

SENATE No. 1239

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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, as appearing in the 2004 Official Edition,
2 is hereby amended by inserting after Section 6I the following new section:—

3 Section 6L. Community Investment Tax Credit. (a) For purposes of this section, the
4 following terms shall have the following meanings:— “Community Investment Activities,” those
5 activities carried out

6 in furtherance of community preservation and revitalization in an low- or moderate-
7 community to improve the housing and economic conditions of the community; and shall
8 include, without limitation, initiatives, projects, programs, and plans to:—

9 i.) foster the preservation, rehabilitation and construction of housing affordable to low- or
10 moderate-households, including planning, outreach and design of affordable housing, home
11 improvement, lead abatement, pre-purchase and post-purchase home buyer counseling and
12 related activities;

13 ii.) increase the business activity within the neighborhood including the provision of
14 assistance to small business entities;

15 iii.) increase the income and labor force participation of low- or moderate-community
16 residents, including provision of education and training programs;

17 iv.) increase the financial assets of LMI households through financial literacy programs,
18 Individual Development Accounts, and other programs;

19 v.) undertake community based planning activities that help low and moderate income
20 communities develop strategies for community improvement;

21 vi.) combat crime and increase public safety;

22 vii.) increase, preserve, and maintain open space, including the purchase of land for open
23 or conservation space;

24 viii.) undertake measures to involve youth in job training, education, or community
25 development activities.

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

31 “Community Partner” is defined as a community development corporation. The
32 organization must be a non profit organization organized under Chapter 180 of the General Laws
33 and include the following:

34 The organization must be designated as a 501c3 tax-exempt organization by the U.S.
35 Internal Revenue Service.

36 The organization must focus a substantial majority of its efforts on serving one or more
37 specific neighborhoods or municipalities or serving a region of the Commonwealth or serving a
38 constituency that is economically disadvantaged.

39 A primary purpose of the organization is to engage local residents and businesses to work
40 together to undertake community development programs, projects and activities which develop
41 and improve urban, rural and suburban communities in sustainable ways that create and expand
42 economic opportunities for low and moderate income people.

43 The organization must be able to demonstrate to the Department that the organization's
44 constituency, including low and moderate income people, is meaningfully represented on the
45 board of directors of the organization. In making such determination, the Department shall
46 consider the following criteria (a) the percentage, if any, of the board is elected by the general
47 membership; (b) the percentage of the board members are residents of the service area; (c) the
48 percentage of board members that are people of low or moderate income, (d) the racial and
49 ethnic composition of the board in comparison to the racial and ethnic composition of the
50 community being served, (e) other mechanisms, including committees, membership meetings,
51 and others that the organization uses to ensure that their constituency has a meaningful role in the
52 governance and direction of the organization, and (f) other criteria as determined by the
53 Department.

54 “Community Partnership Fund,” a fund administered by the department of housing and
55 community development to receive qualified investments from taxpayers for the purpose of
56 allocating such investments to community partners.

57 “Low and moderate income community,” an economic target area as defined pursuant to
58 Section 3A of Chapter 23A of the General Laws, an enhanced economic enterprise community
59 or empowerment zone as designated by the United States Department of Housing and Urban
60 Development, or one or more contiguous census tracts as designated by a city or town, in which
61 either:—

62 (1) a majority of the households are low and moderate income households as defined
63 herein; or (2) the unemployment rate is at least 25 per cent higher than the annual statewide
64 average unemployment rate where such statewide unemployment rate is less than or equal to 5
65 per cent; provided that, if the annual statewide average unemployment rate is greater than 5 per
66 cent, the community’s unemployment rate need only be 10 per cent higher to qualify for a
67 community investment tax credit.

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

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

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

76 (1) The commissioner or revenue (hereinafter, “the commissioner”), in consultation with
77 the department of housing and community development (hereinafter, “the department”), shall
78 authorize annually, for the 5 year period beginning January 1, 2008 and ending December 31,
79 2012, under this section an amount not to exceed \$5,000,000 per year. The department of
80 housing and community development shall determine the criteria for eligibility for the credit,
81 such criteria to be set forth in regulations promulgated under this section.

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

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

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

93 (2) No community partner shall receive more than two hundred thousand dollars
94 (\$200,000) worth of contributions in qualified investments in any one tax year.

