

HOUSE No. 144

The Commonwealth of Massachusetts

PRESENTED BY:

Brendan P. Crighton

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 relative to community benefit districts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Brendan P. Crighton</i>	<i>11th Essex</i>	<i>1/14/2015</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>	<i>8/16/2019</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>8/16/2019</i>
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>	<i>8/16/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>8/16/2019</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>	<i>8/16/2019</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>8/16/2019</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>	<i>8/16/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>8/16/2019</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>	<i>8/16/2019</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>	<i>8/16/2019</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>8/16/2019</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>	<i>8/16/2019</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>8/16/2019</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>8/16/2019</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>8/16/2019</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>	<i>8/16/2019</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>8/16/2019</i>

Sean Garballey

23rd Middlesex

8/16/2019

HOUSE No. 144

By Mr. Crighton of Lynn, a petition (accompanied by bill, House, No. 144) of Brendan P. Crighton and others relative to the establishment of community benefit districts in cities and towns. Community Development and Small Businesses.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to community benefit districts.

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: Definitions

2 “CBD”, a Community Benefit District formed pursuant to this chapter, which is generally
3 a contiguous geographic area with clearly defined boundaries.

4 “CBD management entity”, the independent non-profit entity governed by the CBD
5 Board of Directors designated to receive funds to carry out and implement the purposes of the
6 CBD

7 “Community Benefit District Board of Directors” or “Board of Directors”, a locally
8 designated non-profit board including property owners or their designees, as well as other local
9 stakeholders, who are assigned responsibility for the management of a Community Benefit
10 District.

11 “Fee”, a payment for services or improvements specified by the CBD Management Plan.

12 “Management Plan”, the strategic plan for the CBD which sets forth the supplemental
13 services and programs, boundaries, benefit zones, rates of assessments, vision, revitalization
14 strategy, budget and fee structure, as well as the non-profit management entity for the
15 Community Benefit District, and is approved by the local municipal governing body as part of
16 the creation of the CBD. A CBD Management Plan shall be updated at least once every two
17 years by the CBD Board of Directors, and a copy thereof shall be mailed, emailed, or delivered
18 to each CBD member and filed with the local governing body.

19 “Local municipal governing body”, the city council or board of aldermen in a city or the
20 board of selectmen or town council in a town.

21 “Petition-signer”, a property owner within the CBD who affirmatively signs the petition
22 to establish such CBD.

23 “Property”, any real property located within the CBD, whether commercial, tax-exempt
24 or residential;

25 “Property owner”, the owner of record of property.

26 “Standard government services”, governmental functions, programs, activities, facilities,
27 improvements and other services which a municipality is authorized to perform or provide and
28 paid for out of the local municipal government budget.

29 “Supplemental service”, the provision of programs, public rights of way services,
30 activities, amenities, or information in addition to the standard governmental services provided to
31 the CBD.

32 Section 2: Rights and Powers

33 The rights and powers of a CBD approved by a municipal governing body shall include:
34 retaining or recruiting business; administering and managing central and neighborhood business
35 districts; promoting economic development; managing parking; designing, engineering,
36 constructing, maintaining, or operating buildings, facilities, urban streetscapes or infrastructures
37 to further economic development and public purposes; conducting historic preservation
38 activities; leasing, owning, acquiring, or optioning real property; owning and managing parks,
39 public spaces and community facilities; supplementing maintenance, security, or sanitation;
40 planning and designing services; formulating a fee structure; accumulating interest; incurring
41 costs or indebtedness; entering into contracts; suing and being sued; employing legal and
42 accounting services; undertaking planning, feasibility and market analyses; developing common
43 marketing and promotional activities; engaging in placemaking, programming, and event
44 management within the district; soliciting donations, sponsorships, and grants; operating transit
45 services; and supporting public art and human and environmental services as related to the
46 enhancement of the district or other supplemental services or programs that would further the
47 purposes of this chapter.

48 Section 3: Initiation of Organization; Contents of Petition

49 The organization of a CBD shall be initiated by a petition of the property owners within
50 the proposed CBD which shall be filed in the office of the clerk of the municipality.

51 Such petition shall contain:

52 (1) the signatures of the property owners (petition signers) in the proposed district who
53 support the establishment of the district and who will pay more than forty percent of the
54 assessments proposed to be levied, with the caveat that the amount of assessment attributable to

55 property owned by the same property owner that is in excess of 20 percent of the amount of all
56 assessments proposed shall not be included in the calculation;

57 (2) a description of and a site map delineating the boundaries of the proposed CBD;

58 (3) the proposed Management Plan which shall set forth the supplemental services and
59 programs, vision and revitalization strategy, and budget and fee structures;

60 (4) the identity and location of the management entity designated to implement and
61 oversee the ongoing improvement plan;

62 (5) the criteria for waiving the fee for any property owner within the CBD who can
63 provide evidence that the imposition of such fee would create a significant financial hardship;
64 and

65 (6) a staffing plan, which may include private nonprofit, for-profit, or public agency
66 subcontractors.

