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SENATE . . . . No. 01427

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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:	DISTRICT/ADDRESS:
Sal N. DiDomenico	*Middlesex, Suffolk, and Essex*
Linda Dorcena Forry	*12th Suffolk*
Denise Andrews	*2nd Franklin*
Harriette L. Chandler	*First Worcester*
Edward Coppinger	*10th Suffolk*
Benjamin B. Downing	*Berkshire, Hampshire, and Franklin*
James B. Eldridge	*Middlesex and Worcester*
Susan C. Fargo	*Third Middlesex*
Thomas P. Kennedy	*Second Plymouth and Bristol*
Michael R. Knapik	*Second Hampden and Hampshire*
Michael O. Moore	*Second Worcester*
Denise Provost	*27th Middlesex*
Michael F. Rush	*Suffolk and Norfolk*
Stephen Stat Smith	*28th Middlesex*
Thomas M. Stanley	*9th Middlesex*
Benjamin Swan	*11th Hampden*
Bruce E. Tarr	*First Essex and Middlesex*

Timothy J. Toomey, Jr.	*26th Middlesex*
Patricia D. Jehlen	*Second Middlesex*
Mark C. Montigny	*Second Bristol and Plymouth*

SENATE . . . . No. 01427

By Mr. DiDomenico, petition (accompanied by bill, Senate, No. 1427) of Toomey, Tarr, Swan and other members of the General Court for legislation to create the community development partnership program [Joint Committee on Revenue].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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:

SECTION 1. The purpose of this act is to enable local residents and stakeholders to work with and through community development corporations to partner with nonprofit, public and private entities to improve economic opportunities for low and moderate income households and other residents in urban, rural and suburban communities across the state.

SECTION 2. Chapter 62 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after Section 6I the following new section:—

Section 6L. Community Investment Tax Credit.

(a) Definitions: For purposes of this section, the following terms shall, unless the context clearly requires otherwise, have the following meanings:—

“Commissioner” is the Commissioner of Revenue.

"Community Investment Plan," is an organizational business plan developed by a certified community development corporation that details its goals, outcomes, strategies, programs and activities for a three to five year period and its financial plans for supporting its strategy. The plan must be designed to engage local residents and businesses to work together to undertake community development programs, projects and activities which develop and improve urban, rural and suburban communities in sustainable ways that create and expand economic opportunities for low and moderate income households. The specific format and content of the community investment plans can be adapted to the particular organization and community, but must include the following elements:

i. A description of the community to be served by the organization, including the neighborhoods, towns, or cities to be served as well as any particular constituencies that the organization is dedicated to serving.

ii. A description of how community residents and stakeholders were engaged in the development of the plan and their role in monitoring and implementing the organization's activities during the time period of the plan;

iii. The goals sought to be achieved during the time period of the plan, including how low and moderate income households or low and moderate income communities will benefit and how the entire community will benefit.

iv. The activities to be pursued to achieve those goals;

v. The manner in which success will be measured and evaluated;

vi. The partnerships that will support implementation of the plan, including partnerships with nonprofit, for-profit and public entities.

vii. A description of how the different activities within the plan fit together and how the entire plan fits into a larger strategy or vision for the community;

viii. The financial strategy to be deployed to support these activities; and

ix. Other information as determined by the Department of Housing and Community Development.

“Community Investment Tax Credit allocation” is an award provided by the department through a competitive process that enables the recipient of the allocation to solicit and receive qualified investments from taxpayers and to provide those taxpayers with a community investment tax credit as defined in this section.

“Community Partner” is defined as a nonprofit organization that has been certified as a community development corporation by the department consistent with MGL Chapter 40H and selected by the department through a competitive process to receive a community investment tax credit allocation. A community partner may also include up to two nonprofit organizations selected by the department that have a mission of and experience in providing support and capacity building services to certified community development corporations.

“Community Partnership Fund,” a fund administered by a nonprofit organization selected by the department of housing and community development to receive qualified investments from taxpayers for the purpose of allocating such investments to community partners.

“Department” is the Department of Housing and Community Development.

“Gateway city,” is a gateway municipality as defined under MGL Chapter 23A, Section 3A.

