SENATE DOCKET, NO. 1275 FILED ON: 1/17/2019

SENATE . . . . . No. 1781

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 the Massachusetts Maritime Commercial Development tax credit.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Bruce E. Tarr	*First Essex and Middlesex*	
Mark C. Montigny	*Second Bristol and Plymouth*	*1/31/2019*
Michael O. Moore	*Second Worcester*	*4/23/2019*

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SENATE . . . . . No. 1781

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 1781) of Bruce E. Tarr and Mark C. Montigny for legislation relative to the Massachusetts Maritime Commercial Development tax credit. Revenue.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to the Massachusetts Maritime Commercial Development tax credit.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 62 of the General Laws is hereby amended by inserting after section 6N the following section:-

Section 6O. (a) For purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Certified construction", the construction of a qualified water-dependent facility that has been approved and certified by the Secretary of Housing and Economic Development, in consultation with the Executive Office of Energy and Environmental Affairs, as being consistent with the standards established by the Designated Port Area for the purposes of this section.

"Qualified water-dependent facility", any building or structure, located within the commonwealth, constructed for the exclusive use of water-dependent commercial or industrial activities, seafood processing, aquaculture, water-dependent science, research and innovation, or

seafood storage, and uses accessory and directly supportive thereof including wholesale and retail uses, and which is located in a Designated Port Area as defined by 301 C.M.R. 25.02.

"Qualified water-dependent facility expenditure", any amount properly chargeable to a capital account in effect for the taxable year, incurred in connection with the certified water-dependent facility construction or rehabilitation in a Designated Port Area, but the term shall not include personal property, personal use property, or the cost of acquiring any building or interest thereon, up to and including costs of building materials and supplies, fixtures, equipment, design, engineering, permitting and labor costs, paid by the taxpayer.

"Taxpayer", a person, firm, partnership, trust, estate, limited liability company, or other entity subject to the income tax imposed by the provisions of this chapter.

"CDC" or "Community Development Corporation", a corporation certified as a community development corporation by the Department of Housing and Community Development as consistent with chapter 40H.

(b) Massachusetts Maritime Commercial Development tax credit.

(1) The Secretary of Housing and Economic Development (hereto referred as the Secretary) shall authorize the tax credits under this section. The Secretary shall authorize annually, beginning January 1, 2019, under this section, together with section 31O of chapter 63, an amount not to exceed $50,000,000 per year. The Secretary shall determine the criteria for eligibility for the credit, such criteria to be set forth in regulations promulgated under this section.

(i) Any single municipality shall not be eligible to receive a more than fifty percent of the total amount of awarded credits in a given calendar year.

(1) This restriction may be waived by the Secretary. Such a waiver must be made in writing, and submits the decision with an adequate reasoning to the Joint Committee on Economic Development and Emerging Technologies, the House and Senate Committees on Rules, and the House and Senate Committees on Ways and Means.

(2) A taxpayer that incurs qualified water-dependent facility expenditures may be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this chapter. The credit shall be equal to a percentage, not to exceed twenty-five percent, of the qualified water-dependent facility expenditures made by the taxpayer with respect to a qualified water-dependent facility which has received final certification and has been placed in service as provided for in this section. The Secretary shall administer and determine eligibility for the Massachusetts maritime commercial development tax credit and allocate the credit in accordance with this section; but, the Secretary may impose a fee for the processing of applications for the certification of any water-dependent facility under the provisions of this section.

(i) Community development corporations shall be eligible to receive this tax credit at a rate equal to that of any taxpayer under this section.

(3) The credit allowable under this section shall be allowed for the taxable year in which the water-dependent facility property is placed in service, that is, when occupancy of the entire structure or some identifiable portion of the structure is permitted. A taxpayer allowed a credit under this section for a taxable year may carry over and apply to the tax imposed by this chapter

in any of the succeeding 5 taxable years, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year.

(d) Maritime commercial development tax credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among the persons designated as partners, members or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of the entity.

(e) Taxpayers eligible for the Massachusetts maritime commercial development tax credit may, with prior notice to and in accordance with regulations adopted by the Secretary, transfer the credits, in whole or in part, to any individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself. The transferee shall use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; but, the carryover period shall not exceed 5 taxable years after the close of the taxable year during which the qualified water-dependent facility received final certification and was placed in service as provided for in this section.

(f) The Secretary shall annually, not later than September 1 of each year, file a report with the House and Senate Committees on Ways and Means, the chairs of the Joint Committee on Community Development and Small Businesses, and the chairs of the Joint Committee on

Economic Development and Emerging Technologies, identifying the total amount of tax credits claimed pursuant to this subsection and the total amount of tax credits transferred, sold, or assigned hereunder for the preceding fiscal year.

