

HOUSE No. 2702

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to promote economic development in gateway cities..

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 3A of Chapter 23A is hereby amended by adding the following definition:

2 “Gateway Cities” or “Gateway City”, municipalities or a municipality in the
3 commonwealth designated by the Secretary of Housing and economic Development pursuant to
4 section 3I.

5 Section 2

6 Chapter 23A is hereby amended by adding the following section:

7 The Secretary of Housing and Economic Development shall designate as
8 Gateway Cities municipalities which meet the following criteria, no later than January 31 of each
9 year:

10 (a) population exceeding 35,000 people;

11 (b) median household income below the state average;

12 (c) per capita income below the state average; and

13 (d) percentage of the city or town’s population having attained a
14 bachelor’s degree or higher below the state’s average.

15 Any municipality named a Gateway City shall remain a Gateway City for at
16 least three consecutive calendar years.

17 Section 3

18 Section 6J(b)(1)(i) of Chapter 62 is hereby amended by striking the words “an amount
19 not to exceed \$50,000,000 per year” and inserting in its place the following words: “an
20 unlimited amount for Gateway Cities as defined in Chapter 23A, and an amount not to exceed
21 \$100,000,000 annually for all other municipalities combined.”

22 Section 4

23 Section 38R(b)(1)(i) of Chapter 63 is hereby amended by striking the words “an amount
24 not to exceed \$50,000,000 per year” and inserting in its place the following words: “an
25 unlimited amount for Gateway Cities as defined in Chapter 23A, and an amount not to exceed
26 \$100,000,000 annually for all other municipalities combined.”

27 Section 5

28 Chapter 63 is hereby amended by adding the following:

29 Definitions –

30 “Commissioner” means the Commissioner of the Department of Revenue as described in

31 Section 2 of Chapter 14

32 “Department of Revenue” means the Massachusetts Department of Revenue as described
33 in Section 1 of Chapter 14

34 “Full-time employee” means, for the purposes of this Section only, an individual who is
35 employed for consideration for at least an average of thirty-five hours a week, who renders any
36 other standard of service generally accepted by custom or specified by contract as full-time
37 employment, or who is employed for consideration for such time or renders such service but is
38 on family or medical leave under the federal Family and Medical Leave Act of 1993, Pub. L. No.
39 103-3, 107 Stat. 6, as amended, or on active military duty reserve or Massachusetts national
40 guard service.

41 “New employee” means, for the purposes of this Section only, a full-time employee first
42 employed by a taxpayer in the project that is the subject of the agreement after the taxpayer
43 enters into a tax credit agreement with the tax credit authority under this section

44 The Department of Revenue shall have the authority to provide a credit for a corporation
45 against its corporate income tax to foster job creation in Gateway Cities in the commonwealth as
46 defined in Chapter 23A of these laws. The credit shall be claimed for the taxable years or tax
47 periods specified in the taxpayer’s agreement with the Department of Revenue. The amount of
48 the credit available for a taxable year cannot exceed either \$2500 per new employee or ten
49 percent (10%) of that corporation’s state income tax

50 A taxpayer or potential taxpayer who proposes a project to create new jobs in the
51 commonwealth may apply to the Department of Revenue to enter into an agreement for a tax
52 credit under this section. The Commissioner of the Department of Revenue shall prescribe the

53 form of the application. After receipt of an application, the Department may enter into an
54 agreement with the taxpayer for a credit under this section if it determines all of the following:

55 (1) The taxpayer's project will create new jobs in this state;

56 (2) The taxpayer's project is economically sound and will benefit the people of this state
57 by increasing opportunities for employment and strengthening the economy of this state; and

58 (3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with
59 the project.

60 An agreement under this section shall include all of the following:

61 (1) A detailed description of the project that is the subject of the agreement;

62 (2) The term of the tax credit, which shall not exceed ten years, and the first taxable year,
63 or first calendar year that includes a tax period, for which the credit may be claimed;

64 (3) A requirement that the taxpayer shall maintain operations at the project location for at
65 least twice the number of years as the term of the tax credit;

66 (4) A letter of support from the Mayor or Town Manager of the Gateway City in which
67 the jobs will be created;

68 (5) A specific method for determining how many new employees are employed during a
69 taxable year or during a calendar year that includes a tax period;

70 (6) A requirement that the taxpayer annually shall report to the Commissioner of the
71 Department of Revenue the number of new employees, the new income tax revenue withheld in
72 connection with the new employees, and any other information the Commissioner may need; and

73 (7) A provision requiring that the taxpayer shall not relocate employment positions from
74 elsewhere in this state to the project site that is the subject of the agreement;

75 If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax
76 credit agreement, the Department of Revenue may amend the agreement to reduce the percentage
77 or term of the tax credit. The reduction of the percentage or term may take effect in the
78 immediate taxable year in which the Commissioner of Revenue notifies the taxpayer in writing
79 of such failure. If the taxpayer fails to annually report any of the information required by this
80 section within the time required by the Commissioner, the reduction of the percentage or term
81 shall take effect in the current taxable year.

