

HOUSE No. 3707

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

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. The purpose of this act is to enable local residents and stakeholders to work
2 with and through community development corporations to partner with nonprofit, public and
3 private entities to improve economic opportunities for low and moderate income households and
4 other residents in urban, rural and suburban communities across the state.

5 SECTION 2. Chapter 62 of the General Laws, as appearing in the 2004 Official Edition,
6 is hereby amended by inserting after Section 6L the following new section:—

7 Section 6M. Community Investment Tax Credit.

8 (a) Definitions: For purposes of this section, the following terms shall, unless the context
9 clearly requires otherwise, have the following meanings:—

10 “Commissioner”, the commissioner of revenue.

11 “Community development corporation”, a corporation certified as a community
12 development corporation by the department consistent with chapter 40H of the General Laws.

13 “Community investment plan”, an organizational business plan developed by a certified
14 community development corporation that details its goals, outcomes, strategies, programs and
15 activities for a three to five year period and its financial plans for supporting its strategy. The
16 plan must be designed to engage local residents and businesses to work together to undertake
17 community development programs, projects and activities which develop and improve urban,
18 rural and/or suburban communities in sustainable ways that create and expand economic
19 opportunities for low and moderate income households. The specific format and content of a
20 community investment plan may be adapted to the particular organization and community, but
21 must include the following elements:

22 i. A description of the community to be served by the organization, including the
23 neighborhoods, towns, and/or cities to be served as well as any particular constituencies that the
24 organization is dedicated to serving;

25 ii. A description of how community residents and stakeholders were engaged in the
26 development of the plan and their role in monitoring and implementing the organization’s
27 activities during the time period of the plan;

28 iii. The goals sought to be achieved during the time period of the plan, including how low
29 and moderate income households or low and moderate income communities will benefit and how
30 the entire community will benefit;

31 iv. The activities to be pursued to achieve those goals;

32 v. The manner in which success will be measured and evaluated;

33 vi. A description of the collaborative efforts that will support implementation of the plan,
34 including collaborative efforts with nonprofit, for-profit and/or public entities;

35 vii. A description of how the different activities within the plan fit together and how the
36 entire plan fits into a larger strategy or vision for the community;

37 viii. The financial strategy to be deployed to support these activities; and

38 ix. Other information regarding the history and track record of the organization as
39 determined by the department.

40 “Community investment tax credit”, the tax credit described in subsection (c) below.

41 “Community investment tax credit allocation”, an award provided by the department
42 through a competitive process that enables the recipient of the allocation to solicit and receive
43 qualified investments from taxpayers and to provide those taxpayers with a community
44 investment tax credit.

45 “Community partner”, a community development corporation or a community support
46 organization selected by the department through a competitive process to receive a community
47 investment tax credit allocation.

48 “Community partnership fund”, a fund administered by a nonprofit organization selected
49 by the department to receive qualified investments from taxpayers for the purpose of allocating
50 such investments to community partners.

51 “Community support organization”, any nonprofit organization which is not a community
52 development corporation but has a focus on and track record of providing capacity building
53 services to community development corporations.

54 “Department”, the department of housing and community development.

55 “Gateway municipality”, a gateway municipality as defined in section 3A of chapter 23A
56 of the General Laws.

57 “Low and moderate income community”, an economic target area as defined in section
58 3A of chapter 23A of the General Laws, an enhanced economic enterprise community or
59 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

64 (2) the unemployment rate is at least 25 percent higher than the annual statewide average
65 unemployment rate at a time when the statewide unemployment rate is less than or equal to five
66 percent or the unemployment rate is at least 10 percent higher than the annual statewide average
67 unemployment rate at a time when the statewide unemployment rate is greater than 5 percent.

68 “Low and moderate income households”, households which have incomes that do not
69 exceed 80 percent 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 U.S.C. 1437(a)(B)(2) or any successor
72 legislation and the regulations promulgated thereunder.

73 “Qualified investment”, a cash contribution made to a specific community partner to
74 support the implementation of its community investment plan or to a community partnership
75 fund, as defined by this section.

76 “Taxpayer”, any person, firm, or other entity subject to the personal income tax under the
77 provisions of chapter 62 of the General Laws, or any corporation subject to an excise under the
78 provisions of chapter 63 of the General Laws.

79 (b) The department shall promulgate regulations concerning the process by which
80 community development corporations apply to become a community partner and receive
81 qualified investments, provided that:

82 (1) The department shall design a competitive process to review applications by
83 community development corporations and community support organizations. Community
84 support organizations may qualify, provided that no more than two such organizations may, at
85 any given time, be awarded community investment tax credits.

