

# SENATE . . . . . No. 163

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## The Commonwealth of Massachusetts

PRESENTED BY:

***Richard T. Moore***

*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 adoption of the accompanying bill:

An Act to promote economic development in Gateway Towns.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Richard T. Moore*

*James B. Eldridge*

*Michael R. Knapik*

# SENATE . . . . . No. 163

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By Mr. Moore, a petition (accompanied by bill, Senate, No. 163) of Richard T. Moore, James B. Eldridge and Michael R. Knapik for legislation to promote economic development in Gateway Towns. Economic Development and Emerging Technologies.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
\_\_\_\_\_

An Act to promote economic development in Gateway Towns.

*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. Section 3A of chapter 23A, as most recently appearing, is  
2 hereby amended by striking the definition for “Gateway Municipality,” and inserting in place  
3 thereof the following new definition:--

4                   “Gateway Municipality,” a city with a population greater than 35,000 and less than  
5 250,000 or a town or group of towns acting together, with a population greater than 10,000 and  
6 less than 35,000; a median household income below the commonwealth’s average and a rate of  
7 education attainment of a bachelor’s degree or above that is below the commonwealth’s average  
8 designated by the Secretary of Housing and Economic Development pursuant to this chapter.

9                   SECTION 2. Chapter 23A of the general laws, as so appearing, is hereby  
10 further amended by inserting the following new section:--

Section 63. The Secretary of Housing and Economic Development shall designate as Gateway Towns, municipalities which meet the following criteria, no later than January 31 of each year:

(a) population exceeding 10,000 people; or a formally established regional partnership of two or more towns with a combined population exceeding 10,000 people;

(b) median household income below the state average;

(c) per capita income below the state average;

(d) percentage of the city or town's population having attained a bachelor's degree or higher below the state's average, and;

(e) situated along a border with another state with connecting state numbered road access.

Any municipality named a Gateway Town shall remain a Gateway Town for at least three consecutive calendar years.

SECTION 3. Section 6(k)(1)(i) of chapter 62 of the general laws, as so appearing, is hereby amended by striking the words "an amount not to exceed \$50,000,000 per year" and inserting in place thereof the following:--

"an unlimited amount for Gateway Towns as defined in Chapter 23A, and an amount not to exceed \$100,000,000 annually for all other municipalities combined."

SECTION 4. Section 38R(b)(1)(i) of chapter 63 is hereby amended by striking the words “an amount not to exceed \$50,000,000 per year” and inserting in place thereof the following:--

“an unlimited amount for Gateway Towns defined in Chapter 23A, and an amount not to exceed \$100,000,000 annually for all other municipalities combined.”

SECTION 5. Chapter 63 of the general laws, as so appearing, is hereby amended by adding the following new section:--

Section 82. The Department of Revenue shall have the authority to provide a credit for a corporation against its corporate income tax to foster job creation in Gateway Towns in the commonwealth as defined in Chapter 23A of these laws. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer’s agreement with the Department of Revenue. The amount of the credit available for a taxable year cannot exceed either \$2,500 per new employee or ten percent of that corporation’s state income tax.

A taxpayer or potential taxpayer who proposes a project to create new jobs in the commonwealth may apply to the Department of Revenue to enter into an agreement for a tax credit under this section. The Commissioner of the Department of Revenue shall prescribe the form of the application. After receipt of an application, the department may enter into an agreement with the taxpayer for a credit under this section if it determines all of the following:

(1) The taxpayer’s project will create new jobs in this state; (2) the taxpayer’s project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state; and (3) receiving the tax credit is a major factor in the taxpayer’s decision to go forward with the project.

51                   An agreement under this section shall include the following: (1) A detailed  
52 description of the project that is the subject of the agreement; (2) the term of the tax credit, which  
53 shall not exceed ten years, and the first taxable year, or first calendar year that includes a tax  
54 period, for which the credit may be claimed; (3) a requirement that the taxpayer shall maintain  
55 operations at the project location for at least twice the number of years as the term of the tax  
56 credit; (4) a letter of support from the Chairman of Selectmen or Chairman of a Town Council or  
57 Town Manager of the Gateway Town in which the jobs will be created; (5) a specific method for  
58 determining how many new employees are employed during the taxable year or during a  
59 calendar year that includes a tax period; (6) a requirement that the taxpayer annually shall report  
60 to the Commissioner of the Department of Revenue the number of new employees, the new  
61 income tax revenue withheld in connection with the new employees, and any other information  
62 the Commissioner may need; and (7) a provision requiring that the taxpayer shall not relocate  
63 employment positions from elsewhere to this state to the project site that is subject to the  
64 agreement.

