

SENATE No. 82

The Commonwealth of Massachusetts

PRESENTED BY:

Eileen M. Donoghue

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 establishing Community Benefit Districts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	
<i>Robert M. Koczera</i>	<i>11th Bristol</i>	<i>1/26/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/26/2017</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>1/27/2017</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>1/30/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/30/2017</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/31/2017</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	<i>1/31/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/1/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/1/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>2/1/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/2/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/2/2017</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>2/3/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>2/3/2017</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>2/3/2017</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>2/3/2017</i>

SENATE No. 82

By Ms. Donoghue, a petition (accompanied by bill, Senate, No. 82) of Eileen M. Donoghue, Robert M. Koczera, Sal N. DiDomenico, Tackey Chan and other members of the General Court for legislation to establish Community Benefit Districts. Community Development and Small Businesses.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2065 OF 2015-2016.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninetieth General Court
(2017-2018)**
—————

An Act establishing 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 The General Laws, as appearing in the 2014 Official Edition, are hereby amended by
2 inserting after chapter 40W the following chapter:-

3 CHAPTER 40X. COMMUNITY BENEFIT DISTRICTS

4 Section 1. As used in this chapter, the following words shall have the following meanings
5 unless the context clearly requires otherwise:

6 “Community benefit district” or “CBD”, a district formed pursuant to this chapter which
7 has at least 1 geographic area with clearly defined boundaries.

8 “CBD corporation”, the nonprofit corporation designated to receive funds and otherwise
9 implement the CBD, including the board of directors, officers and any employees.

10 “CBD fee”, a payment for services or improvements specified by the initial management
11 plan and any management plan.

12 “Initial management plan”, the strategic and operating plan for the CBD as approved by
13 the municipal governing body as part of the creation of the CBD.

14 “Management plan”, any subsequent, updated version of the initial management plan that
15 is approved by the board of directors.

16 “Memorandum of understanding with the municipality” or “MOU”, a document which
17 describes the standard government services and supplemental services to be provided within the
18 CBD and how the municipality will participate in the CBD as a property owner and member.

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

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

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

25 “Property owner”, the owner of record of property; provided, however, that when a
26 property is owned by an entity other than a natural person, a petition signer for that property shall
27 include the petition-signer’s title and shall demonstrate its authority to sign as owner; and

28 provided further, that if a property is owned by multiple persons, the signature of 1 owner shall
29 be sufficient if that owner demonstrates authority to sign on behalf of the other owners.

30 “Standard government services”, governmental functions, programs, activities, facilities,
31 improvements and other services that a municipality is authorized to perform or provide and that
32 are paid for out of the municipal government budget.

33 “Supplemental services”, the provision of programs, public rights of way services,
34 activities, amenities or information in addition to the standard governmental services provided to
35 the CBD.

36 Section 2. The rights and powers of a CBD corporation in a CBD approved by the
37 municipal governing body pursuant to section 4 shall include: retaining or recruiting business;
38 administering and managing central and neighborhood business districts; promoting economic
39 development; managing parking; designing, engineering, constructing, maintaining or operating
40 buildings, facilities, urban streetscapes or infrastructures to further economic development and
41 public purposes; conducting historic preservation activities; leasing, owning, acquiring, or
42 optioning real property; owning and managing parks, public spaces and community facilities;
43 supplementing maintenance, security, or sanitation; planning and designing services; formulating
44 a fee structure; accumulating interest; incurring costs or indebtedness; entering into contracts;
45 suing and being sued; employing legal and accounting services; undertaking planning, feasibility
46 and market analyses; developing common marketing and promotional activities; engaging in
47 placemaking, programming, and event management within the district; soliciting donations,
48 sponsorships and grants; operating transit services; and supporting public art, human and

49 environmental services related to the enhancement of the district or other supplemental services
50 or programs that would further the purposes of this chapter.

