

760 CMR 68.00: COMMUNITY INVESTMENT TAX CREDIT PROGRAM

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68.01: Background, Purpose and Applicability

The Community Investment Tax Credit (CITC) was created by St. 2012, c. 238, §§ 29, 35, 36, 82, 83, 95, 97, 97A, and 98; amended by St. 2013, c. 36, §§ 8 through 15, 58, and 82; M.G.L. c. 63, § 38EE; amended by St. 2016, c. 219, §§ 78, 79, 92 and 93; and by St. 2018, c. 99, §§ 11, 12, 12A, 19, 20, and 21; and codified at M.G.L. c. 62, § 6M and M.G.L. c. 63. The Department of Housing and Community Development (DHCD) is the administering agency for this program and is responsible for managing the process by which the tax credits are allocated. DHCD is required by statute to issue regulations to implement the CITC program.

The CITC is designed to enable local residents and stake-holders to work with and through community development corporations (CDCs) 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 Commonwealth. CDCs accomplish this through adoption of community investment plans to undertake community development programs, policies, and activities.

Under the program, CDCs and Community Support Organizations (CSOs) are eligible to apply to DHCD for selection as a Community Partner and receive an allocation of tax credits. First time allocation awards are based on DHCD's determination of the quality of the adopted Community Investment Plan (CIP), in the case of CDCs, or capacity building proposal, in the case of CSOs. Subsequent year allocation awards are based on DHCD's determination that the Community Partner is making adequate progress on its credit utilization and adequate progress implementing its CIP or Work Plan. Receipt of a CITC allocation award enables Community Partners to solicit and receive qualified investments from donor taxpayers and to provide those donor taxpayers with tax credits in exchange for qualified investments made to the Community Partner.

760 CMR 68.00 establishes rules, standards, and procedures for the CITC program. 830 CMR 62.M.1: *Community Investment Tax Credit* explains how to calculate the CITC allowed for qualified investments to a community partner or community partnership fund. The CITC is applicable to tax years beginning, and for qualified investments made, on or after January 1, 2014 through December 31, 2025, or to such time as the Legislature may extend the expiration date of the CITC.

68.02: Definitions

Terms used in M.G.L. c. 62, § 6M, and not otherwise defined in 760 CMR 68.00, shall have the meaning set forth in M.G.L. c. 62, § 6M. Terms used in M.G.L. c. 63, § 38EE, and not otherwise defined in 760 CMR 68.00 or M.G.L. c. 62, § 6M, shall have the meaning set forth in M.G.L. c. 63, § 38EE.

Community Development. A physical development, including affordable housing and commercial real estate development and preservation; community planning pertaining to physical and economic development; economic development, including business assistance and development; and asset development to build the economic capacity, mobility, and stability of low-income persons (e.g., homeownership assistance, financial education, foreclosure prevention, Individual Development Accounts (IDAs) and savings programs, and job training and creation programs).

Rural Area. A municipality with a population of less than 7,500 or a group of municipalities, 75% or more of which have populations of less than 7,500.

68.03: CITC Application Process

- (1) The Department will issue a Notice of Funding Availability (NOFA) containing detailed information concerning the application content and process for CITC allocations to Community Partners, including CDCs and CSOs.
- (2) CDC applications for selection as a Community Partner and/or for an allocation of CITCs must include:
 - (a) a Community Investment Plan (CIP) as defined in M.G.L. c. 62, § 6M(b) and as further defined by the Department in an administrative guidance and/or NOFAs; or
 - (b) evidence of a valid approved CIP and documentation demonstrating adequate progress implementing the CIP.
- (3) CSO applications shall include a capacity building proposal that conforms to the requirements of the applicable NOFA and identifies services to be provided to the CDCs, including a workplan with schedule, evidence of feasibility and effectiveness of proposed capacity-building services, and documentation of the CSO's staffing expertise.

68.04: CITC Amendments and Extensions

Amendments and extensions of CITC allocations must be approved in writing by the Department. The Department may amend a CITC allocation to reduce or increase the amount allocated.

- (1) Application for Department Approval of Amendment. The application for an amendment to a CITC allocation shall be in writing in a format prescribed by the Department.
- (2) Application for Department Approval of Extension. A Community Partner that anticipates that it will not be able to fully utilize its CITC allocation within three years may apply in writing to the Department for a one-year extension, subject to any restrictions or limitations the Department may implement through administrative guidance or contract. The application shall be in writing in a format prescribed by the Department, and must be submitted to the Department not less than 90 days prior to the expiration of the three-year allocation period.

68.05: Reporting and Review

- (1) Each Community Partner shall submit such progress reports as may be required by the Department.
- (2) The Department may revoke a CITC allocation in accordance with M.G.L. c. 62, § 6M(c)(3).

68.06: Records and Documents

- (1) Each Community Partner shall maintain accurate records and accounts of all activities undertaken with a CITC allocation as prescribed by the Department.
- (2) Community Partners shall permit Department staff or auditors engaged by the Department to examine and make copies of all records and accounts relating to the CITC allocation during all normal business hours.

68.07: Waiver

- (1) The Undersecretary of the Department of Housing and Community Development or the Undersecretary's designee may waive, in writing, any provision of 760 CMR 68.00 not required by M.G.L. c. 62, § 6M or M.G.L. c. 63, § 38EE, provided that the Department determines that such waiver is consistent with the purposes set out in the statute and 760 CMR 68.00, and that desired relief is in the public interest.

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(2) Requests for a waiver shall be in writing to the Undersecretary, Department of Housing and Community Development, 100 Cambridge Street, Suite 300, Boston, MA 02114, and shall contain a reliable showing that the waiver meets all the requirements of 760 CMR 68.07(1).

REGULATORY AUTHORITY:

760 CMR 68.00: M.G.L. c. 23B; St. 2012, M.G.L. c. 238, §§ 2 and 81; M.G.L. c. 62, § 6M; M.G.L. c. 63, § 38EE and M.G.L. c. 238, § 35.

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