRESENTED BY:

Brendan P. Crighton

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 adoption of the accompanying bill:

An Act relative to community benefit districts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Brendan P. Crighton</i>	<i>11th Essex</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>

<i>Claire D. Cronin</i>	<i>11th Plymouth</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Adrian Madaro</i>	<i>1st Suffolk</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>

HOUSE No. 1971

By Mr. Crighton of Lynn, a petition (accompanied by bill, House, No. 1971) of Brendan P. Crighton and others relative to the establishment of community benefit districts in cities and towns. Community Development and Small Businesses.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 144 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to community benefit districts.

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. As used in this chapter, the following words shall have the following meanings
2 unless the context clearly requires otherwise:

3 “Community benefit district” or “CBD”, a district formed pursuant to this chapter which
4 has at least 1 geographic area with clearly defined boundaries.

5 “CBD corporation”, the nonprofit corporation designated to receive funds and otherwise
6 implement the CBD, including the board of directors, officers and any employees.

7 “CBD fee”, a payment for services or improvements specified by the initial management
8 plan and any management plan.

9 “Initial management plan”, the strategic and operating plan for the CBD as approved by
10 the municipal governing body as part of the creation of the CBD.

11 “Management plan”, any subsequent, updated version of the initial management plan that
12 is approved by the board of directors.

13 “Memorandum of understanding with the municipality” or “MOU”, a document which
14 describes the standard government services and supplemental services to be provided
15 within the CBD and how the municipality will participate in the CBD as a property owner and
16 member.

17 “Municipal governing body”, the city council or board of aldermen in a city or the board
18 of selectmen or town council in a town.

19 “Petition signer”, a property owner, or their designee, within the CBD who affirmatively
20 signs the petition to establish the CBD.

21 “Property”, real property located within the CBD, whether commercial, tax exempt or
22 residential.

23 “Property owner”, the owner of record of property; provided, however, that when a
24 property is owned by an entity other than a natural person, a petition signer for that
25 property shall include the petition-signer’s title and shall demonstrate its authority to sign as
26 owner; and provided further, that if a property is owned by multiple persons, the signature of 1

27 owner shall be sufficient if that owner demonstrates authority to sign on behalf of the other
28 owners.

29 “Standard government services”, governmental functions, programs, activities, facilities,
30 improvements and other services that a municipality is authorized to perform or provide
31 and that are paid for out of the municipal government budget.

32 “Supplemental services”, the provision of programs, public rights of way services,
33 activities, amenities or information in addition to the standard governmental services
34 provided to the CBD.

35 Section 2. The rights and powers of a CBD corporation in a CBD approved by the
36 municipal governing body pursuant to section 4 shall include: retaining or recruiting
37 business; administering and managing central and neighborhood business districts; promoting
38 economic development; managing parking; designing, engineering, constructing, maintaining or
39 operating buildings, facilities, urban streetscapes or infrastructures to further economic
40 development and public purposes; conducting historic preservation activities; leasing, owning,
41 acquiring, or optioning real property; owning and managing parks, public spaces and community
42 facilities; supplementing maintenance, security, or sanitation; planning and designing services;
43 formulating a fee structure; accumulating interest; incurring costs or indebtedness; entering into
44 contracts; suing and being sued; employing legal and accounting services; undertaking planning,
45 feasibility and market analyses; developing common marketing and promotional activities;
46 engaging in placemaking, programming, and event management within the district; soliciting
47 donations, sponsorships and grants; operating transit services; and supporting public art, human

48 and environmental services related to the enhancement of the district or other supplemental
49 services or programs that would further the purposes of this chapter.

50 Section 3. The organization of a CBD shall be initiated by a petition of the property
51 owners within the proposed CBD, which shall be filed in the office of the clerk of the
52 municipality and contain the following:

53 (i) the signatures of the property owners, including participating tax-exempt entities,
54 or petition signers in the proposed district who support the establishment of the district and who
55 will pay more than 50 per cent of the assessments proposed to be levied; provided, however, that
56 the amount of the assessment attributable to property owned by the same property owner that is
57 in excess of 20 per cent of the amount of all assessments proposed shall not be included in the
58 calculation or, alternatively, if there are not more than 4 property owners in the proposed district,
59 all such property owners shall sign the petition;

60 (ii) a description of and a site map delineating the boundaries of the proposed CBD;

61 (iii) the identity and address of the CBD corporation, including its initial set of
62 directors and officers and a copy of its by-laws;

63 (iv) An initial management plan, which shall set forth the supplemental services and
64 programs, vision, strategy, budget and fee structures proposed for the CBD;

65 (v) the criteria for waiving the fee for any property owner within the CBD who can
66 provide evidence that the imposition of such a fee would create a significant financial hardship;

67 and

68 (vi) a staffing plan, which may include private nonprofit, for profit or public agency
69 contractors or subcontractors.

