

SENATE NO. 1708

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 is hereby amended by adding a new Section 6L.

2 Section 6L. Community Investment Tax Credit.

3 (a) For purposes of this section, the following terms shall have the following meanings:

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

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

8 ii. whose purpose and mission are related to community development, improvement,
9 revitalization, or other activities consistent with the purposes of this section; and

10 iii. which provides one or more of the activities as described as community investment
11 activities herein; and

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

13 v. can demonstrate sufficient capacity to implement an community investment activity, as
14 defined in this chapter; and

15 vi. has an elected board of directors, with meaningful representation of low or moderate
16 income households on the board, as defined by this section;

17 “Community Partnership Fund,” a fund administered by the department of housing and

18 community development to receive qualified investments from taxpayers for the purpose of
19 allocating such investments to community partners.

20 “Low and moderate income community,” an economic target area as defined pursuant to section
21 3A of chapter 23A of the General Laws, an enhanced economic enterprise community or
22 empowerment zone as designated by the United States Department of Housing and Urban
23 Development, or one or more contiguous census tracts as designated by a city or town, in which
24 either: (1) a majority of the households are low and moderate income households as defined
25 herein; or (2) the unemployment rate is at least 25 per cent higher than the annual statewide
26 average unemployment rate where such statewide unemployment rate is less than or equal to 5
27 per cent; provided that, if the annual statewide average unemployment rate is greater than 5 per
28 cent, the community's unemployment rate need only be 10 per cent higher to qualify for a
29 community investment tax credit.

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

34 “Community Investment Activities,” those activities carried out in furtherance of community
35 preservation and revitalization in an low- or moderate-community to improve the housing and
36 economic conditions of the community; and shall include, without limitation, initiatives, projects,
37 programs, and plans to:

- 38 i. foster the preservation, rehabilitation and construction of housing affordable to low- or
39 moderate-households, including planning, outreach and design of affordable housing, home
40 improvement, lead abatement, pre-purchase and post-purchase home buyer counseling and

- 41 related activities;
- 42 ii. increase the business activity within the neighborhood including the provision of assistance
43 to small business entities;
- 44 iii. increase the income and labor force participation of low- or moderate-income community residents,
45 including provision of education and training programs;
- 46 iv. increase the financial assets of LMI households through financial literacy programs,
47 Individual Development Accounts, and other programs.
- 48 v. undertaking community based planning activities that help low and moderate income
49 communities develop strategies for community improvement.
- 50 vi. combat crime and increase public safety;
- 51 vii. increase, preserve, and maintain open space, including the purchase of land for open or
52 conservation space;
- 53 viii. measures to involve youth in job training, education, or community development activities.

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

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

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

62 (1) The commissioner or revenue (hereinafter, “the commissioner”), in consultation with the
63 department of housing and community development (hereinafter, “the department”), shall

64 authorize annually, for the 5 year period beginning January 1, 2008 and ending December 31,
65 2012, under this section an amount not to exceed \$5,000,000 per year. The department of
66 housing and community development shall determine the criteria for eligibility for the credit,
67 such criteria to be set forth in regulations promulgated under this section.

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

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

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

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

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

84 (d) A taxpayer that makes a qualified investment to a community partner or to the community
85 partnership fund shall be allowed a credit, to be computed as hereinafter provided, against the tax
86 imposed by this chapter. The credit shall be equal to 80 per cent of the total qualified investment

87 made by the taxpayer for each community investment activity, in which the taxpayer invests, and
88 which has received certification from the department pursuant to this section.

89 (1) In order to receive a credit, a taxpayer must receive a certification that the taxpayer made a
90 qualified investment to the community partnership fund or to a community partner in the
91 tax year.

92 (2) The taxpayer may make a qualified investment to a community partner for a specified and
93 certified community investment activity or for those taxpayers who have not identified a
94 particular community investment activity through a community partner, a taxpayer may
95 make a qualified investment to the community partnership fund for allocation by the
96 department. The department shall issue a certification to the taxpayer after the taxpayer
97 makes a qualified investment to the fund or to a community partner.

98 (3) Such certification shall be acceptable as proof that the expenditures related to such
99 investment qualify as qualified investment for purposes of the credit allowed under this
100 section.

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

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

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

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

122 SECTION 2. Chapter 63 of the General Laws, as appearing, is hereby amended by inserting a new
123 section 38U as follows:

124 Section 38U. Community Investment Tax Credit.

125 (a) For purposes of this section, the following terms shall have the following meanings:

126 "Community Partner", a community development corporation as defined under Chapter 40F,

127 Section 1, or a nonprofit organization approved by the department:

128 i. has been determined by the Internal Revenue Service of the United State Department of the

129 Treasury to be exempt from income taxation under 26 U.S.C.s501(c)3; and

130 ii. whose purpose and mission are related to community development, improvement,

131 revitalization, or other activities consistent with the purposes of this section; and

132 iii. which provides one or more of the activities as described as community investment

- 133 activities herein; and
- 134 iv. has been in existence for at least two years; and
- 135 v. can demonstrate sufficient capacity to implement an community investment activity, as
- 136 defined in this chapter; and
- 137 vi. has an elected board of directors, with meaningful representation of low or moderate
- 138 income households on the board, as defined by this section;

139 “Community Partnership Fund,” a fund administered by the department of housing and

140 community development to receive qualified investments from a corporation, for the purpose of

141 allocating such investments to community partners.

