

SENATE No. 2853

Senate, July 29, 2020 -- Text of the Senate amendment (Senator Crighton) to the Senate Bill enabling partnerships for growth (Senate, No. 2842).

The Commonwealth of Massachusetts

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

1 by inserting the following section:-

2 "SECTION XX. Section 1 of chapter 121A of the General Laws is hereby amended by
3 replacing the definitions of "decadent area", "sub-standard area", and "project" with the below
4 definitions of those terms, and inserting the following additional definitions after the definition
5 of "project"-

6 "Decadent area", an area, including a spot rehabilitation property, which is detrimental to
7 safety, health, morals, welfare or sound growth of a community because of the existence of a
8 building or buildings which are out of repair, physically deteriorated, unfit for human habitation,
9 or obsolete, or in need of major maintenance or repair, or because much of the real estate in
10 recent years has been sold or taken for non-payment of taxes or upon foreclosure of mortgages,
11 or because a building or buildings have been torn down and not replaced and in which under
12 existing conditions it is improbable that the building or buildings will be replaced, or because of
13 a substantial change in business or economic conditions, or because of inadequate light, air, or
14 open space, or because of excessive land coverage, or because diversity of ownership, irregular
15 lot sizes or obsolete street patterns make it improbable that the area will be redeveloped by the

16 ordinary operations of private enterprise, or by reason of any combination of the foregoing
17 conditions.

18 “Sub-standard area”, an area, including a spot rehabilitation property, upon which there is
19 a dwelling or wherein dwellings predominate which, by reason of dilapidation, overcrowding,
20 faulty arrangement or design, lack of ventilation, light, or sanitation facilities, or any
21 combination of these factors, are detrimental to safety, health, morals, welfare or sound growth
22 of a community.

23 “Project”, any undertaking consisting of the construction in one or more specified
24 blighted open, decadent or sub-standard areas of decent, safe and sanitary residential,
25 commercial, industrial, institutional, recreational or governmental buildings and such
26 appurtenant or incidental facilities as shall be in the public interest, and the operation and
27 maintenance of such buildings and facilities after construction. A “project” may include as
28 incidental thereto any one or more of the following:— (a) acquisition and assembly of the land
29 (and buildings and structures and other improvements thereon, if any) within a blighted open,
30 decadent or sub-standard area or areas; (b) clearance of the land within a blighted open, decadent
31 or sub-standard area or areas; (c) acquisition, assembly and clearance of land, buildings or
32 structures not in themselves blighted, decadent, or sub-standard if their inclusion is necessary for
33 the clearance, redevelopment, reconstruction or rehabilitation of a blighted open, decadent or
34 sub-standard area or areas; and (d) installation, construction, and reconstruction of public and
35 private ways, public utilities and services, and site improvements essential to the preparation of
36 blighted open, decadent or sub-standard area or areas for beneficial development or
37 redevelopment.

38 “Spot Blight Project Sponsor”, a community development corporation certified under
39 chapter 40H; a bona-fide non-profit organization, established under chapter 180 that has, in the
40 determination of the housing board, satisfactory and sufficient experience in the construction or
41 rehabilitation of residential or non-residential buildings, the creation or provision of affordable
42 housing, the restoration of abandoned property, the revitalization and improvement of
43 neighborhoods, or a similar purpose; a redevelopment authority established under chapter 121B;
44 or a partnership of two or more of any of the foregoing; that is approved under this chapter to
45 rehabilitate a spot rehabilitation property.

46 “Spot Rehabilitation Property”, a residential single-family home, a residential building
47 with not more than four separate units, a commercial property under 10,000 square feet with a
48 building or buildings thereon, or any building under 10,000 square feet with a mix of residential
49 and commercial uses that meets the following criteria: (a) the building or buildings on the
50 property have been vacant for the last twelve months, (b) construction has not begun pursuant to
51 a building permit that has been issued to conduct rehabilitation of the building or buildings on
52 the property for the purpose of making the property habitable or useable for commercial
53 purposes, and (c) the municipality has made a determination that the building or buildings are
54 distressed, upon consideration of the following: the building or buildings are out of repair,
55 physically deteriorated, unfit for human habitation, or obsolete, or in need of major maintenance
56 or repair, or because the building has been sold or taken for non-payment of taxes or upon
57 foreclosure of mortgages.

58 “Spot Rehabilitation Project”, any project, the subject of which consists exclusively of
59 spot rehabilitation properties.