70 A petition may include a mechanism for reimbursing the municipality for the costs
71 incurred in establishing the CBD, and for costs incurred in collecting the district fees. A
72 copy of the petition shall be filed with the undersecretary of housing and community
73 development and the secretary of housing and economic development not more than 30 days
74 following receipt of the petition by the clerk of the municipality.

75 Section 4. (a) The municipal governing body shall hold a public hearing not more than
76 60 days following receipt of the petition by the clerk of the municipality. Written
77 notification of the hearing shall be sent to each property owner within the boundary of the
78 proposed CBD not more than 30 days before a hearing by mailing notice to the address listed in
79 the property tax records. Notification of the hearing shall be published for 2 consecutive weeks
80 in a newspaper of general circulation in the area, the last publication being not less than 14 days
81 before the hearing and listed on the municipality's website. The public notice shall contain the
82 proposed boundaries of the CBD, the proposed fee level, a summary of supplemental programs
83 and services and

84 where the property owner may obtain a full copy of the initial management plan.

85 (b) Prior to the public hearing, the municipal governing body shall direct the town clerk,
86 city clerk or a designee to determine that the establishment criteria have been met, as set
87 forth in section 3. In determining whether a signature is authentic, the clerk shall apply the same

88 standard used when certifying signatures for a petition to place a referendum on a local or state
89 ballot.

90 (c) Not more than 45 days after the public hearing, a municipal governing body, in its
91 sole discretion, may, by vote of the city council with approval of the mayor in a city and
92 by vote of the board of selectmen in a town, declare the district organized and describe the
93 boundaries and service area of the district; provided, however, that in a town with a population of
94 not more than 10,000, the district shall not be declared organized without a vote by the board of
95 selectmen and a town meeting. The declaration shall include authorization to municipal staff to
96 enter into an agreement with the CBD corporation with respect to operations and funding
97 consistent with the approved initial management plan. Upon such declaration, the CBD may
98 commence operations.

99 (d) Notice of the declaration of the organization of the CBD shall be mailed or delivered
100 to each property owner within the proposed CBD. The notice shall explain that
101 membership in the CBD is irrevocable unless the CBD is dissolved pursuant to section 10 and
102 shall include a description of the basis for determining the district fee, the projected fee level and
103 the services to be provided within the CBD. Such notice shall be published for 2 consecutive
104 weeks in a newspaper of general circulation in the area, the last publication being not more than
105 30 days after the vote to declare the district organized.

106 (e) Participation in the CBD shall be permanent unless the CBD is dissolved pursuant to
107 section 10. All property owners shall contribute in accordance with fee structures based
108 upon the benefits anticipated to be received, as outlined in the initial management plan.

109 Section 5. (a) Each CBD corporation shall have a not for profit board of directors that
110 shall oversee its operations to insure the implementation of the initial management plan
111 and any management plan. At least 51 per cent of the board shall be composed of property
112 owners, which may include participating tax-exempt property owners, or their designees; and the
113 remaining members may be a balanced group of stakeholders representing the community,
114 including residents, municipal government, business tenants and nonprofits.

115 (b) The initial management plan shall be updated at least once every 3 years by the CBD
116 board of directors and a copy thereof shall be mailed, emailed or delivered to each CBD member
117 and filed with the municipal governing body.

118 (c) The CBD corporation shall comply with the public charity reporting requirements of
119 section 8F of chapter 12.

120 Section 6. All real property located within a proposed CBD shall be considered in the fee
121 formula for supplemental services and programs as outlined in the initial management plan,
122 except that any residential property with a homeowner eligible for a property tax exemption
123 established by statute, or local ordinance or bylaw, shall not be charged a fee for participating in
124 the district.