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

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

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

“Taxpayer,” is any person or corporation obligated to pay taxes in Massachusetts under MGL Chapter 62, Section 6I, MGL Chapter 63, Section 38, or other laws as determined by the Commissioner of Revenue.

“Qualified investment,” a cash contribution made to a community partner to support the implementation of its community investment plan or to the community partnership fund, as defined by this section.

(b) the department shall promulgate regulations for how community development corporations can apply to become a community partner and receive qualified investments, provided that:

(1) The department shall design a competitive process to review applications by certified community development corporations to become community partners. The department shall select the highest quality plans and shall strive to ensure that all regions of the Commonwealth are able to fairly compete for allocations, including Gateway Cities, rural areas and suburban areas. At least 30% of the community partners shall be located in or serving Gateway Cities and at least 20% of the community partners shall be located in or serving rural areas unless the department finds that there are not a sufficient number of qualified applications from those regions. The department shall implement at least one such allocation process each year. Each tax credit allocation shall be for valid for a period of up to three years, contingent upon the community partner satisfactorily meeting the reporting requirements of the department. Community partners who have not fully utilized their community investment tax credit allocations in three years may apply to the department for a one year extension. Community investment tax credit allocations can be revoked after one or two years by the department if the community partner has been unable to utilize at least 75% of its annual allocation, if the community partner is found to be in non compliance with the statute, if the community partner is determined by the department to be making inadequate progress on its community investment plan, or for other causes as determined by the department.

(2) No community partner shall receive a community investment tax credit allocation of less than $50,000 in any one tax year and no more than one hundred and fifty thousand dollars ($150,000) of in any one tax year or four hundred and fifty thousand dollars ($450,000) over a three year

period. No community partner can receive a subsequent allocation unless and until they have utilized at least 95% of any prior allocation.

(3) A community partner may receive a qualified investment directly from a taxpayer or it may transfer some or all of its community investment tax credit allocation to a Community Partnership Fund and receive qualified investments from said Fund.

(4) Before receiving a qualified investment from a taxpayer or from the community partnership fund, the community partner shall first receive certification from the department that its community investment plan has been awarded a community investment tax credit allocation, as prescribed by this section.

(5) The department may authorize up to two nonprofit organizations to operate a community investment partnership fund. Such nonprofit organizations must demonstrate that they have the capacity to solicit, administer and re-grant qualified investments. In selecting a nonprofit to serve in this function the department shall seek organizations that can advance the purposes of this statute.

(6) The department, in consultation with the commissioner, shall prescribe regulations necessary to carry out this section. Such regulations, shall include, requirements for annual reports from the community partner regarding outcomes achieved during the prior year.

(c) There is hereby established a Massachusetts community investment tax credit.

(1) The commissioner or revenue (hereinafter, “the commissioner”), in consultation with the department of housing and community development (hereinafter, “the department”), shall authorize annually beginning January 1, 2013 under this section an amount not to exceed

$2,000,000 in 2013, $4,000,000 in 2014, and $6,000,000 in 2015 and each year thereafter for the community investment tax credit.

(2) The total of all tax credits granted to a taxpayer pursuant to this section shall not exceed one million dollars ($1,000,000) in any one tax year and no tax credit shall be granted to any tax payer for any individual qualified in a community investment activity of less than one thousand dollars ($1,000).

(3) A taxpayer that makes a qualified investment to a community partner or to the community partnership fund shall be allowed a credit, to be computed as hereinafter provided, against taxes owed to the Commonwealth under M.G.L. Chapter 62, M.G.L. Chapter 63 or other applicable law. The credit shall be equal to 50 per cent of the total qualified investments made by the taxpayer. In order to receive a credit, a taxpayer must receive a certification that the taxpayer made a qualified investment to the community partnership fund or to a community partner in the tax year. The taxpayer may make a qualified investment to a community partner or a taxpayer may make a qualified investment to the community partnership fund. The department shall issue a certification to the taxpayer after the taxpayer makes a qualified investment to the fund or to a community partner. Such certification shall be acceptable as proof that the expenditures related to such investment qualify as qualified investment for purposes of the credit allowed under this section.

(4) The credit allowable under this section shall be allowed for the taxable year in which a qualified investment is made. A taxpayer allowed a credit under this section for a taxable year may carry over and apply to the tax imposed by this chapter in any of the succeeding 5 taxable

years, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year.

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

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

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