51 Section 3. The organization of a CBD shall be initiated by a petition of the property
52 owners within the proposed CBD, which shall be filed in the office of the clerk of the
53 municipality and contain the following:

54 (i) the signatures of the property owners, including participating tax-exempt entities, or
55 petition signers in the proposed district who support the establishment of the district and who
56 will pay more than 50 per cent of the assessments proposed to be levied; provided, however, that
57 the amount of the assessment attributable to property owned by the same property owner that is
58 in excess of 20 per cent of the amount of all assessments proposed shall not be included in the
59 calculation or, alternatively, if there are not more than 4 property owners in the proposed district,
60 all such property owners shall sign the petition;

61 (ii) a description of and a site map delineating the boundaries of the proposed CBD;

62 (iii) the identity and address of the CBD corporation, including its initial set of directors
63 and officers and a copy of its by-laws;

64 (iv) An initial management plan, which shall set forth the supplemental services and
65 programs, vision, strategy, budget and fee structures proposed for the CBD;

66 (v) the criteria for waiving the fee for any property owner within the CBD who can
67 provide evidence that the imposition of such a fee would create a significant financial hardship;
68 and

69 (vi) a staffing plan, which may include private nonprofit, for profit or public agency
70 contractors or subcontractors.

71 A petition may include a mechanism for reimbursing the municipality for the costs
72 incurred in establishing the CBD, and for costs incurred in collecting the district fees. A copy of
73 the petition shall be filed with the undersecretary of housing and community development and
74 the secretary of housing and economic development not more than 30 days following receipt of
75 the petition by the clerk of the municipality.

76 Section 4. (a) The municipal governing body shall hold a public hearing not more than 60
77 days following receipt of the petition by the clerk of the municipality. Written notification of the
78 hearing shall be sent to each property owner within the boundary of the proposed CBD not more
79 than 30 days before a hearing by mailing notice to the address listed in the property tax records.
80 Notification of the hearing shall be published for 2 consecutive weeks in a newspaper of general
81 circulation in the area, the last publication being not less than 14 days before the hearing and
82 listed on the municipality's website. The public notice shall contain the proposed boundaries of
83 the CBD, the proposed fee level, a summary of supplemental programs and services and where
84 the property owner may obtain a full copy of the initial management plan.

85 (b) Prior to the public hearing, the municipal governing body shall direct the town clerk,
86 city clerk or a designee to determine that the establishment criteria have been met, as set forth in
87 section 3. In determining whether a signature is authentic, the clerk shall apply the same standard
88 used when certifying signatures for a petition to place a referendum on a local or state ballot.

89 (c) Not more than 45 days after the public hearing, a municipal governing body, in its
90 sole discretion, may, by vote of the city council with approval of the mayor in a city and by vote

91 of the board of selectmen in a town, declare the district organized and describe the boundaries
92 and service area of the district; provided, however, that in a town with a population of not more
93 than 10,000, the district shall not be declared organized without a vote by the board of selectmen
94 and a town meeting. The declaration shall include authorization to municipal staff to enter into
95 an agreement with the CBD corporation with respect to operations and funding consistent with
96 the approved initial management plan. Upon such declaration, the CBD may commence
97 operations.

98 (d) Notice of the declaration of the organization of the CBD shall be mailed or delivered
99 to each property owner within the proposed CBD. The notice shall explain that membership in
100 the CBD is irrevocable unless the CBD is dissolved pursuant to section 10 and shall include a
101 description of the basis for determining the district fee, the projected fee level and the services to
102 be provided within the CBD. Such notice shall be published for 2 consecutive weeks in a
103 newspaper of general circulation in the area, the last publication being not more than 30 days
104 after the vote to declare the district organized.

105 (e) Participation in the CBD shall be permanent unless the CBD is dissolved pursuant to
106 section 10. All property owners shall contribute in accordance with fee structures based upon the
107 benefits anticipated to be received, as outlined in the initial management plan.

108 Section 5. (a) Each CBD corporation shall have a not for profit board of directors that
109 shall oversee its operations to insure the implementation of the initial management plan and any
110 management plan. At least 51 per cent of the board shall be composed of property owners, which
111 may include participating tax-exempt property owners, or their designees; and the remaining

112 members may be a balanced group of stakeholders representing the community, including
113 residents, municipal government, business tenants and nonprofits.

114 (b) The initial management plan shall be updated at least once every 3 years by the CBD
115 board of directors and a copy thereof shall be mailed, emailed or delivered to each CBD member
116 and filed with the municipal governing body.

117 (c) The CBD corporation shall comply with the public charity reporting requirements of
118 section 8F of chapter 12.

119 Section 6. All real property located within a proposed CBD shall be considered in the fee
120 formula for supplemental services and programs as outlined in the initial management plan,
121 except that any residential property with a homeowner eligible for a property tax exemption
122 established by statute, or local ordinance or bylaw, shall not be charged a fee for participating in
123 the district.

