

HOUSE No. 765**The Commonwealth of Massachusetts**

PRESENTED BY:

Stephen Kulik

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 sustain community preservation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Stephen Kulik</i>	<i>1st Franklin</i>	<i>6/2/2011</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/19/2011</i>
<i>Garrett J. Bradley</i>	<i>3rd Plymouth</i>	<i>1/26/2011</i>
<i>William N. Brownsberger</i>		<i>1/20/2011</i>
<i>Linda Campbell</i>	<i>15th Essex</i>	<i>1/24/2011</i>
<i>Cynthia S. Creem</i>		<i>1/20/2011</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>	<i>1/19/2011</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>1/20/2011</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>1/21/2011</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	<i>1/19/2011</i>
<i>Peter J. Koutoujian</i>	<i>10th Middlesex</i>	<i>1/21/2011</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>1/24/2011</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/22/2011</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	<i>1/25/2011</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>1/20/2011</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/25/2011</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>1/20/2011</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>	<i>1/19/2011</i>

<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>	<i>1/26/2011</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>	<i>1/28/2011</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/26/2011</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/26/2011</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>	<i>1/27/2011</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/27/2011</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/28/2011</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>	<i>1/26/2011</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/27/2011</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>1/28/2011</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>	<i>2/3/2011</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>2/3/2011</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>2/4/2011</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>	<i>1/28/2011</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>2/3/2011</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>2/1/2011</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>	<i>2/3/2011</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>	<i>2/3/2011</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>	<i>2/3/2011</i>
<i>Stephen R. Canessa</i>	<i>12th Bristol</i>	<i>2/2/2011</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>	<i>2/3/2011</i>
<i>Harriette L. Chandler</i>		<i>1/31/2011</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>	<i>2/2/2011</i>
<i>Geraldine M. Creedon</i>	<i>11th Plymouth</i>	<i>2/3/2011</i>
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>	<i>2/3/2011</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>2/4/2011</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>2/3/2011</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>1/31/2011</i>
<i>James B. Eldridge</i>		<i>2/2/2011</i>
<i>Susan C. Fargo</i>		<i>2/1/2011</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>2/4/2011</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>	<i>2/3/2011</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>	<i>2/3/2011</i>
<i>Barry R. Finegold</i>		<i>2/4/2011</i>
<i>Michael J. Finn</i>	<i>6th Hampden</i>	<i>2/1/2011</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>	<i>1/31/2011</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>	<i>2/3/2011</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2011</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>2/4/2011</i>

<i>Anne M. Gobi</i>	<i>5th Worcester</i>	<i>2/2/2011</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>2/3/2011</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>2/3/2011</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>2/3/2011</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>1/31/2011</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>2/3/2011</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>2/3/2011</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>2/2/2011</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>2/4/2011</i>
<i>Thomas P. Kennedy</i>		<i>2/4/2011</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>	<i>2/4/2011</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/3/2011</i>
<i>Christopher M. Markey</i>	<i>9th Bristol</i>	<i>2/3/2011</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/4/2011</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>	<i>2/4/2011</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>2/3/2011</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>	<i>2/4/2011</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/1/2011</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>2/2/2011</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>2/3/2011</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/4/2011</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>	<i>2/3/2011</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>1/31/2011</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>2/3/2011</i>
<i>Christopher N. Speranzo</i>	<i>3rd Berkshire</i>	<i>2/3/2011</i>
<i>Joyce A. Spiliotis</i>	<i>12th Essex</i>	<i>1/31/2011</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>	<i>2/4/2011</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>	<i>2/3/2011</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>	<i>2/2/2011</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/3/2011</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>	<i>2/1/2011</i>
<i>Steven M. Walsh</i>	<i>11th Essex</i>	<i>2/1/2011</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>	<i>2/1/2011</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>	<i>2/3/2011</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>	<i>2/4/2011</i>
<i>John D. Keenan</i>	<i>7th Essex</i>	<i>2/4/2011</i>

HOUSE No. 765

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 765) of Stephen Kulik and others for legislation to sustain community preservation. Community Development and Small Businesses.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

AN ACT to sustain community preservation.