125 Tax-exempt property owners in the district shall not be required to pay assessment fees,
126 but may elect to do so. Tax-exempt property owners may also enter into a Memorandum of
127 Agreement with the district management entity in lieu of, or to supplement, monetary payments,
128 and which may include such contributions as: space for events, loans of equipment or vehicles,
129 volunteers or volunteer management, staff time, programs and services to the community, or any

130 other contribution deemed appropriate to support implementation of the district management
131 plan.

132 The CBD corporation, at its sole discretion, may grant a financial hardship waiver to any
133 property owner, pursuant to the waiver criteria established within the CBD. A waiver is not
134 intended to be permanent and shall be requested and granted on an annual basis, and shall be
135 based upon temporary, extraordinary circumstances. The CBD corporation may also, at its
136 discretion, approve in-kind contributions or services in addition to, or in lieu of, fees upon
137 execution of a memorandum of agreement with a property owner.

138 Section 7. Upon formal approval of a CBD, the municipal governing body shall adopt the
139 district fee structure for the financing of items submitted in the initial management plan
140 for the CBD; provided, however, that the total fees assessed in any 1 year may not exceed 1/2 of
141 1 per cent of the sum of the assessed valuation of the real property owned by participating
142 members in the CBD district. The basis of a district fee may be determined by a formula utilizing
143 at least 1 or a combination of the following methodologies:

- 144 (i) different levels for varying classifications of real property;
- 145 (ii) benefit zones;
- 146 (iii) assessed valuation;
- 147 (iv) building or parcel square footage;
- 148 (v) street frontage; or
- 149 (vi) any other formula which meets the objectives of the CBD.

150 The CBD, through its management plan, shall have the option to limit or cap the
151 maximum annual fee derived from individual properties or the total annual revenue
152 generated by the CBD.

153 The initial management plan may also propose a “phase-in” period of not more than 3
154 years, with assessments increasing over the stated period. The formula for determining
155 the district fee structure shall be set forth in the original petition as required by section 3.

156 The CBD may change the formula or the assessment level set forth in the initial
157 management plan or management plan by 2/3 vote of its board of directors, ratified by
158 vote of the property owners who are required to pay more than 50 per cent of the assessments.
159 Within 30 days after amendment of the formula or assessment level, the CBD shall file notice of
160 the changes with the municipal governing body, the undersecretary of housing and community
161 development and the secretary of housing and economic development. In addition to receiving
162 funds from the district fee, the CBD corporation may receive grants, donations, revenues
163 generated from parking fees, CBD activities or gifts on behalf of the CBD.

164 Section 8. The collector or treasurer of the municipality may collect district fees in
165 designated CBDs and disburse the funds to the CBD corporation. In addition to the items
166 identified in section 3A of chapter 60, the collector or treasurer may include notices for district
167 fees in the envelope or electronic message in which a property bill is sent. District fees collected
168 shall be used solely to fund items to further the goals identified and approved in the initial
169 management plan for the CBD. The collector or treasurer shall disburse fee revenues to the CBD

170 corporation not later than 30 days after the collection of such fees, together with any interest
171 earned on those fees.

172 Following establishment of the CBD, all fees billed by or on behalf of the CBD and
173 unpaid after 30 days from the date of billing shall become a lien on the property, which
174 shall have priority over all other liens except municipal liens and mortgages of record prior to the
175 recording of a notice of lien, if notice of the lien is duly recorded by the CBD corporation in the
176 appropriate registry of deeds or land court registry district.

177 Section 9. At any time after the establishment of a CBD pursuant to this chapter, the
178 district boundaries upon which the establishment was based may, upon the
179 recommendation of the CBD corporation, be amended by the municipal governing body after
180 compliance with the procedures set forth in this section.

