

HOUSE No. 3147

By Mr. Torrasi of North Andover, petition of David M. Torrasi and others for legislation to provide for a community investment income tax credit and establishing a community development partnership program. Revenue.

The Commonwealth of Massachusetts

PETITION OF:

David M. Torrasi	Carl M. Sciortino, Jr.
Sarah K. Peake	Christine E. Canavan
J. James Marzilli, Jr.	James B. Eldridge
Bradford Hill	Timothy J. Toomey, Jr.
William N. Brownsberger	Denise Provost
Cleon H. Turner	Steven M. Walsh
William Lantigua	
Barbara A. L'Italian	

In the Year Two Thousand and Seven.

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
2 2004 Official Edition, is hereby amended by inserting after Section
3 6I the following new section:—
4 Section 6L. Community Investment Tax Credit. (a) For purposes
5 of this section, the following terms shall have the following mean-
6 ings:—
7 “Community Investment Activities,” those activities carried out
8 in furtherance of community preservation and revitalization in an
9 low- or moderate-community to improve the housing and economic
10 conditions of the community; and shall include, without limitation,
11 initiatives, projects, programs, and plans to:—
12 i.) foster the preservation, rehabilitation and construction of
13 housing affordable to low- or moderate-households, including plan-
14 ning, outreach and design of affordable housing, home

15 improvement, lead abatement, pre-purchase and post-purchase home
16 buyer counseling and related activities;

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

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

22 iv.) increase the financial assets of LMI households through finan-
23 cial literacy programs, Individual Development Accounts, and other
24 programs;

25 v.) undertake community based planning activities that help low
26 and moderate income communities develop strategies for commu-
27 nity improvement;

28 vi.) combat crime and increase public safety;

29 vii.) increase, preserve, and maintain open space, including the
30 purchase of land for open or conservation space;

31 viii.) undertake measures to involve youth in job training, educa-
32 tion, or community development activities.

33 All activities must be developed for the benefit of low- or mod-
34 erate-income households or low or moderate income communities
35 and with the involvement of the community which they intend to
36 serve, and be certified by the department as meeting the definition of
37 a community investment activity as described in this section. Invest-
38 ments in real estate purchase or construction are not eligible under
39 this section.

40 “Community Partner”, a community development corporation as
41 defined under Chapter 40F, Section 1, or a nonprofit organization
42 approved by the department:—

43 i.) has been determined by the Internal Revenue Service of the
44 United State Department of the Treasury to be exempt from income
45 taxation under 26 U.S.C. s501(c)3; and

46 ii.) whose purpose and mission are related to community develop-
47 ment, improvement, revitalization, or other activities consistent with
48 the purposes of this section; and

49 iii.) which provides one or more of the activities as described as
50 community investment activities herein; and

51 iv.) has been in existence for at least two years; and

52 v.) can demonstrate sufficient capacity to implement an commu-
53 nity investment activity, as defined in this chapter; and

54 vi.) has an elected board of directors, with meaningful representa-
55 tion of low or moderate income households on the board, as defined
56 by this section.

57 “Community Partnership Fund,” a fund administered by the
58 department of housing and community development to receive quali-
59 fied investments from taxpayers for the purpose of allocating such
60 investments to community partners.

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

67 (1) a majority of the households are low and moderate income
68 households as defined herein; or

69 (2) the unemployment rate is at least 25 per cent higher than the
70 annual statewide average unemployment rate where such statewide
71 unemployment rate is less than or equal to 5 per cent; provided that,
72 if the annual statewide average unemployment rate is greater than 5
73 per cent, the community’s unemployment rate need only be 10 per
74 cent higher to qualify for a community investment tax credit.

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

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

84 (b) There is hereby established a Massachusetts community part-
85 nership investment tax credit.

86 (1) The commissioner or revenue (hereinafter, “the commis-
87 sioner”), in consultation with the department of housing and com-
88 munity development (hereinafter, “the department”), shall authorize
89 annually, for the 5 year period beginning January 1, 2008 and ending
90 December 31, 2012, under this section an amount not to exceed
91 \$5,000,000 per year. The department of housing and community
92 development shall determine the criteria for eligibility for the credit,

93 such criteria to be set forth in regulations promulgated under this
94 section.

95 (2) The total of all tax credits granted to a tax payer pursuant to
96 this section shall not exceed five hundred thousand dollars
97 (\$500,000) in any one tax year and no tax credit shall be granted to
98 any tax payer for any individual qualified in a community invest-
99 ment activity of less than five thousand dollars (\$5,000).

100 (c) A community partner may receive a qualified investment for a
101 certified community investment activity directly from a taxpayer or
102 the department may make an allocation of a qualified investment
103 from the community partnership fund to the community partner pro-
104 vided:—

105 (1) Before receiving a qualified investment from a taxpayer or
106 from the department, the community partner shall first receive certi-
107 fication from the department that an activity is an eligible commu-
108 nity investment activity, as prescribed by this section. A
109 certification shall be allowed for multi-year community investment
110 activities.