65                   If a taxpayer fails to meet or comply with any condition or requirement set  
66 forth in a tax credit agreement, the Department of Revenue may amend the agreement to reduce  
67 the percentage or term of the tax credit. The reduction in percentage or term may take effect in  
68 the immediate taxable year in which the Commissioner of Revenue notifies the taxpayer in  
69 writing of such failure. If the taxpayer fails to annually report any of the information required by  
70 this section within the time required by the Commissioner, the reduction of the percentage or  
71 term shall take effect in the current taxable year. Projects that consist solely of point-of-final-  
72 purchase retail facilities, as defined by the Department of Revenue, are not eligible for a tax  
73 credit under this section. If a project consists of both point-of-final-purchase retail facilities and

74 non-retail facilities, only the portion of the project consisting of the non-retail facilities shall be  
75 considered when computing the amount of the tax credit. If a warehouse facility is part of a  
76 point-of-final-purchase retail facility and supplies only that facility, the warehouse facility is not  
77 eligible for a tax credit. Catalog distribution centers are not considered point-of-final-purchase  
78 retail facilities for the purposes of this division, and are eligible for tax credits under this section.

79 Financial statements and other information submitted to the Department of  
80 Revenue by an applicant or recipient of a tax credit under this section, and any information taken  
81 for any purpose from such statements or information, are not public records subject to the  
82 general laws. However, the Commissioner of Revenue may make use of the statements and  
83 other information for purposes of issuing public reports or in connection with court proceedings  
84 concerning tax credit agreements under this section. The Commissioner shall preserve the  
85 confidentiality of the statement of information.

86 SECTION 6. Chapter 63 of the general laws, as most recently appearing, is  
87 hereby amended by adding at the end thereof the following new section:--

88 Section 38U. (a) For the purposes of this section, unless the context clearly  
89 requires otherwise, the following words shall have the following meanings:-

90 “Commissioner,” the Commissioner of the Department of Revenue;

91 “Department,” the Department of Housing and Economic Development, or its successor  
92 agency;

93 “Gateway Town,” a municipality as defined by Chapter 23A;

“Gateway Town housing project,” a project to build, convert from non-residential uses, or rehabilitate housing in a Gateway Town;

“Secretary,” the Secretary of Housing and Economic Development.

(b) (1) There shall be a tax credit for Gateway Town housing projects. The department may authorize annually under this section the total sum of \$25,000,000 collectively against the Gateway Towns as defined in Chapter 23A.

(2) The department shall allocate the total available Gateway Town housing project tax credit among as many qualified projects as fiscally feasible, with the goal of increasing market rate housing in the Commonwealth’s Gateway Towns.

(c) (1) The Gateway Town housing tax credit shall be taken against the taxes imposed under this chapter, claimed equally for five years, subtracted from the amount of state tax otherwise due for each taxable period and shall not be refundable. The tax credit shall not exceed the amount of state tax owed annually by the claimant.

(2) An owner of a gateway Town housing project shall certify to the commissioner the amount of credit allocated to such owner. The owner of the Gateway Town housing project shall provide to the commissioner appropriate information as needed by the Commissioner.

(d) The owner of a Gateway Town housing project eligible for the Gateway Town housing tax credit shall submit, at the time of filing the project owner’s state tax return, a letter of support from the Chairman of Selectmen or Chairman of Town Council or Town Manager of the Gateway Town in which the project is located, and a copy of the required

statements issued by the department with respect to such Gateway Town housing project. In the case of failure to attach the required statements, a credit under this section shall not be allowed with respect to such qualified Gateway Town housing project for that year until the copy is provided to the commissioner.

(e) The commissioner, through the promulgation of regulations, may require the filing of additional documentation necessary to determine the eligibility or accuracy of a tax credit claimed under the provisions of this section.

(f) (1) All or any portion of tax credits issued in accordance with the provisions of this section may be transferred, sold, or assigned to parties who are eligible under the provisions of paragraph (1) of subsection (c).