86 (2) The selection process shall favor community development corporations with the
87 highest quality community investment plans and strong track records and shall strive to ensure
88 that all regions of the Commonwealth are able to fairly compete for allocations, including
89 gateway municipalities, rural areas and suburban areas. At least 30 percent of the community
90 partners shall be located in or serving gateway municipalities and at least 20 percent of the
91 community partners shall be located in or serving rural areas, as defined by the department,
92 unless the department finds that there are not a sufficient number of qualified applications from
93 those areas.

94 (3) The department shall implement at least one such allocation process each year. Each
95 tax credit allocation shall be valid for a period of up to three years, contingent upon the
96 community partner satisfactorily meeting the reporting requirements of the department.
97 Community partners who have not fully utilized their community investment tax credit
98 allocations within three years may apply to the department for a one year extension. Community
99 investment tax credit allocations may be revoked after two years from the date of the award by
100 the department if (i) the community partner has been unable to secure donation commitments for
101 at least 50 percent of total allocation by that time, (ii) if the community partner is found to be in
102 noncompliance with this statute or the department’s regulations promulgated hereunder, (iii) if
103 the community partner is determined by the department to be making inadequate progress on its
104 community investment plan, or (iv) for other good cause as determined by the department.

105 (4) No community partner shall receive a community investment tax credit allocation of
106 less than \$50,000 or more than \$150,000 in any one fiscal year. No community partner may
107 receive a subsequent allocation unless it has utilized at least 95% of the three-year total of any
108 prior allocation.

109 (5) A community partner may receive qualified investments directly from one or more
110 taxpayers or it may transfer some or all of its community investment tax credit allocation to a
111 community partnership fund and receive qualified investments from that fund.

112 (6) Before receiving a qualified investment from a taxpayer or from a community
113 partnership fund, the community partner shall first receive certification from the department that
114 it has been awarded a community investment tax credit allocation.

115 (7) The department may authorize up to two nonprofit organizations to operate
116 community investment partnership funds. In selecting one or two nonprofit organizations to
117 serve in this function the department shall seek organizations which demonstrate that they have
118 the capacity to solicit, administer and re-grant qualified investments and can advance the
119 purposes of this statute.

120 (8) The department, in consultation with the commissioner shall prescribe regulations
121 necessary to carry out this subsection (b). Such regulations shall include requirements for annual
122 reports from community partners and community partnership funds regarding outcomes achieved
123 during the prior year.

124 (c) There is hereby established a Massachusetts community investment tax credit.

125 (1) The commissioner, in consultation with the department, shall authorize annually
126 beginning January 1, 2013 under this section an amount not to exceed \$2,000,000 in 2013,
127 \$4,000,000 in 2014, and \$6,000,000 in 2015 and each year thereafter for the community
128 investment tax credit.

129 (2) The total of all tax credits available to a taxpayer pursuant to this section shall not
130 exceed \$1,000,000 in any one tax year and no tax credit shall be allowed to any taxpayer for
131 participating in a qualified community investment activity of less than \$1,000.

132 (3) A taxpayer that makes a qualified investment shall be allowed a credit, to be
133 computed as hereinafter provided, against taxes owed to the Commonwealth under chapter 62 or
134 chapter 63 of the General Laws or other applicable law. The credit shall be equal to 50 percent of
135 the total qualified investments made by the taxpayer, subject to the cap described in subsection
136 (c)(2) above. The department shall issue a certification to the taxpayer after the taxpayer makes a

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

140 (4) The credit allowable under this section shall be allowed for the taxable year in which
141 a qualified investment is made. A taxpayer allowed a credit under this section for a taxable year
142 may carry over and apply against such taxpayer's tax liability in any of the succeeding five
143 taxable years, the portion, as reduced from year to year, of those credits which exceed the tax for
144 the taxable year.

145 (5) Community investment tax credits allowed to a partnership or a limited liability
146 company taxed as a partnership shall be passed through to the persons designated as partners,
147 members or owners, respectively, pro rata or pursuant to an executed agreement among the
148 persons designated as partners, members or owners documenting an alternative distribution
149 method without regard to their sharing of other tax or economic attributes of the entity.

150 (6) Taxpayers eligible for the community investment tax credit may, with prior notice to
151 and in accordance with regulations adopted by the commissioner, transfer the credits, in whole or
152 in part, to any taxpayer, and the transferee shall be entitled to apply the credits against the tax
153 with the same effect as if the transferee had made the qualified investment itself. The transferee
154 shall use the credit in the year it is transferred. If the credit allowable for any taxable year
155 exceeds the transferee's tax liability for that tax year, the transferee may carry forward and apply
156 in any subsequent taxable year, the portion, as reduced from year to year, of those credits which
157 exceed the tax for the taxable year; but, the carryover period shall not exceed five taxable years

158 after the close of the taxable year during which the qualified investment was made as provided
159 for in this section.

160 (7) The commissioner, in consultation with the department, shall prescribe regulations
161 necessary to carry out this subsection (c).