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

114 (3) the department shall promulgate regulations for how commu-
115 nity partners can apply for certification and shall design a competi-
116 tive process to review such applications if the department believes
117 that such applications will exceed the available credits.

118 (d) A taxpayer that makes a qualified investment to a community
119 partner or to the community partnership fund shall be allowed a
120 credit, to be computed as hereinafter provided, against the tax
121 imposed by this chapter. The credit shall be equal to 80 per cent of
122 the total qualified investment made by the taxpayer for each commu-
123 nity investment activity, in which the taxpayer invests, and which
124 has received certification from the department pursuant to this
125 section.

126 In order to receive a credit, a taxpayer must receive a certification
127 that the taxpayer made a qualified investment to the community part-
128 nership fund or to a community partner in the tax year.

129 The taxpayer may make a qualified investment to a community
130 partner for a specified and certified community investment activity
131 or for those taxpayers who have not identified a particular commu-

132 nity investment activity through a community partner, a taxpayer
133 may make a qualified investment to the community partnership fund
134 for allocation by the department. The department shall issue a certi-
135 fication to the taxpayer after the taxpayer makes a qualified invest-
136 ment to the fund or to a community partner.

137 Such certification shall be acceptable as proof that the expendi-
138 tures related to such investment qualify as qualified investment for
139 purposes of the credit allowed under this section.

140 (e) The credit allowable under this section shall be allowed for the
141 taxable year in which a qualified investment is made. A taxpayer
142 allowed a credit under this section for a taxable year may carry over
143 and apply to the tax imposed by this chapter in any of the succeeding
144 5 taxable years, the portion, as reduced from year to year, of those
145 credits which exceed the tax for the taxable year. (f) Community
146 partnership tax credits allowed to a partnership, or a limited liability
147 company taxed as a partnership shall be passed through to the per-
148 sons designated as partners, members or owners, respectively, pro
149 rata or pursuant to an executed agreement among the persons desig-
150 nated as partners, members or owners documenting an alternative
151 distribution method without regard to their sharing of other tax or
152 economic attributes of the entity.

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

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

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

4 Section 38U. Community Investment Tax Credit. (a) For purposes
5 of this section, the following terms shall have the following mean-
6 ings:—

7 “Community Investment Activities,” those activities carried out in
8 furtherance of community preservation and revitalization in an low-
9 or moderate-community to improve the housing and economic con-
10 ditions of the community; and shall include, without limitation, ini-
11 tiatives, projects, programs, and plans to:—

12 i.) foster the preservation, rehabilitation and construction of
13 housing affordable to low- or moderate-households, including plan-
14 ning, outreach and design of affordable housing, home improve-
15 ment, lead abatement, pre-purchase and post-purchase home buyer
16 counseling and related activities;

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

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

22 iv.) increase the financial assets of LMI households through finan-
23 cial literacy programs, Individual Development Accounts, and other
24 programs;

25 v.) undertake community based planning activities that help low
26 and moderate income communities develop strategies for commu-
27 nity improvement;

28 combat crime and increase public safety;

29 vi.) increase, preserve, and maintain open space, including the
30 purchase of land for open or conservation space;

31 vii.) undertake measures to involve youth in job training, educa-
32 tion, or community development activities.

33 All activities must be developed for the benefit of low- or mod-
34 erate-income households or low or moderate income communities
35 and with the involvement of the community which they intend to
36 serve, and be certified by the department as meeting the definition of
37 a community investment activity as described in this section. Invest-
38 ments in real estate purchase or construction are not eligible under
39 this section.

40 “Community Partner”, a community development corporation as
41 defined under Chapter 40F, Section 1, or a nonprofit organization
42 approved by the department:

43 i.) has been determined by the Internal Revenue Service of the
44 United State Department of the Treasury to be exempt from income
45 taxation under 26 U.S.C. s501(c)3; and

46 ii.) whose purpose and mission are related to community develop-
47 ment, improvement, revitalization, or other activities consistent with
48 the purposes of this section; and

49 iii.) which provides one or more of the activities as described as
50 community investment activities herein; and

51 iv.) has been in existence for at least two years; and

52 v.) can demonstrate sufficient capacity to implement an commu-
53 nity investment activity, as defined in this chapter; and

54 vi.) has an elected board of directors, with meaningful representa-
55 tion of low or moderate income households on the board, as defined
56 by this section;

57 “Community Partnership Fund,” a fund administered by the
58 department of housing and community development to receive quali-
59 fied investments from a corporation, for the purpose of allocating
60 such investments to community partners.

