

SENATE No. 2231

Text of amendment (Senator Tarr to the Senate Bill making appropriations for the fiscal year 2020 for the maintenance of the departments, boards, commissions, institutions and certain activities of the commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (Senate, No. 3)).

The Commonwealth of Massachusetts

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

1 by inserting after section _ the following section:-

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

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

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

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

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

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

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

26 (b) Massachusetts Maritime Commercial Development tax credit.

27 (1) The Secretary of Housing and Economic Development (hereto referred as the
28 Secretary) shall authorize the tax credits under this section. The Secretary shall authorize
29 annually, beginning January 1, 2020, under this section, together with section 31O of chapter 63,
30 an amount not to exceed \$12,500,000 per year. The Secretary shall determine the criteria for
31 eligibility for the credit, such criteria to be set forth in regulations promulgated under this
32 section.

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

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

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

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

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

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

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

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

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

82

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

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

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

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

96 "Qualified water-dependent facility expenditure", any amount properly chargeable to a
97 capital account in effect for the taxable year, incurred in connection with the certified water-
98 dependent facility construction or rehabilitation in a Designated Port Area, but the term shall not
99 include personal property, personal use property, or the cost of acquiring any building or interest

100 thereon, up to and including costs of building materials and supplies, fixtures, equipment, design,
101 engineering, permitting and labor costs, paid by the taxpayer.

102 “Taxpayer”, a taxpayer subject to an excise under this chapter.

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

106 (b) Massachusetts Maritime Commercial Development tax credit.

107 (1) The Secretary of Housing and Economic Development (hereto referred as the
108 Secretary) shall authorize the tax credits under this section. The Secretary shall authorize
109 annually, beginning January 1, 2020, under this section, together with section 6O of chapter 62,
110 an amount not to exceed \$12,500,000 per year. The Secretary shall determine the criteria for
111 eligibility for the credit, such criteria to be set forth in regulations promulgated under this
112 section.

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

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

119 (2) A taxpayer that incurs qualified water-dependent facility expenditures may be
120 allowed a credit, to be computed as hereinafter provided, against the tax imposed by this chapter.

121 The credit shall be equal to a percentage, not to exceed 25 percent, of the qualified water-
122 dependent facility expenditures made by the taxpayer with respect to a qualified water-dependent
123 facility which has received final certification and has been placed in service as provided for in
124 this section. The Secretary shall administer and determine eligibility for the Massachusetts
125 maritime commercial development tax credit and allocate the credit in accordance with this
126 section; but, the Secretary may impose a fee for the processing of applications for the
127 certification of any water-dependent facility under the provisions of this section.

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

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

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

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

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

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