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 2 of chapter 44B, as appearing in the 2008 Official Edition, is
2 hereby amended by removing the definition of “Rehabilitation” and “Preservation” and “Historic
3 Resources” and inserting the following paragraphs:

4 "Rehabilitation," capital improvements or the making of extraordinary repairs to historic
5 resources, open spaces, lands for recreational use and community housing, for the purpose of
6 making such historic resources, open spaces, lands for recreational use and community housing
7 functional for their intended use, including but not limited to improvements to comply with the
8 Americans with Disabilities Act and other federal, state or local building or access codes. With
9 respect to historic resources, rehabilitation shall comply with the Standards for Rehabilitation
10 stated in the United States Secretary of the Interior's Standards for the Treatment of Historic
11 Properties codified in 36 C.F.R. Part 68. With respect to land for recreational use, rehabilitation
12 shall include the replacement of playground equipment and other capital improvements to the

land or the facilities thereon which make the land or the related facilities more functional for the related recreational use.

“Preservation,” protection of personal or real property from injury, harm or destruction.

“Historic Resources,” a building, structure, vessel, real property, document or artifact that is listed on the state register of historic places or has been determined by the local historic preservation commission to be significant in the history, archaeology, architecture or culture of a city or town.

"Support of Community housing", shall include, but not be limited to, programs that provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing, or to housing, for the purpose of making housing affordable.

“Maintenance”, incidental repairs which neither materially add to the value of the property nor appreciably prolong the property’s life, but keeps the property in a condition of fitness, efficiency, and/or readiness.

“Capital Improvement”, reconstruction or alteration to, or of, real property that: (1) materially adds to the value of the real property, or appreciably prolongs the useful life of the real property; (2) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself; and (3) is intended to become a permanent installation or is intended to remain there for an indefinite period of time.

SECTION 2. Section 3 of chapter 44B is hereby amended by adding after paragraph (b) the following new paragraph:-

(b 1/2) As an alternative to subsection (b) of section 3, the legislative body may vote to accept sections 3 to 7, inclusive, by approving a surcharge on real property of not less than 1 per cent of the real estate tax levy against real property, and making an additional commitment of funds by dedicating revenue not greater than 2 per cent of the real estate tax levy against real property, provided that additional funds so committed shall come from another source or sources of municipal revenue, including but not limited to hotel/motel excise taxes pursuant to chapter 64G of the general laws, linkage fee and inclusionary zoning payments, however authorized, the sale of municipal property pursuant to section 3 of chapter 40 of the general laws, parking fines and surcharges pursuant to sections 20, 20A, and 20A1/2 of chapter 90 of the general laws, existing dedicated housing, open space and historic preservation funds, however authorized, and provided further that additional funds so committed shall not include any federal funds or funds from private sources, provided that inclusionary zoning payments and linkage fees shall be considered public funds for the purposes of this chapter. The total funds committed to the Community Preservation Act under this subsection shall not exceed 3 per cent of the real estate tax levy against real property, less exemptions adopted.

In the event that the municipality shall no longer dedicate all or part of the additional funds to community preservation, the surcharge of not less than 1 per cent shall remain in effect, but may be reduced pursuant to section 16.

SECTION 3: Section 3 of chapter 44B is hereby amended by inserting after paragraph (e) (3) the following new paragraph:-

(4) for \$100,000 of the value of each taxable parcel of class three, commercial, and class four, industrial, property as defined in section 2A of said chapter 59.

SECTION 4. Section 5 of chapter 44B is hereby amended by adding to the following phrase at the end of the first sentence of paragraph (b)(1):-

“,including the consideration of regional projects for community preservation.”

SECTION 5. Section 5 of chapter 44B is further amended by striking paragraph (b)(2) in its entirety and inserting in place thereof the following:-

(2) The community preservation committee shall make recommendations periodically throughout the year, or as a single yearly recommendation to the legislative body for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited.

SECTION 6. Section 5 of chapter 44B is further amended by striking paragraph (d) and inserting in place thereof the following:-

(d) After receiving such recommendations from the community preservation committee, the legislative body shall then take such action and approve such appropriations from the Community Preservation Fund as set forth in section 7, and such additional non-Community Preservation Fund appropriations as it deems appropriate to carry out the recommendations of

the community preservation committee. In the case of a city, the ordinance shall provide for the mechanisms under which the legislative body may approve and veto appropriations made pursuant to this chapter, in accordance with the city charter.

SECTION 7. Section 6 of chapter 44B is hereby amended by striking it in its entirety and inserting in place thereof the following:-

Section 6. In every fiscal year and upon the recommendation of the community preservation committee, the legislative body shall spend, or set aside for later spending, not less than 10 per cent of the annual revenues in the Community Preservation Fund for open space, not less than 10 per cent of the annual revenues for historic resources and not less than 10 per cent of the annual revenues for community housing. In each fiscal year, the legislative body shall make such appropriations from the Community Preservation Fund as it deems necessary for the administrative and operating expenses of the community preservation committee, but the appropriations shall not exceed 5 per cent of the annual revenues in the Community Preservation Fund. The legislative body may also make such appropriations from the Community Preservation Fund as it deems necessary for costs associated with tax billing software and outside vendors necessary to integrate said software during a municipality's first year implementation of the Act, provided that the total of any administrative and operating expense of the Community Preservation Committee and the first year implementation expenses do not exceed five per cent of the annual revenues in the Community Preservation Fund.