181 The CBD corporation shall prepare a petition, consistent with the criteria described in
182 section 3; provided, however, that if the petition concerns an amendment to expand the
183 district, the petition shall be accompanied by signatures of the property owners who are required
184 to pay more than 50 per cent of the assessments in the expanded area. If the petition concerns an
185 amendment to reduce the size of the district, it shall be accompanied by signatures of the
186 property owners who are required to pay more than 50 per cent of the assessments levied in the
187 existing district. The municipal governing body shall hold a public hearing not more than 60
188 days after its receipt of a petition to amend the district boundaries. In the case of an expansion
189 petition, written notification of the hearing shall be sent to each property owner within the
190 proposed expansion area of the CBD not more than 30 days before the hearing, by mailing notice

191 to the address listed in the property tax records. In the case of a reduction petition, the notice
192 shall be sent to each property owner in the existing district. For either an expansion or reduction
193 petition, notification of the hearing shall also be published for 2 consecutive weeks in a
194 newspaper of general circulation in the area with the last publication being not more than
195 14 days before the hearing and shall be listed on the municipality's website. For an expansion
196 petition, the public notice shall contain the proposed expanded boundaries of the CBD, the fee
197 level, a summary of supplemental programs and services, and where the property owner may
198 obtain a full copy of the management plan. For a reduction petition, the public notice shall
199 contain the proposed reduced boundaries of the CBD and any changes in the fee level,
200 supplemental programs and services or other material aspects of the management plan that will
201 occur as a result of the boundary change. Not more than 30 days after the hearing, and upon
202 determination by the city or town clerk, or designee, that the petition has met the necessary
203 criteria, the municipal governing body, in its sole discretion, may by a vote declare the district
204 boundaries amended. Upon the adoption of an amendment to the district boundaries which
205 increases the size of the district, owners of property to be added to the district shall be notified of
206 the new boundaries of the district in accordance with section 4.

207 Section 10. A CBD may be dissolved by petition to the municipal governing body and a
208 subsequent decision by that governing body to authorize dissolution. A petition to
209 dissolve a CBD shall contain the signatures of the property owners who are required to pay more
210 than 50 per cent of the assessments levied in the district; provided, however, that the amount of
211 the assessment attributable to property owned by the same property owner that is in excess of 20
212 per cent of the amount of all assessments proposed shall not be included in the calculation. The

213 municipal governing body shall hold a public hearing not more than 30 days after its receipt of a
214 petition on the issue of dissolution.

215 After a public hearing, the municipal governing body may declare the CBD dissolved;
216 provided, however, that no CBD shall be dissolved until it has satisfied or paid in full all
217 of its outstanding indebtedness, obligations and liabilities; until funds are on deposit and
218 available therefore or until a repayment schedule has been formulated and municipally approved.
219 Upon dissolution, the CBD shall not incur any new or increased financial obligations. Any
220 liabilities, either current or future, incurred as a result of action to accomplish the purposes of the
221 management plan shall not be an obligation of the municipality. Liabilities shall be paid for
222 entirely from revenue gained from the project or facilities authorized, or from the fees on the
223 properties in the CBD.

224 Upon the dissolution of a CBD, any remaining revenues derived from the sale of assets
225 acquired with fees collected shall be refunded to the property owners in the CBD by
226 applying the same formula used to calculate the fee in the fiscal year in which the CBD is
227 dissolved. Nothing in this section shall prevent the filing of a subsequent petition for a similar
228 CBD.

229 Section 11. A CBD may include noncontiguous geographic areas within the municipality.
230 If the petition proposes such a district, each noncontiguous area shall separately qualify by
231 meeting the signature threshold in section 3. Once the clerk has determined that the
232 establishment criteria have been met, the municipality shall consider whether the CBD as a
233 whole should be approved. A petition to reduce or dissolve a CBD with noncontiguous areas
234 shall be signed by property owners representing at least 50 per cent of the assessments in the

235 CBD as a whole. A petition to expand such a CBD shall be signed by property owners
236 representing 50 per cent of the assessments in the expanded area only. A CBD that includes
237 noncontiguous areas may set services, programs and fees to take into account the differing
238 circumstances of each area.

239 Section 12. A CBD may be located in more than 1 municipality if the petition in each
240 municipality separately complies with this chapter. Petitioners shall state in each petition
241 whether they will proceed with establishment if the other municipality or municipalities
242 involved do not approve the proposed CBD. A petition to reduce a CBD located in more than 1
243 municipality shall be signed by property owners with 50 per cent of the assessments in that
244 municipality's portion of the district. A petition to expand such a CBD shall be signed by
245 property owners representing 50 per cent of the assessments in the expanded area only. A
246 petition to dissolve the entire CBD located in more than 1 municipality shall be signed by
247 property owners representing 50 per cent of the assessments in each municipality. A CBD
248 located in more than 1 municipality may set services, programs and fees to take into account the
249 differing circumstances of each area.