60 SECTION XX. Chapter 121A of the General Laws is hereby further amended by
61 deleting section seven A and inserting in its place the following:-

62 A corporation organized under section three or an insurance company or a group of
63 insurance companies or a savings bank or group of savings banks operating under this chapter or
64 a spot blight project sponsor may purchase or lease from a housing authority, redevelopment
65 authority, municipality or other public body real estate acquired by such authority, municipality
66 or public body for land assembly and redevelopment or urban renewal purposes under chapter
67 one hundred and twenty-one B, upon such terms and conditions, consistent with this chapter, as
68 shall be approved by the housing board and may erect and maintain a project upon the land so
69 acquired. Such corporation shall not be required to offer its stock to the owners of the real estate
70 within the location of the project and such owners have no preferential right to subscribe thereto;
71 but in all other respects the provisions of this chapter shall be applicable to corporations acting
72 thereunder and their projects.

73 SECTION XX. Chapter 121A of the General Laws is hereby further amended by
74 inserting the following paragraph after the third paragraph of section eleven:-

75 A spot blight project sponsor shall have the power, with the approval of the local
76 municipality, to sell, exchange, give or otherwise transfer in whole or in part the land or interests
77 therein, including air rights, leased or acquired by it under this chapter, with the buildings or
78 other structures thereon, constituting a project or portion hereunder to any entity identified in the
79 foregoing paragraph, or may sell or lease the spot rehabilitation property to any individual or
80 group of individuals intending to use said property for residential use.

81 SECTION XX. Chapter 121A of the General Laws is hereby further amended by
82 inserting after section 18D the following section:-

83 Section 18E. A spot blight project sponsor may undertake on land owned or to be
84 acquired by it one or more spot rehabilitation projects under this chapter, or acquire spot
85 rehabilitation projects or any severable portion thereof from corporations, individuals or entities
86 authorized to undertake or acquire spot rehabilitation projects under this chapter, and the
87 provisions of this chapter, specifically including the powers granted by sections six A and eleven
88 and the procedures set forth in section eighteen B shall, to the extent applicable, apply to such
89 spot blight project sponsor and such spot rehabilitation projects, excepting the following:

90 (a) The term “corporation” as used in section six A, seven A, section ten, section
91 eleven, section twelve, section thirteen, section fourteen, and section fifteen shall be deemed to
92 mean spot blight project sponsor with respect to spot blight projects.

93 (b) Section three shall not be applicable to such spot blight project sponsor; and
94 provided further, a spot blight project sponsor may undertake more than one spot rehabilitation
95 project.

96 (c) Section five shall not be applicable to a spot blight project; provided, however,
97 that the spot blight project sponsor shall submit an application for the approval of a spot
98 rehabilitation project, in the form required pursuant to section five to the municipality for its
99 approval.

100 (d) So much of section six as relates to the agreement of association shall not be
101 applicable to such spot blight project sponsor. The first, eighth, ninth, and tenth paragraphs of
102 section six shall not be applicable to a spot blight project. The municipality where the spot blight

103 project is located shall have full responsibility for approval of the proposed spot blight project as
104 set forth in the second through seventh paragraphs of section six. The municipality shall transmit
105 its final decision to the housing board for record keeping purposes only.

106 (e) The second paragraph of section six B shall not be applicable to such spot blight
107 project sponsor, except that the planning board at least fourteen days before the day of the
108 hearing shall mail a notice to each owner of land that is within the proposed spot blight project.
109 If service cannot be made, then service shall be made by posting a copy of the notice upon a
110 portion of the property facing a public way, by publication of a copy of the notice in one
111 newspaper of general circulation, and posting on the municipality's website.

112 (f) Section seven shall not be applicable to such spot blight project sponsor.

113 (g) So much of section eight as provides that "Every such corporation shall be
114 deemed to have been organized to serve a public purpose" shall be construed to mean "Every
115 such project shall be deemed to have been undertaken to serve a public purpose". The term
116 "housing board" as used in section eight shall be deemed to mean "municipality".

117 (h) Section nine shall not be applicable to such spot blight project sponsor.

118 (i) The term "shall" as used in the first and third paragraphs of section ten shall be
119 deemed to mean "may" with respect to a spot blight project sponsor. A spot blight project
120 sponsor that elects to forego the tax exemptions provided under section ten shall not be required
121 to comply with the other provisions of that section, and shall not be required to obtain signatures
122 of a majority of the assessors under section six A.

