HOUSE . . . . . No. 1474

By Mr. Connolly of Everett, petition of Edward G. Connolly relative to the taxation of business improvement districts. Community Development and Small Business.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO BUSINESS IMPROVEMENT DISTRICTS.

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. Section one of chapter forty O of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the introductory clause the following definition:—

"Assessed valuation", the most recent assessed valuation of a property including all properties within the BID taxed under chapter one hundred and twenty-one A.

SECTION 2. The definition of "business improvement district board of directors" in said section 1 of said chapter forty O, as so appearing, is hereby amended by adding the following sentence:— In the case of a BID corporation, however, the term "business improvement district board of directors" or "Board of directors" shall mean the board of directors of the BID corporation who shall be property owners or their designees.

SECTION 3. Said section one of said chapter forty O, as so appearing, is hereby amended by inserting after the definition "BID" the following definition:—

"BID corporation", a charitable corporation formed under chapter one hundred and eighty of the Massachusetts General Laws to develop, gain approval of and implement an improvement plan. In addition to the rights and powers granted under chapter one hundred and eighty, a BID corporation and its board mem-

bers, officers and members shall have all of the rights, powers and immunities set forth in section two of this chapter forty O to the extent such rights, powers and immunities are not now provided for in chapter one hundred and eighty or the general law applicable to corporations. The BID corporation may also have as its corporate purposes in addition to those set forth in chapter one hundred and eighty, section four, the rights, powers and purposes set forth in section two of this chapter forty O to the extent such rights, powers and immunities are not now provided for in chapter one hundred and eighty or the general law applicable to corporations. The BID corporation may also have as its corporate purposes in addition to those set forth in chapter one hundred and eighty, section four, the rights, powers and purposes set forth in section two of this chapter forty O. The articles of organization or by-laws of the BID corporation may provide for one or more classes of members, voting and non-voting. Notwithstanding anything to the contrary contained in chapter one hundred and eighty, the articles of organization of incorporation or by-laws of the BID corporation shall provide for voting representation of property owners and may provide that the votes of members who are property owners be weighted in proportion to the assessed valuation of properties, provided that in no case shall the total number of votes assigned to any one property owner (calculated to include all properties under the ownership or control of a property owner) exceed thirty-three and one-third percent of the total votes which may be cast.

SECTION 4. Said section one of said chapter forty O, as so appearing, is hereby further amended by striking out the definition:— "BID member", a property owner who has not filed with the city or town clerk of the local municipal governing body an election not to participate in a BID pursuant to section four hereof and a property owner who, having filed such election not to participate, later files a notice electing to participate with the city or town clerk in accordance with section four.

SECTION 5. The definition of "Management entity" in said section one of said chapter forty O, as so appearing, is hereby amended by adding the following sentence:— The improvement

plan may also designate a BID corporation as the management entity in which case no surety bond shall be required.

SECTION 6. The definition of "Property owner", in said section one of said chapter forty O, as so appearing, is hereby amended by adding the following:— and any person or entity which leases all or seventy-five percent more of a property (land and improvements) located within a BID under a lease which has been recorded in the appropriate registry of deeds or land court registry district for the county in which the property is located and which has an unexpired term of seven years or more measured from the filing with the clerk of the municipality of the petition described in section three.

SECTION 7. Section four of said chapter forty O, as so appearing, is hereby amended by striking out the words "or a transfer of BID property", in line 38.

SECTION 8. The sixth paragraph of said section four of said chapter forty O, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:— A property owner having or controlling more than one property within a BID may not elect to participate in the BID as to one or more of the properties and not all of the properties owned or controlled by that property owner but must make an election as to all properties either participating or not participating in the BID.

SECTION 9. Said section four of said chapter forty O, as so appearing, is hereby amended by inserting after the sixth paragraph the following paragraph:—

For such consideration as it may deem appropriate and consistent with the purposes of this chapter forty O, the local municipal governing body at the time of its approval of the improvement plan may license or grant to the management entity the right to undertake or permit commercial activities or other private uses of the streets or other parts of the BID in which the local municipal governing body has a real property interest.

SECTION 10. Section 5 of said chapter forty O, as so appearing, is hereby amended by striking out the word "each", in line 1, and inserting in place thereof the following:— Except in the case of a BID corporation which shall be governed solely by its articles of organization and by-laws and section one a.

SECTION 11. Said section five of said chapter forty O, as so appearing, is hereby amended by inserting after the second sentence the following sentence:— The improvement plan may provide that the votes of electors be weighted in proportion to the assessed valuation of properties, provided that in no case shall the total number of votes assigned to any one elector (calculated to include all properties under the ownership or control of a property owner) exceed thirty-three and one-third percent of the total votes which may be cast.

SECTION 12. Section 8 of said chapter forty O, as so appearing, is hereby amended by striking out the following words, "and mortgages of record prior to the recording of a notice of lien, if notice of the lien is duly recorded by the management entity in the appropriate registry of deeds or land court registry district", in lines 12 to 15, inclusive.

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