(2) An owner or transferee desiring to make a transfer, sale, or assignment as described in paragraph (1) of subsection (f) shall submit to the commissioner a statement which describes the amount of Gateway Town housing tax credit for which such transfer, sale, or assignment of Gateway Town housing tax credit is eligible. The owner shall provide to the commissioner appropriate information so that the housing tax credit can be properly allocated.

(3) In the event that recapture of Gateway Town housing tax credits is required, any statement submitted to the commissioner as provided in paragraph (2) of subsection (f) shall include the proportion of the Gateway Town housing tax credit required to be recaptured, the identity of each transferee subject to recapture and the amount of credit previously transferred to such transferee.



(4) The commissioner, in consultation with the department, shall promulgate regulations necessary for the administration of the provisions of paragraph (f).

(g) The department, in consultation with the commissioner, shall monitor and oversee compliance with the Gateway Town housing tax credit program and may promulgate regulations requiring the filing of additional documentation deemed necessary to determine continuing eligibility for the Gateway Town housing tax credit. The department or the commissioner shall report specific occurrences of noncompliance to appropriate state, federal, and local authorities.

SECTION 7. Chapter 62 of the general laws, as most recently appearing, is hereby amended by adding at the end thereof the following new section:--

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

“Certified housing structure,” a housing structure within a Gateway Town Housing Rehabilitation Zone which meets the rehabilitation requirements set forth by the Department of Housing and Community Development;

“Department,” the department of housing and community development, or its successor agency;

“Gateway Town,” a municipality as defined by Chapter 23A;

“Gateway Town Rehabilitation Zone,” an area of a Gateway City designed pursuant to subsection (b);

“Qualified rehabilitation expenditure,” means any amount that is properly chargeable to the homeowner, is expended in the rehabilitation of a structure that, by the end of the taxable year in which the certified rehabilitation is completed, is certified heritage structure, is expended in compliance with a plan of proposed rehabilitation that has been approved by the department, and is not funded, financed, or otherwise reimbursed by any state or local grant, grant made from the proceeds of tax-exempt bonds issued by the commonwealth, a political subdivision of the commonwealth, or an instrumentality of the commonwealth or of a political subdivision of the commonwealth, state tax credit other than the tax credit provided for under the Act, or other financial assistance from the federal government, the commonwealth, or a political subdivision of the commonwealth;

“Rehabilitation,” means the process of returning a structure to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the structure and its site and environment which make the structure and its site and environment historically, architecturally, or culturally significant;

“Secretary,” means the secretary of housing and economic development;

“Substantial rehabilitation,” means rehabilitation of a structure for which the qualified rehabilitation expenditures, during the 24-month period selected by the taxpayer ending with or within the taxable year, exceed \$5,000;

“Taxpayer,” means resident of the commonwealth that makes qualified rehabilitation expenditures.

(b) There shall be a Gateway Town Homeowner Rehabilitation Tax Credit. The secretary, or her designee, in an agreement with the Gateway City shall establish a Gateway

178 Town Rehabilitation Zone within which homes will be eligible for the Gateway Town  
179 Homeowner Rehabilitation Tax Credit. The secretary shall establish standards to determine an  
180 application process by which a taxpayer may request the Gateway Town Homeowner  
181 Rehabilitation Tax Credit. The application shall include proof of ownership, rehabilitation plans,  
182 estimated rehabilitation expenses, and any other information he needs to be able to award the  
183 Gateway Town Homeowner Rehabilitation Tax Credit.

184                   A taxpayer may file an application with the secretary or his designee. An  
185 incomplete application may not be processed until all required application information has been  
186 received.

187                   The Gateway Town Homeowner Rehabilitation Tax Credit shall be for  
188 individual homeowners who make substantial rehabilitation to their home. The credit shall not  
189 exceed 25% of the home appraised value. The credit shall be awarded annually in an amount not  
190 to exceed \$5,000. If the credit allowable for any taxable year exceeds the annual limit for that  
191 tax year, the taxpayer may carry forward and apply in the next nine subsequent taxable years, the  
192 remaining portion, still subject to the annual limit. The carryover period shall not exceed 9  
193 taxable years after the close of the taxable year during which the Gateway Town Homeowner  
194 Rehabilitation Tax Credit was first taken. The secretary or his designee shall determine whether  
195 the proposed substantial rehabilitation for which a complete application is received meets the  
196 standards in determining the awarding of the tax credit.