124 Tax-exempt property owners in the district shall not be required to pay assessment fees,
125 but may elect to do so. Tax-exempt property owners may also enter into a Memorandum of
126 Agreement with the district management entity in lieu of, or to supplement, monetary payments,
127 and which may include such contributions as: space for events, loans of equipment or vehicles,
128 volunteers or volunteer management, staff time, programs and services to the community, or any
129 other contribution deemed appropriate to support implementation of the district management
130 plan.

131 The CBD corporation, at its sole discretion, may grant a financial hardship waiver to any
132 property owner, pursuant to the waiver criteria established within the CBD. A waiver is not
133 intended to be permanent and shall be requested and granted on an annual basis, and shall be

134 based upon temporary, extraordinary circumstances. The CBD corporation may also, at its
135 discretion, approve in-kind contributions or services in addition to, or in lieu of, fees upon
136 execution of a memorandum of agreement with a property owner.

137 Section 7. Upon formal approval of a CBD, the municipal governing body shall adopt the
138 district fee structure for the financing of items submitted in the initial management plan for the
139 CBD; provided, however, that the total fees assessed in any 1 year may not exceed 1/2 of 1 per
140 cent of the sum of the assessed valuation of the real property owned by participating members in
141 the CBD district. The basis of a district fee may be determined by a formula utilizing at least 1 or
142 a combination of the following methodologies:

143 (i) different levels for varying classifications of real property;

144 (ii) benefit zones;

145 (iii) assessed valuation;

146 (iv) building or parcel square footage;

147 (v) street frontage; or

148 (vi) any other formula which meets the objectives of the CBD.

149 The CBD, through its management plan, shall have the option to limit or cap the
150 maximum annual fee derived from individual properties or the total annual revenue generated by
151 the CBD.

152 The initial management plan may also propose a “phase-in” period of not more than 3
153 years, with assessments increasing over the stated period. The formula for determining the

154 district fee structure shall be set forth in the original petition as required by section 3. The CBD
155 may change the formula or the assessment level set forth in the initial management plan or
156 management plan by 2/3 vote of its board of directors, ratified by vote of the property owners
157 who are required to pay more than 50 per cent of the assessments. Within 30 days after
158 amendment of the formula or assessment level, the CBD shall file notice of the changes with the
159 municipal governing body, the undersecretary of housing and community development and the
160 secretary of housing and economic development. In addition to receiving funds from the district
161 fee, the CBD corporation may receive grants, donations, revenues generated from parking fees,
162 CBD activities or gifts on behalf of the CBD.

163 Section 8. The collector or treasurer of the municipality may collect district fees in
164 designated CBDs and disburse the funds to the CBD corporation. In addition to the items
165 identified in section 3A of chapter 60, the collector or treasurer may include notices for district
166 fees in the envelope or electronic message in which a property bill is sent. District fees collected
167 shall be used solely to fund items to further the goals identified and approved in the initial
168 management plan for the CBD. The collector or treasurer shall disburse fee revenues to the CBD
169 corporation not later than 30 days after the collection of such fees, together with any interest
170 earned on those fees.

171 Following establishment of the CBD, all fees billed by or on behalf of the CBD and
172 unpaid after 30 days from the date of billing shall become a lien on the property, which shall
173 have priority over all other liens except municipal liens and mortgages of record prior to the
174 recording of a notice of lien, if notice of the lien is duly recorded by the CBD corporation in the
175 appropriate registry of deeds or land court registry district.

176 Section 9. At any time after the establishment of a CBD pursuant to this chapter, the
177 district boundaries upon which the establishment was based may, upon the recommendation of
178 the CBD corporation, be amended by the municipal governing body after compliance with the
179 procedures set forth in this section.