123 (j) So much of section fifteen as relates to reducing the indebtedness of a corporation
124 shall apply only to indebtedness incurred in connection with a spot rehabilitation project. The
125 term “operating and maintenance expenses” shall be deemed to include rehabilitation costs,
126 including any principal and interest on loans used for the project, and costs other than direct
127 rehabilitation costs, as well as a developer’s fee to the spot blight project sponsor, which fee shall
128 not exceed 20% of the combined cost of acquisition and rehabilitation of the spot rehabilitation
129 property.

130 (k) The provisions of sections five, six A, and eleven shall, as modified by this
131 section 18E, apply to a spot rehabilitation project whether said spot rehabilitation project is in
132 Boston, Springfield or another municipality.

133 SECTION XX. Section 2 of chapter 21E of the General Laws, as so appearing, is hereby
134 amended by striking section f within the definition of “Owner,” or “Operator”, and inserting in
135 its place the following:

136 (f) A redevelopment authority, redevelopment agency, community development
137 corporation, economic development and industrial corporation, or a spot blight project sponsor
138 pursuant to chapter 121A shall not be deemed an owner or operator if all of the following
139 requirements are met:

140 (1) the redevelopment authority, redevelopment agency, community development
141 corporation, economic development and industrial corporation or spot blight project sponsor has
142 acquired its portion of the site in accordance with the provisions of chapter 40F, chapter 121A,
143 chapter 121B or chapter 121C or any applicable special acts;

144 (2) no act or failure of duty of the redevelopment authority, redevelopment agency,
145 community development corporation, economic development and industrial corporation or spot
146 blight project sponsor or of any employee or agent thereof, caused or contributed to, or
147 exacerbated any release or threat of release of oil or hazardous material at or from the site;

148 (3) the redevelopment authority, redevelopment agency, community development
149 corporation, economic development and industrial corporation or spot blight project sponsor
150 satisfies all of the following conditions:

151 a) notifies the department in compliance with this chapter and regulations
152 promulgated thereto upon obtaining knowledge of a release or threat of release of oil or
153 hazardous material for which notification is required pursuant to this chapter and regulations
154 promulgated pursuant thereto;

155 b) provides reasonable access to the site or portion of the site under its control to
156 employees, agents and contractors of the department for all purposes authorized by this chapter,
157 and to other Persons for the purpose of conducting response actions pursuant to this chapter and
158 regulations promulgated thereto;

159 c) takes reasonable steps (i) to prevent the exposure of people to oil or hazardous
160 material by fencing or otherwise preventing access to the portion of the site under its ownership
161 or possession, and (ii) to contain any further release or threat of release of oil or hazardous
162 material from a structure or container under its ownership or possession;

163 d) if there is an imminent hazard at or from the portion of the site under its control,
164 controls the potential risk to public health, safety, welfare, or the environment at or from the site

165 by taking immediate response actions at the portion of the site under its ownership or possession,
166 in compliance with this chapter and regulations promulgated thereto;

167 e) conducts any response action undertaken at the site in compliance with this
168 chapter and regulations promulgated thereto; and

169 f) acts diligently to sell or otherwise to divest itself of ownership or possession of its
170 portion of the site in accordance with the provisions of chapter 40F, chapter 121A½, chapter
171 121B or chapter 121C, or any applicable special acts. Whether the redevelopment authority,
172 redevelopment agency, community development corporation, economic development and
173 industrial corporation or Project Sponsor is acting or has acted diligently to sell or otherwise to
174 divest itself of ownership or possession of its portion of the site shall be determined by
175 considering the same criteria applicable to secured lenders set forth in subclause (iii) of
176 subparagraph (F) of clause (5) of paragraph (c).

177 (4) if the redevelopment authority, redevelopment agency, community development
178 corporation, economic development and industrial corporation or spot blight project sponsor
179 acquired ownership or possession of a site or portion of a site prior to the effective date of this
180 act, the redevelopment authority, redevelopment agency, community development corporation,
181 economic development and industrial corporation or spot blight project sponsor notifies the
182 department of any releases of oil or hazardous material of which it has knowledge in accordance
183 with section 7 and the regulations promulgated thereunder, and shall meet the requirements in
184 clause (3) of this paragraph relative to such releases within six months of being notified by the
185 department of the requirements in this paragraph."