67 Such petition may include a mechanism for reimbursing the municipality for the costs
68 incurred in establishing the CBD, and for costs incurred in collecting the district fees.

69 A copy of said petition shall be filed with the Director of Housing and Community
70 Development within thirty days of receipt of such petition by the clerk of the municipality.

71 Section 4: Hearing on petition; declaration of organization; notice

72 The local municipal governing body shall hold a public hearing within sixty days of the
73 receipt of a petition. Written notification of such hearing shall be sent to each property owner
74 within the boundary of the proposed CBD at least thirty days prior to such hearing, by mailing

75 notice to the address listed in the property tax records. Notification of the hearing shall also be
76 published for two consecutive weeks in a newspaper of general circulation in the area at least
77 fourteen days prior to such hearing and listed on the municipality's website. Such public notice
78 shall contain the proposed boundaries of the CBD, the proposed fee level, the proposed benefits
79 and the basis for determining the district fee as well as state where the property owner may
80 obtain a full copy of the CBD Management Plan

81 Prior to the public hearing, the local municipal governing body shall direct the town clerk
82 or city clerk or his designee to determine that the establishment criteria has been met as set forth
83 in section three.

84 At the public hearing, the local municipal governing body shall determine if the petition
85 satisfies the purposes set forth and the establishment criteria of this chapter and shall obtain
86 public comment regarding the Management Plan and the effect the proposed CBD will have on
87 the property owners, tenants, and others within the CBD. If it appears that said petition is not in
88 conformity with the purposes and establishment criteria, the local municipal governing body
89 shall dismiss the petition. At the public hearing, the presiding officer or clerk of said governing
90 body shall read into the record the basis for determining the district fee pursuant to section seven
91 and the process by which eligible property owners may dissolve the CBD.

92 Within forty-five days after the public hearing, the local municipal governing body, in its
93 sole discretion, may by a vote declare the district organized and describe the boundaries and
94 service area of the district. Upon such declaration, the CBD may commence operations.

95 Notice of the declaration of the organization of the CBD shall be mailed or delivered to
96 each property owner within the proposed CBD. The notice shall explain that membership in the

97 CBD is irrevocable until the dissolution under section 10, and shall include a description of the
98 basis for determining the district fee, the projected fee level and the proposed services to be
99 provided by the CBD. Such notice shall be published for 2 consecutive weeks in a newspaper of
100 general circulation in the area, the last publication being not more than 30 days after the vote to
101 declare the district organized.

102 Participation in the CBD shall be permanent until the dissolution of the CBD under
103 section 10. All property owners, including public, private and nonprofit entities, shall participate,
104 although each shall contribute based upon specified fee structures based upon the benefits
105 anticipated to be received, as outlined in the CBD Management Plan.

106 Section 5: Board of directors

107 Each CBD shall have a non-profit Board of Directors who shall oversee the management
108 entity to insure the implementation of the Management Plan. The CBD Board of Directors will
109 establish bylaws for the CBD management entity, including the term for board members and the
110 process for selecting new board members. The local municipal governing body may in its vote
111 creating the CBD establish rules and regulations governing the CBD Board of Directors that do
112 not infringe on the independence of the management entity. At least 51% of the Board shall be
113 composed of property owners or their designees, and the remaining members may be a balanced
114 set of stakeholders representing the community, including residents, municipal government,
115 business tenants , and nonprofits.

116 Section 6: Property included in the fee formula; waivers

117 All real property located within the proposed CBD shall be considered in the fee formula
118 for the supplemental services and programs as outlined in the improvement plan. The CBD

119 Board of Directors, at its sole discretion, may grant a financial hardship waiver to any property
120 owner, pursuant to the waiver criteria previously established by the CBD. Such waiver is not
121 intended to be permanent and must be requested and granted on an annual basis and shall be
122 based upon temporary, extraordinary circumstances. The CBD Board of Directors may also, at
123 its discretion, approve in-kind contributions or services in addition to, or in lieu of, fees upon
124 execution of a memorandum of agreement with a property owner.

125 Section 7: District fee structure

126 By formal approval of a CBD, the local municipal governing body shall adopt the district
127 fee structure for the financing of items submitted in the Management Plan for the CBD;
128 provided, however, that the total fees assessed in any one year may not exceed one-half of one
129 percent of the sum of the assessed valuation of the real property owned by participating members
130 in the CBD district.

131 The basis of such district fee may be determined by a formula utilizing any one or a
132 combination of the following:

- 133 (1) different levels for varying classifications of real property;
- 134 (2) benefit zones;
- 135 (3) assessed valuation;
- 136 (4) square footage;
- 137 (5) street frontage; or
- 138 (6) any other formula which meets the objectives of the CBD.