Funds that are set aside shall be held in the Community Preservation Fund and spent in that year or later years, but funds set aside for a specific purpose shall be spent only for the specific purpose. Any funds set aside may be expended in any city or town in the

100 commonwealth. The community preservation funds shall not replace existing operating funds,
101 only augment them.

102 SECTION 8. The second paragraph of section 7 of chapter 44B is amended by striking
103 the first sentence and inserting in place thereof the following:-

104 The following monies shall be deposited in the fund: (a) all funds collected from the real
105 property surcharge or bond proceeds in anticipation of revenue pursuant to sections 4 and 11; (b)
106 if applicable, additional funds appropriated or dedicated from allowable municipal sources
107 pursuant to subsection (b ½) of section 3; (c) all funds received from the commonwealth or any
108 other source for such purposes; and (d) proceeds from the disposal of real property acquired with
109 funds from the Community Preservation Fund.

110 SECTION 9. Section 8 of chapter 44B is hereby amended by striking it in its entirety and
111 inserting in place thereof the following:-

112 Section 8. (a) The fees of the registers of deeds, except as otherwise provided, to be paid
113 when the instrument is left for recording, filing or deposit shall be subject to a surcharge of \$20.
114 The fees for so recording, filing or depositing a municipal lien certificate shall be subject to a
115 surcharge of \$10. The surcharges shall be imposed for the purposes of community preservation.
116 No surcharge shall apply to a declaration of homestead under chapter 188 or to the filing of a
117 third mortgage or fourth mortgage extended by any public agency or quasi public agency,
118 including but not limited to a Commonwealth municipality or the Massachusetts Housing
119 Partnership. No surcharge shall apply to the fees charged for additional pages, photostatic copies,
120 abstract cards, additional square feet for the filing and recording of plans or for additional or
121 required marginal references.

(b) The fees of the assistant recorder, except as otherwise provided, to be paid when the instrument is left for registering, filing or entering with respect to registered land shall be subject to a surcharge of \$20. The fees for so registering, filing or entering a municipal lien certificate shall be subject to a surcharge of \$10. The surcharges shall be imposed for the purposes of community preservation. No surcharge shall apply to a declaration of homestead of chapter 188 or to the filing of a third mortgage or fourth mortgage extended by any public agency, including but not limited to a Commonwealth municipality or the Massachusetts Housing Partnership. No surcharge shall apply to the fees charged for additional lots shown on plans, for indexing instruments recorded while a petition for registering is pending, for additional certificates of sewer assessments, for old age assistance liens, for duplicates and for photocopies.

(c) On October 1st of 2011 and every two years thereafter, the commissioner of revenue shall determine if the Massachusetts Community Preservation Trust Fund balance is sufficient to support a 75 per cent first round match distribution pursuant to section 10 for all cities and towns that have accepted sections 3 to 7 inclusive. In the event that the Community Preservation Trust Fund balance is insufficient to support a 75 per cent first round match distribution, the fees of the registers of deeds and fees of the assistant recorder to be paid when the instrument is left for recording, filing or deposit and the fee for so recording, filing or depositing a municipal lien certificate shall be subject to a surcharge to be determined by the commissioner of the department of revenue necessary to support, by the commissioner's best reasonable estimate, a 75 per cent first round match, with each fee rounded to the nearest dollar. Under no circumstances shall each fee surcharge for the purposes of community preservation, paid to the register of deeds or assistant recorder when the instrument is left for recording, filing or deposit, be greater than \$50. Under no circumstances shall each fee surcharge for the purposes of

community preservation, paid to the register of deeds or assistant recorder for so recording, filing or depositing a municipal lien certificate, be greater than \$25. In the event that these maximum fees are reached and they are insufficient to support a 75 per cent first round match distribution pursuant to section 10, the Community Preservation Trust Fund match distribution shall be less than 75 per cent. The surcharges shall be imposed for the purposes of community preservation. No community preservation surcharges shall apply to a declaration of homestead under chapter 188 to the filing of a third mortgage or fourth mortgage extended by any public agency, including but not limited to a Commonwealth municipality or the Massachusetts Housing Partnership. No surcharge shall apply to the fees charged for additional pages, photostatic copies, abstract cards, additional square feet for the filing and recording of plans or for additional or required marginal references.