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

98 (d) A taxpayer that makes a qualified investment to a community partner or to the
99 community partnership fund shall be allowed a credit, to be computed as hereinafter provided,
100 against the tax imposed by this chapter. The credit shall be equal to 80 per cent of the total
101 qualified investment made by the taxpayer for each community investment activity, in which the
102 taxpayer invests, and which has received certification from the department pursuant to this
103 section. In order to receive a credit, a taxpayer must receive a certification that the taxpayer made
104 a qualified investment to the community partnership fund or to a community partner in the tax
105 year. The taxpayer may make a qualified investment to a community partner for a specified and
106 certified community investment activity or for those taxpayers who have not identified a
107 particular community investment activity through a community partner, a taxpayer may make a
108 qualified investment to the community partnership fund for allocation by the department. The
109 department shall issue a certification to the taxpayer after the taxpayer makes a qualified
110 investment to the fund or to a community partner. Such certification shall be acceptable as proof
111 that the expenditures related to such investment qualify as qualified investment for purposes of
112 the credit allowed under this section.

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

118 (f) Community partnership tax credits allowed to a partnership, or a limited liability
119 company taxed as a partnership shall be passed through to the persons designated as partners,
120 members or owners, respectively, pro rata or pursuant to an executed agreement among the

121 persons designated as partners, members or owners documenting an alternative distribution
122 method without regard to their sharing of other tax or economic attributes of the entity.

123 (g) Taxpayers eligible for the community investment tax credit may, with prior notice to
124 and in accordance with regulations adopted by the commissioner, transfer the credits, in whole or
125 in part, to any

126 individual or entity, and the transferee shall be entitled to apply the credits against the tax
127 with the same effect as if the transferee had incurred the qualified rehabilitation expenditures
128 itself. The transferee shall use the credit in the year it is transferred. If the credit allowable for
129 any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry
130 forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of
131 those credits which exceed the tax for the taxable year; but, the carryover period shall not exceed
132 5 taxable years after the close of the taxable year during which the qualified historic structure
133 received final certification and was placed in service as provided for in this section.

134 (h) The commissioner, in consultation with the department, shall prescribe regulations
135 necessary to carry out this section.

136 SECTION 2. Chapter 63 of the General Laws, as so appearing, is hereby amended by
137 inserting after Section 38T the following new section:—

138 Section 38U. Community Investment Tax Credit. (a) For purposes of this section, the
139 following terms shall have the following meanings:—

140 “Community Investment Activities,” those activities carried out in furtherance of
141 community preservation and revitalization in an low or moderate-community to improve the
142 housing and economic conditions

143 of the community; and shall include, without limitation, initiatives, projects, programs,
144 and plans to:—

145 i.) foster the preservation, rehabilitation and construction of housing affordable to low- or
146 moderate-households, including planning, outreach and design of affordable housing, home
147 improvement,

148 lead abatement, pre-purchase and post-purchase home buyer counseling and related
149 activities;

150 ii.) increase the business activity within the neighborhood including the provision of
151 assistance to small business entities;

152 iii.) increase the income and labor force participation of low- or moderate-community
153 residents, including provision of education and training programs;

154 iv.) increase the financial assets of LMI households through financial literacy programs,
155 Individual Development Accounts, and other programs;

156 v.) undertake community based planning activities that help low and moderate income
157 communities develop strategies for community improvement; combat crime and increase public
158 safety;

159 vi.) increase, preserve, and maintain open space, including the purchase of land for open
160 or conservation space;

161 vii.) undertake measures to involve youth in job training, education, or community
162 development activities.

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

168 “Community Partner” is defined as a community development corporation. The
169 organization must be a non profit organization organized under Chapter 180 of the General Laws
170 and include the following:

171 The organization must be designated as a 501c3 tax-exempt organization by the U.S.
172 Internal Revenue Service.

173 The organization must focus a substantial majority of its efforts on serving one or more
174 specific neighborhoods or municipalities or serving a region of the Commonwealth or serving a
175 constituency that is economically disadvantaged.

176 A primary purpose of the organization is to engage local residents and businesses to work
177 together to undertake community development programs, projects and activities which develop
178 and improve urban, rural and suburban communities in sustainable ways that create and expand
179 economic opportunities for low and moderate income people.

180 The organization must be able to demonstrate to the Department that the organization's
181 constituency, including low and moderate income people, is meaningfully represented on the

182 board of directors of the organization. In making such determination, the Department shall
183 consider the following criteria (a) the percentage, if any, of the board is elected by the general
184 membership; (b) the percentage of the board members are residents of the service area; (c) the
185 percentage of board members that are people of low or moderate income, (d) the racial and
186 ethnic composition of the board in comparison to the racial and ethnic composition of the
187 community being served, (e) other mechanisms, including committees, membership meetings,
188 and others that the organization uses to ensure that their constituency has a meaningful role in the
189 governance and direction of the organization, and (f) other criteria as determined by the
190 Department.