82 Projects that consist solely of point-of-final-purchase retail facilities, as defined by the
83 Department of Revenue, are not eligible for a tax credit under this section. If a project consists of
84 both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project
85 consisting of the nonretail facilities is eligible for a tax credit and only the new income tax
86 revenue from new employees of the nonretail facilities shall be considered when computing the
87 amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail facility
88 and supplies only that facility, the warehouse facility is not eligible for a tax credit. Catalog
89 distribution centers are not considered point-of-final-purchase retail facilities for the purposes of
90 this division, and are eligible for tax credits under this section.

91 Financial statements and other information submitted to the Department of Revenue by
92 an applicant or recipient of a tax credit under this section, and any information taken for any
93 purpose from such statements or information, are not public records subject to Massachusetts
94 General Laws. However, the Commissioner of Revenue may make use of the statements and

95 other information for purposes of issuing public reports or in connection with court proceedings
96 concerning tax credit agreements under this section. The Commissioner shall preserve the
97 confidentiality of the statement or information.

98 Section 6

99 Chapter 63 is hereby amended by adding the following section:

100 Section 38U

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

103 “Commissioner”, the Commissioner of the Department of Revenue

104 "Department", the Department of Housing and Community Development, or its successor
105 agency.

106 “Gateway City”, a municipality as defined by Chapter 23A

107 "Gateway City housing project", a project to build, convert from non-residential uses or
108 rehabilitate housing in a Gateway City.

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

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

113 (2) The department shall allocate the total available Gateway City housing project tax
114 credit among as many qualified projects as fiscally feasible, with the goal of increasing market
115 rate housing the commonwealth's Gateway Cities.

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

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

123 (d) The owner of a Gateway City housing project eligible for the Gateway City housing
124 tax credit shall submit, at the time of filing the project owner's state tax return, a letter of support
125 from the Mayor or Town Manager of the Gateway City in which the project is located, and a
126 copy of the required statements issued by the department with respect to such Gateway City
127 housing project. In the case of failure to attach the required statements, a credit under this section
128 shall not be allowed with respect to such qualified Gateway City housing project for that year
129 until the copy is provided to the Commissioner.

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

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

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

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

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

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

153 Section 7

154 Chapter 62 is hereby amended by adding the following section:

155 Definitions

156 For the purposes of this section, unless the context clearly requires otherwise, the
157 following words shall have the following meanings:-

158 "Certified housing structure", a housing structure within a Gateway City Housing
159 Rehabilitation Zone which meets the rehabilitation requirements set forth by the Department of
160 Housing and Community Development.

161 "Department", the department of housing and community development, or its successor
162 agency.

163 "Gateway City", a municipality as defined by Chapter 23A

164 "Gateway City Rehabilitation Zone", an area of a Gateway City designed pursuant to
165 Subsection (b)

166 "Qualified rehabilitation expenditure" means any amount that is properly chargeable to
167 the homeowner, is expended in the rehabilitation of a structure that, by the end of the taxable
168 year in which the certified rehabilitation is completed, is a certified heritage structure, is
169 expended in compliance with a plan of proposed rehabilitation that has been approved by the
170 Department, and is not funded, financed, or otherwise reimbursed by any state or local grant,
171 grant made from the proceeds of tax-exempt bonds issued by the Commonwealth, a political
172 subdivision of the Commonwealth, or an instrumentality of the Commonwealth or of a political
173 subdivision of the Commonwealth, State tax credit other than the tax credit provided for under

174 the Act, or other financial assistance from the Federal government, the Commonwealth, or a
175 political subdivision of the Commonwealth.

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

180 "Secretary" means the Secretary of Housing and Economic Development.

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

184 "Taxpayer" means resident of the Commonwealth that makes qualified rehabilitation
185 expenditures.

186 There shall be a Gateway City Homeowner Rehabilitation Tax Credit. The Secretary, or
187 her designee, in an agreement with the Gateway City shall establish a Gateway City
188 Rehabilitation Zone within which homes will be eligible for the Gateway City Homeowner
189 Rehabilitation Tax Credit. The Secretary shall establish standards to determine an application
190 process by which a taxpayer may request the Gateway City Homeowner Rehabilitation Tax
191 Credit. The application shall include proof of ownership, rehabilitation plans, estimated
192 rehabilitation expenses, and any other information he needs to be able to award the Gateway City
193 Homeowner Rehabilitation Tax Credit.

194 A taxpayer may file an application with the Secretary or his designee. An incomplete
195 application may not be processed until all required application information has been received.

196 The Gateway City Homeowner Rehabilitation Tax Credit shall be for individual
197 homeowners who make substantial rehabilitation to their home. The credit shall not exceed 25%
198 of the home appraised value. The credit shall be awarded annually in an amount not to exceed
199 \$5,000. If the credit allowable for any taxable year exceeds the annual limit for that tax year, the
200 taxpayer may carry forward and apply in the next nine subsequent taxable years, the remaining
201 portion, still subject to the annual limit. The carryover period shall not exceed 9 taxable years
202 after the close of the taxable year during which the Gateway City Homeowner Rehabilitation Tax
203 Credit was first taken.

204 The Secretary or her designee shall determine whether the proposed substantial
205 rehabilitation for which a complete application is received meets the Standards in determining
206 awarding of the tax credit.