(d) The commissioner of revenue shall certify the fees pursuant to this section on a biannual basis. Any fee adjustment determined by the commissioner shall take place on the first day of the fiscal year following the biannual certification. The commissioner of revenue shall notify the registers of deeds, the assistant recorders, and the joint committee on revenue of the change at least one-hundred and twenty days prior to any fee adjustment.

(e) All surcharges on fees collected pursuant to this section shall be forwarded to the Massachusetts Community Preservation Trust Fund, established in section 9.

SECTION 10. Paragraph (c) of section 9 of chapter 44B is hereby amended by striking said paragraph and inserting in place therefore the following:-

(c) The state treasurer shall make all disbursements and expenditures from the fund without further appropriation, as directed by the commissioner of revenue in accordance with

167 said section 10. The department of revenue shall report by source all amounts credited to said
168 fund and all expenditures from said fund. The commissioner of revenue shall assign personnel of
169 the department as it may need to administer and manage the fund disbursements and any expense
170 incurred by the department for such purposes and any expense incurred by the registers of deeds
171 and the assistant recorder to administer and collect the surcharges pursuant to section 8 shall be
172 deemed an operating and administrative expense of the program. The commissioner of revenue
173 shall annually on October 15th direct the state treasurer to disburse an amount not to exceed one-
174 half of one per cent of the annual total revenue received in the preceding fiscal year from a
175 register of deeds or an assistant recorder pursuant to the provisions of section 8 to such register
176 of deeds or assistant recorder to pay operating and administrative expenses of the program
177 certified to the commissioner by the register of deeds or assistant recorder, and to disburse an
178 amount not to exceed 5 per cent of the annual total revenue received by the state treasurer in the
179 preceding fiscal year under the provisions of said section 8 to the department of revenue to pay
180 total operating and administrative expenses of the program.

181 SECTION 11. Section 10 of chapter 44B is amended by striking it in its entirety and
182 inserting in place thereof the following:-

183 Section 10. (a) The commissioner of revenue shall annually on October 15 disburse
184 monies from the fund established in section 9 to cities and towns that have accepted sections 3 to
185 7, inclusive, and notified the commissioner of their acceptance. The community shall notify the
186 commissioner of the date and terms on which the voters accepted said sections 3 to 7, inclusive.
187 The municipal tax collecting authority shall certify to the commissioner the amount the
188 municipality has raised through June 30 by imposing a surcharge on its real property levy and
189 shall certify the percentage of the surcharge applied. In the event a municipality accepts this act

pursuant to subsection (b 1/2) of section 3, the municipal tax collecting authority shall certify to the commissioner by October 30th, the maximum additional funds the municipality intends to transfer to the Community Preservation Fund from allowable municipal sources for the following fiscal year. Once certified, the municipality may choose to transfer less than the certified amount during the following fiscal year.

(b) The commissioner shall multiply the amount remaining in the fund after any disbursements for operating and administrative expenses pursuant to section 9(c) by 80 per cent. This amount distributed in the first round distribution shall be known as the match distribution. The first round total shall be distributed to each city or town accepting said sections 3 to 7, inclusive, in an amount not less than 75 per cent but not greater than 100 per cent of the total amount raised by the additional surcharge on real property by each city or town and if applicable the additional funds committed from allowable municipal sources pursuant to subsection (b 1/2) of section 3. The percentage shall be the same for each city and town and shall be determined by the commissioner annually in a manner that distributes the maximum amount available to each participating city or town.

(c) The commissioner shall further divide the remaining 20 per cent of the fund in a second round distribution, known as the equity distribution. The commissioner shall determine the equity distribution in several steps. The first step shall be to divide the remaining 20 per cent of the fund by the number of cities and towns that have accepted said sections 3 to 7, inclusive. This dividend shall be known as the base figure for equity distribution. This base figure shall be determined solely for purposes of performing the calculation for equity distribution and shall not be added to the amount received by a participant.

(d) Each city and town in the commonwealth shall be assigned a community preservation rank for purposes of the equity distribution. The commissioner shall determine each community's rank by first determining the municipality's equalized property valuation per capita ranking, ranking municipalities from highest to lowest valuation. The commissioner shall also determine the population of each municipality and rank each from largest to smallest in population. The commissioner shall add each equalized property valuation rank and population rank, and divide the sum by two. The dividend is the community preservation raw score for that municipality.