191 “Community Partnership Fund,” a fund administered by the department of housing and
192 community development to receive qualified investments from a corporation, for the purpose of
193 allocating such investments to community partners.

194 “Low and moderate income community,” an economic target area as defined pursuant to
195 Section 3A of Chapter 23A of the General Laws, an enhanced economic enterprise community
196 or empowerment

197 zone as designated by the United States Department of Housing and Urban Development,
198 or one or more contiguous census tracts as designated by a city or town, in which either: (1) a
199 majority of the households are low and moderate income households as defined herein; or (2) the
200 unemployment rate is at least 25 per cent higher than the annual statewide average
201 unemployment rate where such statewide unemployment rate is less than or equal to 5 per cent;
202 provided that, if the annual statewide average unemployment rate is greater than 5 per cent, the

203 community's unemployment rate need only be 10 per cent higher to qualify for a community
204 investment tax credit.

205 "Low and moderate income households," households which have incomes that do not
206 exceed 80 per cent of the median income for the area, with adjustments made for smaller and
207 larger families, as such median shall be determined from time to time by the Secretary of
208 Housing and Urban Development pursuant to 42 USC Section 1437(a)(B)(2).

209 "Qualified investment," a cash contribution made to a community partner or to the
210 community partnership fund for a community investment activity, as defined by this section.

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

213 (1) The commissioner or revenue (hereinafter, "the commissioner"), in consultation with
214 the department of housing and community development (hereinafter, "the department"), shall
215 authorize annually, for the 5 year period beginning January 1, 2008 and ending December 31,
216 2012, under this section an amount not to exceed \$5,000,000 per year. The department of
217 housing and community development shall determine the criteria for eligibility for the credit,
218 such criteria to be set forth in regulations promulgated under this section.

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

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

227 (1) Before receiving a qualified investment from a corporation subject to tax under this
228 chapter or from the department, the community partner shall first receive certification from the
229 department that an activity is an eligible community investment activity, as prescribed by this
230 section. A certification shall be allowed for multiyear community investment activities.

231 (2) No community partner shall receive more than two hundred thousand dollars
232 (\$200,000) worth of contributions in qualified investments in any one tax year.

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

236 (d) A corporation subject to tax under this chapter that makes a qualified investment to a
237 community partner or to the community partnership fund shall be allowed a credit, to be
238 computed as hereinafter

239 provided, against the tax imposed by this chapter. The credit shall be equal to 80 per cent
240 of the total qualified investment made by the corporation for each community investment
241 activity, in which the corporation invests, and which has received certification from the
242 department pursuant to this section.

243 In order to receive a credit, a corporation must receive a certification that the corporation
244 made a qualified investment to the community partnership fund or to a community partner in the
245 tax year.

246 The corporation may make a qualified investment to a community partner for a specified
247 and certified community investment activity or for those corporations who have not identified a
248 particular community

249 investment activity through a community partner, a corporation may make a qualified
250 investment to the community partnership fund for allocation by the department. The department
251 shall issue a certification to the corporation after the corporation makes a qualified investment to
252 the fund or to a community partner.

253 Such certification shall be acceptable as proof that the expenditures related to such
254 investment qualify as qualified investment for purposes of the credit allowed under this section.

255 (e) The credit allowable under this section shall be allowed for the taxable year in which
256 a qualified investment is made. A corporation allowed a credit under this section for a taxable
257 year may carry over

258 and apply to the tax imposed by this chapter in any of the succeeding 5 taxable years, the
259 portion, as reduced from year to year, of those credits which exceed the tax for the taxable year.

260 (f) Community partnership tax credits allowed to a partnership, or a limited liability
261 company taxed as a partnership shall be passed through to the persons designated as partners,
262 members or owners, respectively, pro rata or pursuant to an executed agreement among the

263 persons designated as partners, members or owners documenting an alternative distribution
264 method without regard to their sharing of

265 other tax or economic attributes of the entity.

266 (g) Corporations eligible for the community investment tax credit may, with prior notice
267 to and in accordance with regulations adopted by the commissioner, transfer the credits, in whole
268 or in part, to any

269 individual or entity, and the transferee shall be entitled to apply the credits against the tax
270 with the same effect as if the transferee had incurred the qualified rehabilitation expenditures
271 itself. The transferee shall use the credit in the year it is transferred. If the credit allowable for
272 any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry
273 forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of
274 those credits which exceed the tax for the taxable year; but, the carryover period shall not exceed
275 5 taxable years after the close of the taxable year during which the qualified historic structure
276 received final certification and was placed in service as provided for in this section.

277 (h) The commissioner, in consultation with the department, shall prescribe regulations
278 necessary to carry out this section.