61 “Low and moderate income community,” an economic target area
62 as defined pursuant to Section 3A of Chapter 23A of the General
63 Laws, an enhanced economic enterprise community or empower-
64 ment zone as designated by the United States Department of
65 Housing and Urban Development, or one or more contiguous census
66 tracts as designated by a city or town, in which either: (1) a majority
67 of the households are low and moderate income households as
68 defined herein; or (2) the unemployment rate is at least 25 per cent
69 higher than the annual statewide average unemployment rate where
70 such statewide unemployment rate is less than or equal to 5 per cent;
71 provided that, if the annual statewide average unemployment rate is
72 greater than 5 per cent, the community’s unemployment rate need
73 only be 10 per cent higher to qualify for a community investment tax
74 credit.

75 “Low and moderate income households,” households which have
76 incomes that do not exceed 80 per cent of the median income for the
77 area, with adjustments made for smaller and larger families, as such
78 median shall be determined from time to time by the Secretary of

79 Housing and Urban Development pursuant to 42 USC Section
80 1437(a)(B)(2).

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

84 (b) There is hereby established a Massachusetts community part-
85 nership investment tax credit.

86 (1) The commissioner or revenue (hereinafter, “the commis-
87 sioner”), in consultation with the department of housing and com-
88 munity development (hereinafter, “the department”), shall authorize
89 annually, for the 5 year period beginning January 1, 2008 and ending
90 December 31, 2012, under this section an amount not to exceed
91 \$5,000,000 per year. The department of housing and community
92 development shall determine the criteria for eligibility for the credit,
93 such criteria to be set forth in regulations promulgated under this
94 section.

95 (2) The total of all tax credits granted to a tax payer pursuant to
96 this section shall not exceed five hundred thousand dollars
97 (\$500,000) in any one tax year and no tax credit shall be granted to
98 any corporation for any individual qualified in a community invest-
99 ment activity of less than five thousand dollars (\$5,000).

100 (c) A community partner may receive a qualified investment for a
101 certified community investment activity directly from a a corpora-
102 tion subject to tax under this chapter or the department may make an
103 allocation of a qualified investment from the community partnership
104 fund to the community partner provided:

105 (1) Before receiving a qualified investment from a corporation
106 subject to tax under this chapter or from the department, the commu-
107 nity partner shall first receive certification from the department that
108 an activity is an eligible community investment activity, as pre-
109 scribed by this section. A certification shall be allowed for multi-
110 year community investment activities.

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

114 (3) the department shall promulgate regulations for how commu-
115 nity partners can apply for certification and shall design a competi-
116 tive process to review such applications if the department believes
117 that such applications will exceed the available credits.

118 (d) A corporation subject to tax under this chapter that makes a
119 qualified investment to a community partner or to the community
120 partnership fund shall be allowed a credit, to be computed as here-
121 inafter provided, against the tax imposed by this chapter. The credit
122 shall be equal to 80 per cent of the total qualified investment made
123 by the corporation for each community investment activity, in which
124 the corporation invests, and which has received certification from
125 the department pursuant to this section.

126 In order to receive a credit, a corporation must receive a certifica-
127 tion that the corporation made a qualified investment to the commu-
128 nity partnership fund or to a community partner in the tax year.

129 The corporation may make a qualified investment to a community
130 partner for a specified and certified community investment activity
131 or for those corporations who have not identified a particular com-
132 munity investment activity through a community partner, a corpora-
133 tion may make a qualified investment to the community partnership
134 fund for allocation by the department. The department shall issue a
135 certification to the corporation after the corporation makes a quali-
136 fied investment to the fund or to a community partner.

137 Such certification shall be acceptable as proof that the expendi-
138 tures related to such investment qualify as qualified investment for
139 purposes of the credit allowed under this section.

140 (e) The credit allowable under this section shall be allowed for the
141 taxable year in which a qualified investment is made. A corporation
142 allowed a credit under this section for a taxable year may carry over
143 and apply to the tax imposed by this chapter in any of the succeeding
144 5 taxable years, the portion, as reduced from year to year, of those
145 credits which exceed the tax for the taxable year.

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

153 (g) Corporations eligible for the community investment tax credit
154 may, with prior notice to and in accordance with regulations adopted
155 by the commissioner, transfer the credits, in whole or in part, to any
156 individual or entity, and the transferee shall be entitled to apply the

157 credits against the tax with the same effect as if the transferee had
158 incurred the qualified rehabilitation expenditures itself. The trans-
159 feree shall use the credit in the year it is transferred. If the credit
160 allowable for any taxable year exceeds the transferee's tax liability
161 for that tax year, the transferee may carry forward and apply in any
162 subsequent taxable year, the portion, as reduced from year to year, of
163 those credits which exceed the tax for the taxable year; but, the car-
164 ryover period shall not exceed 5 taxable years after the close of the
165 taxable year during which the qualified historic structure received
166 final certification and was placed in service as provided for in this
167 section.

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