(g) If the certified water-dependent facility is disposed of, or ceases to be used for the exclusive use of water-dependent commercial or industrial activities, before the end of such facility's useful life, the recapture provisions Chapter 63, section 31A, subsection (e) shall apply.

SECTION 2. Chapter 63 of the General Laws is hereby amended by inserting after section 6N the following section:-

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

"Certified construction", the construction of a qualified water-dependent facility that has been approved and certified by the Secretary of Housing and Economic Development, in consultation with the Executive Office of Energy and Environmental Affairs, as being consistent with the standards established by the Designated Port Area for the purposes of this section.

"Qualified water-dependent facility", any building or structure, located within the commonwealth, constructed for the exclusive use of water-dependent commercial or industrial activities, seafood processing, aquaculture, water-dependent science, research and innovation, or seafood storage, and uses accessory and directly supportive thereof including wholesale and retail uses, and which is located in a Designated Port Area as defined by 301 C.M.R. 25.02.

"Qualified water-dependent facility expenditure", any amount properly chargeable to a capital account in effect for the taxable year, incurred in connection with the certified water-

dependent facility construction or rehabilitation in a Designated Port Area, but the term shall not include personal property, personal use property, or the cost of acquiring any building or interest thereon, up to and including costs of building materials and supplies, fixtures, equipment, design, engineering, permitting and labor costs, paid by the taxpayer.

"Taxpayer", a taxpayer subject to an excise under this chapter.

"CDC" or "Community Development Corporation", a corporation certified as a community development corporation by the Department of Housing and Community Development as consistent with chapter 40H.

(b) Massachusetts Maritime Commercial Development tax credit.

(1) The Secretary of Housing and Economic Development (hereto referred as the Secretary) shall authorize the tax credits under this section. The Secretary shall authorize annually, beginning January 1, 2019, under this section, together with section 6O of chapter 62, an amount not to exceed $50,000,000 per year. The Secretary shall determine the criteria for eligibility for the credit, such criteria to be set forth in regulations promulgated under this section.

(i) Any single municipality shall not be eligible to receive a more than fifty percent of the total amount of awarded credits in a given calendar year.

(1) This restriction may be waived by the Secretary. Such a waiver must be made in writing, and submits the decision with an adequate reasoning to the Joint Committee on Economic Development and Emerging Technologies, the House and Senate Committees on Rules, and the House and Senate Committees on Ways and Means.

(2) A taxpayer that incurs qualified water-dependent facility expenditures may be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this chapter. The credit shall be equal to a percentage, not to exceed 25 percent, of the qualified water-dependent facility expenditures made by the taxpayer with respect to a qualified water-dependent facility which has received final certification and has been placed in service as provided for in this section. The Secretary shall administer and determine eligibility for the Massachusetts maritime commercial development tax credit and allocate the credit in accordance with this section; but, the Secretary may impose a fee for the processing of applications for the certification of any water-dependent facility under the provisions of this section.

(i) Community development corporations shall be eligible to receive this tax credit at a rate equal to that of any taxpayer under this section.

(3) The credit allowable under this section shall be allowed for the taxable year in which the water-dependent facility property is placed in service, that is, when occupancy of the entire structure or some identifiable portion of the structure is permitted. A taxpayer allowed a credit under this section for a taxable year may carry over and apply to the tax imposed by this chapter in any of the succeeding 5 taxable years, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year.

(d) Maritime commercial development tax credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among the persons designated as partners, members or owners documenting

an alternative distribution method without regard to their sharing of other tax or economic attributes of the entity.

(e) Taxpayers eligible for the Massachusetts maritime commercial development tax credit may, with prior notice to and in accordance with regulations adopted by the Secretary, transfer the credits, in whole or in part, to any individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself. The transferee shall use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; but, the carryover period shall not exceed 5 taxable years after the close of the taxable year during which the qualified water-dependent facility received final certification and was placed in service as provided for in this section.

(f) The Secretary shall annually, not later than September 1 of each year, file a report with the House and Senate Committees on Ways and Means, the chairs of the Joint Committee on Community Development and Small Businesses, and the chairs of the Joint Committee on Economic Development and Emerging Technologies, identifying the total amount of tax credits claimed pursuant to this subsection and the total amount of tax credits transferred, sold, or assigned hereunder for the preceding fiscal year.

(g) If the certified water-dependent facility is disposed of, or ceases to be used for the exclusive use of water-dependent commercial or industrial activities, before the end of such facility’s useful life, the recapture provisions Chapter 63, section 31A, subsection (e) shall apply.