180 The CBD corporation shall prepare a petition, consistent with the criteria described in
181 section 3; provided, however, that if the petition concerns an amendment to expand the district,
182 the petition shall be accompanied by signatures of the property owners who are required to pay
183 more than 50 per cent of the assessments in the expanded area. If the petition concerns an
184 amendment to reduce the size of the district, it shall be accompanied by signatures of the
185 property owners who are required to pay more than 50 per cent of the assessments levied in the
186 existing district. The municipal governing body shall hold a public hearing not more than 60
187 days after its receipt of a petition to amend the district boundaries. In the case of an expansion
188 petition, written notification of the hearing shall be sent to each property owner within the
189 proposed expansion area of the CBD not more than 30 days before the hearing, by mailing notice
190 to the address listed in the property tax records. In the case of a reduction petition, the notice
191 shall be sent to each property owner in the existing district. For either an expansion or reduction
192 petition, notification of the hearing shall also be published for 2 consecutive weeks in a
193 newspaper of general circulation in the area with the last publication being not more than 14 days
194 before the hearing and shall be listed on the municipality's website. For an expansion petition,
195 the public notice shall contain the proposed expanded boundaries of the CBD, the fee level, a
196 summary of supplemental programs and services, and where the property owner may obtain a
197 full copy of the management plan. For a reduction petition, the public notice shall contain the
198 proposed reduced boundaries of the CBD and any changes in the fee level, supplemental

199 programs and services or other material aspects of the management plan that will occur as a
200 result of the boundary change. Not more than 30 days after the hearing, and upon determination
201 by the city or town clerk, or designee, that the petition has met the necessary criteria, the
202 municipal governing body, in its sole discretion, may by a vote declare the district boundaries
203 amended. Upon the adoption of an amendment to the district boundaries which increases the size
204 of the district, owners of property to be added to the district shall be notified of the new
205 boundaries of the district in accordance with section 4.

206 Section 10. A CBD may be dissolved by petition to the municipal governing body and a
207 subsequent decision by that governing body to authorize dissolution. A petition to dissolve a
208 CBD shall contain the signatures of the property owners who are required to pay more than 50
209 per cent of the assessments levied in the district; provided, however, that the amount of the
210 assessment attributable to property owned by the same property owner that is in excess of 20 per
211 cent of the amount of all assessments proposed shall not be included in the calculation. The
212 municipal governing body shall hold a public hearing not more than 30 days after its receipt of a
213 petition on the issue of dissolution.

214 After a public hearing, the municipal governing body may declare the CBD dissolved;
215 provided, however, that no CBD shall be dissolved until it has satisfied or paid in full all of its
216 outstanding indebtedness, obligations and liabilities; until funds are on deposit and available
217 therefore or until a repayment schedule has been formulated and municipally approved. Upon
218 dissolution, the CBD shall not incur any new or increased financial obligations. Any liabilities,
219 either current or future, incurred as a result of action to accomplish the purposes of the
220 management plan shall not be an obligation of the municipality. Liabilities shall be paid for

221 entirely from revenue gained from the project or facilities authorized, or from the fees on the
222 properties in the CBD.

223 Upon the dissolution of a CBD, any remaining revenues derived from the sale of assets
224 acquired with fees collected shall be refunded to the property owners in the CBD by applying the
225 same formula used to calculate the fee in the fiscal year in which the CBD is dissolved. Nothing
226 in this section shall prevent the filing of a subsequent petition for a similar CBD.

227 Section 11. A CBD may include noncontiguous geographic areas within the municipality.
228 If the petition proposes such a district, each noncontiguous area shall separately qualify by
229 meeting the signature threshold in section 3. Once the clerk has determined that the
230 establishment criteria have been met, the municipality shall consider whether the CBD as a
231 whole should be approved. A petition to reduce or dissolve a CBD with noncontiguous areas
232 shall be signed by property owners representing at least 50 per cent of the assessments in the
233 CBD as a whole. A petition to expand such a CBD shall be signed by property owners
234 representing 50 per cent of the assessments in the expanded area only. A CBD that includes
235 noncontiguous areas may set services, programs and fees to take into account the differing
236 circumstances of each area.

237 Section 12. A CBD may be located in more than 1 municipality if the petition in each
238 municipality separately complies with this chapter. Petitioners shall state in each petition
239 whether they will proceed with establishment if the other municipality or municipalities involved
240 do not approve the proposed CBD. A petition to reduce a CBD located in more than 1
241 municipality shall be signed by property owners with 50 per cent of the assessments in that
242 municipality's portion of the district. A petition to expand such a CBD shall be signed by

243 property owners representing 50 per cent of the assessments in the expanded area only. A
244 petition to dissolve the entire CBD located in more than 1 municipality shall be signed by
245 property owners representing 50 per cent of the assessments in each municipality. A CBD
246 located in more than 1 municipality may set services, programs and fees to take into account the
247 differing circumstances of each area.