(e) The commissioner shall then order each municipality by CP raw score, from the lowest raw score to the highest raw score. This order shall be the CP rank for each municipality. If more than one municipality has the same CP raw score, the municipality with the higher equalized valuation rank shall receive the higher CP rank.

(f) After determining the CP rank for each municipality in the commonwealth, the commissioner shall divide all municipalities into deciles according to their CP ranking, with approximately the same number of municipalities in each decile, and with the municipalities with the highest CP rank shall be placed in the lowest decile category, starting with decile 10. Percentages shall be assigned to each decile as follows:

decile 1	140 per cent of the base figure
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decile 2	130 per cent of the base figure
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decile 3	120 per cent of the base figure
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decile 4	110 per cent of the base figure
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decile 5	100 per cent of the base figure
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233 decile 6 90 per cent of the base figure

234 decile 7 80 per cent of the base figure

235 decile 8 70 per cent of the base figure

236 decile 9 60 per cent of the base figure

237 decile 10 50 per cent of the base figure

238 After assigning each municipality to a decile according to their CP rank, the
239 commissioner shall multiply the percentage assigned to that decile by the base figure to
240 determine the second round equity distribution for each participant.

241 (f) Notwithstanding any other provision of this section, the total state contribution for
242 each city or town shall not exceed the actual amount raised by the municipality's surcharge on its
243 real property levy, and if applicable, additional funds committed from allowable municipal
244 sources pursuant to subsection b (1/2) of section 3.

245 (g) When there are monies remaining in the trust fund after the first and second round
246 distributions, and any necessary administrative expenses have been paid in accordance with
247 section 9, the commissioner may conduct a third round surplus distribution. Any remaining
248 surplus in the fund may be distributed by dividing the amount of the surplus by the number of
249 cities and towns that have accepted this chapter. The resulting dividend shall be the surplus base
250 figure. The commissioner shall then use the decile categories and percentages as defined in this
251 section to determine a surplus equity distribution for each participant.

252 (h) The commissioner shall determine each participant's total state grant by adding the
253 amount received in the first round distribution with the amounts received in any later round or

rounds of distributions, with the exception of a city or town that has already received a grant equal to 100 per cent of the amount the community raised by its surcharge on its real property levy.

(1) Only those cities and towns that adopt the maximum surcharge pursuant to subsection (b) of section (3) and those cities and towns that adopt the maximum surcharge and additional funds committed from allowable municipal sources such that the total funds are the equivalent of 3 per cent of the real estate tax levy against real property pursuant to subsection (b 1/2) of section 3 of this chapter shall be eligible to receive additional state monies through the equity and surplus distributions.

(2) If less than 10 per cent of the cities and towns in the commonwealth have accepted sections 3 to 7, inclusive, and imposed and collected a surcharge on their real property levy, the commissioner may calculate the state grant with only one round of distributions, or in any other equitable manner.

(j) After distributing the trust fund in accordance with this section, the commissioner shall keep any remaining funds in the trust for distribution in the following year.

SECTION 12. Section 12 of chapter 44B is amended by striking paragraph (a) and inserting in place thereof the following:-

(a) A real property interest that is acquired with monies from the Community Preservation Fund shall be bound by a permanent deed restriction, recorded as a separate instrument, that meets the requirements of chapter 184, limiting the use of the interest to the purpose for which it was acquired. The deed restriction shall run with the land and shall be enforceable by the city or town or the commonwealth. The deed restriction may also run to the

276 benefit of a nonprofit, charitable corporation or foundation selected by the city or town with the
277 right to enforce the restriction. The legislative body may appropriate monies from the
278 Community Preservation Fund to pay a non-profit organization created pursuant to Chapter 180
279 to hold, monitor and enforce the deed restriction on said property.

280 SECTION 13. Section 16 of chapter 44B is hereby amended by striking paragraph (a)
281 and inserting in place thereof the following:-

282 (a) At any time after imposition of the surcharge, the legislative body may approve and
283 the voters may accept an amendment to the amount and computation of the surcharge, or to the
284 amount of exemption or exemptions, in the same manner and within the limitations set forth in
285 this chapter, including reducing the surcharge to 1 per cent and committing additional municipal
286 funds pursuant to subsection (b 1/2) of section 3.

287 SECTION 14. Notwithstanding any general or special law to the contrary, this Act shall
288 apply to all Community Preservation Fund appropriations approved by a city or town's
289 legislative body on or after the effective date of acceptance of the Community Preservation Act
290 in such city or town.