142 “Low and moderate income community,” an economic target area as defined pursuant to section

143 3A of chapter 23A of the General Laws, an enhanced economic enterprise community or

144 empowerment zone as designated by the United States Department of Housing and Urban

145 Development, or one or more contiguous census tracts as designated by a city or town, in which

146 either: (1) a majority of the households are low and moderate income households as defined

147 herein; or (2) the unemployment rate is at least 25 per cent higher than the annual statewide

148 average unemployment rate where such statewide unemployment rate is less than or equal to 5

149 per cent; provided that, if the annual statewide average unemployment rate is greater than 5 per

150 cent, the community's unemployment rate need only be 10 per cent higher to qualify for a

151 community investment tax credit.

152 “Low and moderate income households,” households which have incomes that do not exceed 80

153 per cent of the median income for the area, with adjustments made for smaller and larger families,

154 as such median shall be determined from time to time by the Secretary of Housing and Urban

155 Development pursuant to 42 USC section 1437(a)(B)(2).

156 “Community Investment Activities,” those activities carried out in furtherance of community
157 preservation and revitalization in an low- or moderate-community to improve the housing and
158 economic conditions of the community; and shall include, without limitation, initiatives, projects,
159 programs, and plans to:

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

164 ii. increase the business activity within the neighborhood including the provision of assistance
165 to small business entities;

166 ix. increase the income and labor force participation of low- or moderate-community residents,
167 including provision of education and training programs;

168 x. increase the financial assets of LMI households through financial literacy programs,
169 Individual Development Accounts, and other programs.

170 xi. undertaking community based planning activities that help low and moderate income
171 communities develop strategies for community improvement.

172 xii. combat crime and increase public safety;

173 xiii. increase, preserve, and maintain open space, including the purchase of land for open or
174 conservation space;

175 xiv. measures to involve youth in job training, education, or community development activities.

176 All activities must be developed for the benefit of low- or moderate-income households or low or
177 moderate income communities and with the involvement of the community which they intend to
178 serve, and be certified by the department as meeting the definition of a community investment

179 activity as described in this section. Investments in real estate purchase or construction are not
180 eligible under this section.

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

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

184 (1) The commissioner or revenue (hereinafter, “the commissioner”), in consultation with the
185 department of housing and community development (hereinafter, “the department”), shall
186 authorize annually, for the 5 year period beginning January 1, 2008 and ending December 31,
187 2012, under this section an amount not to exceed \$5,000,000 per year. The department of
188 housing and community development shall determine the criteria for eligibility for the credit,
189 such criteria to be set forth in regulations promulgated under this section.

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

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

198 (1) Before receiving a qualified investment from a corporation subject to tax under this chapter
199 or from the department, the community partner shall first receive certification from the
200 department that an activity is an eligible community investment activity, as prescribed by
201 this section. A certification shall be allowed for multi-year community investment activities.

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

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

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

213 (1) In order to receive a credit, a corporation must receive a certification that the corporation
214 made a qualified investment to the community partnership fund or to a community partner
215 in the tax year.

216 (4) The corporation may make a qualified investment to a community partner for a specified
217 and certified community investment activity or for those corporations who have not
218 identified a particular community investment activity through a community partner, a
219 corporation may make a qualified investment to the community partnership fund for
220 allocation by the department. The department shall issue a certification to the corporation
221 after the corporation makes a qualified investment to the fund or to a community partner.

222 (5) Such certification shall be acceptable as proof that the expenditures related to such
223 investment qualify as qualified investment for purposes of the credit allowed under this
224 section.

- 225 (f) The credit allowable under this section shall be allowed for the taxable year in which a qualified
226 investment is made. A corporation allowed a credit under this section for a taxable year may carry
227 over and apply to the tax imposed by this chapter in any of the succeeding 5 taxable years, the
228 portion, as reduced from year to year, of those credits which exceed the tax for the taxable year.
- 229 (g) Community partnership tax credits allowed to a partnership, or a limited liability company taxed as
230 a partnership shall be passed through to the persons designated as partners, members or owners,
231 respectively, pro rata or pursuant to an executed agreement among the persons designated as
232 partners, members or owners documenting an alternative distribution method without regard to
233 their sharing of other tax or economic attributes of the entity.
- 234 (h) Corporations eligible for the community investment tax credit may, with prior notice to and in
235 accordance with regulations adopted by the commissioner, transfer the credits, in whole or in part,
236 to any individual or entity, and the transferee shall be entitled to apply the credits against the tax
237 with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself.
238 The transferee shall use the credit in the year it is transferred. If the credit allowable for any
239 taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward
240 and apply in any subsequent taxable year, the portion, as reduced from year to year, of those
241 credits which exceed the tax for the taxable year; but, the carryover period shall not exceed 5
242 taxable years after the close of the taxable year during which the qualified historic structure
243 received final certification and was placed in service as provided for in this section.
- 244 (i) The commissioner, in consultation with the department, shall prescribe regulations necessary to
245 carry out this section.