139 The CBD, through its Management Plan, shall have the option to limit or cap the
140 maximum annual fee derived from individual properties or the total annual revenue generated by
141 the CBD.

142 The formula for determining the district fee structure shall be set forth in the original
143 petition as required by section three.

144 In addition to receiving funds from the district fee, the management entity shall be
145 authorized to receive grants, donations, revenues generated from parking fees, CBD activities, or
146 gifts on behalf of the CBD.

147 Section 8: Collection of fees; disbursement of funds; reporting requirements

148 The collector-treasurer of each municipality is hereby authorized to collect such district
149 fees in designated CBDs and to disburse the funds to the designated management entity.

150 The district fees collected shall be used solely to fund items to further the goals identified
151 and approved in the Management Plan for the CBD.

152 The collector-treasurer shall disburse revenues to the management entity no later than
153 thirty days of the collection of such fees, together with the interest earned on the holding of such
154 fees.

155 Following establishment of the CBD, all fees billed by or on behalf of the CBD and
156 unpaid after thirty days from the date of billing shall become a lien on the property, which shall
157 have priority over all other liens except municipal liens and mortgages of record prior to the
158 recording of a notice of lien, if notice of the lien is duly recorded by the management entity in
159 the appropriate registry of deeds or land court registry district.

160 The CBD management entity shall conform with the Mass General Law Chapter 12
161 Section 8F in regards to nonprofit reporting requirements.

162 Section 9: Amendment of district boundaries

163 At any time after the establishment of a CBD pursuant to the provisions of this chapter,
164 the district boundaries upon which the establishment was based may, upon the recommendation
165 of the CBD Board of Directors, be amended by the local municipal governing body after
166 compliance with the procedures set forth in this section.

167 The CBD Board of Directors shall prepare a petition, consistent with the criteria
168 described in Section 3 in all ways except for the signatures. Instead, if the petition concerns an
169 amendment to expand the district, the petition must be accompanied by signatures of the
170 property owners representing no less than 40 percent of the assessed valuation in the expanded
171 area only. If the petition concerns an amendment to reduce the size of the district, it must be
172 accompanied by the signatures of property owners representing no less than 40 percent of the
173 assessed valuation in the existing district.

174 In the case of an expansion petition, the local municipal governing body shall hold a
175 public hearing within sixty days of the receipt of a petition. Written notification of such hearing
176 shall be sent to each property owner within the proposed expansion area of the CBD at least
177 thirty days prior to such hearing, by mailing notice to the address listed in the property tax
178 records. Notification of the hearing shall also be published for two consecutive weeks in a
179 newspaper of general circulation in the area at least fourteen days prior to such hearing and listed
180 on the municipality's website. Such public notice shall contain the proposed expanded
181 boundaries of the CBD, the fee level, the benefits and the basis for determining the district fee.

182 Upon determination by the town clerk that the petition has met the necessary criteria, the local
183 governing body must approve within 30 days following the hearing.

184 In the case of a reduction petition, no public hearing is required. Upon determination by
185 the town clerk that the petition has met the necessary criteria, the local governing body must
186 approve within 30 days.

187 Upon the adoption of any amendment to the district boundaries which increases the size
188 of the district, any owner of property to be added to the district shall be notified of the new
189 boundaries of the district in accordance with section four.

190 Section 10: Dissolution

191 A CBD may be dissolved by petition to the local municipal governing body and a
192 subsequent decision by such governing body to authorize dissolution.

193 In order to be considered by the local municipal governing body, a petition to dissolve a
194 CBD shall contain the signatures of the owners of at least forty percent of the assessed valuation
195 within the district

196 The local municipal governing body shall hold a public hearing within thirty days of
197 receipt of a completed petition on the issue of dissolution.

198 Following the public hearing, the local municipal governing body may declare the CBD
199 dissolved; provided, however, that no CBD shall be dissolved until it has satisfied or paid in full
200 all of its outstanding indebtedness, obligations, and liabilities; or until funds are on deposit and
201 available therefore; or until a repayment schedule has been formulated and municipally approved

202 therefor. In addition, the CBD shall be prohibited from incurring any new or increased financial
203 obligations.

204 Any liabilities, either current or future, incurred as a result of action to accomplish the
205 purposes of the CBD improvement plan shall not be an obligation of the municipality, but said
206 liabilities shall be paid for entirely from revenue gained from the project or facilities authorized,
207 or from the fees on the properties in the CBD.

208 Upon the dissolution of a CBD, any remaining revenues derived from the sale of assets
209 acquired with fees collected shall be refunded to the property owners in the CBD in which fees
210 were charged by applying the same formula used to calculate the fee in the fiscal year in which
211 the CBD is dissolved.

212 Nothing in this section shall prevent the filing of a subsequent petition for a similar
213 project.

214 Section 11: Effective date

215 This legislation will be effective immediately upon date of passage.