

HOUSE No. 3858

The Commonwealth of Massachusetts

PRESENTED BY:

Christopher Richard Flanagan

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 incentivizing multi-family housing through redevelopment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Christopher Richard Flanagan</i>	<i>1st Barnstable</i>	<i>1/19/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>2/8/2023</i>

HOUSE No. 3858

By Representative Flanagan of Dennis, a petition (accompanied by bill, House, No. 3858) of Christopher Richard Flanagan and James C. Arena-DeRosa for legislation to provide tax credits for certain certified rural housing redevelopment projects. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to incentivizing multi-family housing through redevelopment.

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. The General Laws are hereby amended by inserting after chapter 40Y the
2 following chapter:-

3 Chapter 40Z. RURAL HOUSING DEVELOPMENT INCENTIVE PROGRAM

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

6 "Certified rural housing development project", the substantial rehabilitation of a rural
7 housing development project that has been approved by the department for participation in the
8 rural housing development incentive program.

9 "Department", the department of housing and community development as established by
10 chapter 23B.

11 "Rural housing development project", a multi-unit residential rehabilitation project that is
12 located in a rural area and once substantially rehabilitated, shall contain at least 80 per cent
13 market rate residential units.

14 "Qualified project expenditure", an expenditure directly related to substantial
15 rehabilitation of a rural housing development project, including the cost of site assessment and
16 remediation of hazardous materials, but excluding the purchase of the property, provided,
17 however, that: (i) the department has certified that the proposed project meets the definition of
18 rural housing development project; (ii) prior to construction, the department has certified that all
19 or a portion of the project costs are for substantial rehabilitation; and (iii) after the project has
20 been completed, the department has certified that the project has been completed in compliance
21 with this chapter and the requirements and conditions of any prior certifications.

22 "Rural area", an area with a low concentration of residential housing as determined by
23 the department.

24 "Substantial rehabilitation" and "substantially rehabilitated", the redevelopment, repair
25 and renovation of a property, including site assessment and remediation of hazardous materials,
26 but, excluding the purchase of the property, as determined by the department of housing and
27 community development.

28 Section 2. The department may from time to time designate 1 or more municipalities as a
29 rural area and take any and all actions necessary or appropriate to such a designation, upon
30 receipt of a municipal application requesting such designation and representing in its application
31 that the municipality, based on its own independent investigation, has determined that the area
32 proposed for designation has a low concentration of residential housing and has a need for multi-

33 unit residential properties. The application shall include a plan that shall include a description of
34 the activities, public and private, contemplated for such area as of the date of the adoption of the
35 designation, including information as the department may require in written guidelines.

36 Section 3. (a) A project may be eligible to be a certified rural housing development
37 project under this chapter if the project:

38 (i) contains 2 or more residential units;

39 (ii) is located in a designated or proposed rural area as determined by the department;

40 (iii) contains at least 80 per cent market rate units upon completion of the substantial
41 rehabilitation, to be sold or leased; and

42 (iv) involves the substantial rehabilitation of an existing property.

43 (b) The department may from time to time certify 1 or more rural housing development
44 projects, located in rural areas designated pursuant to section 2, as certified rural housing
45 development projects under this section and take any and all actions necessary or appropriate to
46 such a designation, upon compliance with the following:

47 (i) receipt of a project proposal for such a designation requesting such designation from
48 the municipality, submitted in a timely manner, in such form and with such information as the
49 department prescribes, supported by independently verifiable information and signed under the
50 penalties of perjury by a person authorized to bind the sponsors;

51 (ii) receipt of an agreement executed by the municipality that is approved by the
52 department that the project as described in the proposal and all documentation submitted with the
53 proposal:

54 (A) is consistent with and can reasonably be expected to benefit significantly from the
55 municipality's plans relative to the project;

56 (B) together with all other projects previously certified and located in the same project
57 rural area, shall not overburden the municipality's supporting resources; and

58 (C) together with the municipal resources committed to the project, shall, if certified,
59 have a reasonable chance of increasing residential growth, diversity of housing supply,
60 supporting economic development and promoting neighborhood stabilization in the designated
61 rural area as advanced in the proposal; and

62 (iii) receipt with such written approval by the municipality of a request for a designation
63 of the project as a certified rural housing development project for a specified number of years,
64 which shall be not less than 5 years and not more than 20 years.

65 (c) The department shall evaluate and either grant or deny any project proposal not later
66 than 90 days from the date of its receipt of a complete project proposal and failure to do so by the
67 department shall result in approval of such project for a term of 20 years. Approval of a project
68 due to the department's failure to act within 90 days shall not constitute approval by the
69 department of any tax incentives provided under chapter 62.

70 (d) The department may impose a fee for the processing of applications for the
71 certification of any project under this section.

72 (e) The certification of a project may be revoked by the department if: (i)(A) the
73 municipality that approved the project proposal files a petition that satisfies the authorization
74 requirements for a municipal application or the petition of the director of the department; and (B)

75 the department determines, after an independent investigation, that representations made by the
76 sponsors in its project proposal are materially different from the conduct of the sponsors
77 subsequent to the certification and such difference is found to frustrate the public purposes that
78 the certification was intended to advance; or (ii) the project no longer meets the criteria in this
79 section. Upon revocation, the commonwealth and the municipality may bring a cause of action
80 against the sponsors for the value of any economic benefit received by the sponsors prior to or
81 subsequent to such revocation. Under this section, revocation shall take effect on the first day of
82 the tax year in which the department determines that a material variance commenced. The
83 commissioner of revenue may, as of the effective date of the revocation, disallow any credits,
84 exemptions or other tax benefits allowed by the original certification under this section. The
85 commissioner shall issue regulations to recapture the value of any credits, exemptions or other
86 tax benefits allowed by the certification under this section.

87 (f) Annually, on or before the first Wednesday in December, the department shall file a
88 report detailing its findings of the review of all certified housing development projects that it
89 evaluated in the prior fiscal year to the commissioner of revenue, to the joint committee on
90 revenue and the joint committee on housing and community development. The report shall
91 include, but not be limited to: (i) a list of municipalities with approved rural areas; (ii) a list of
92 rural housing development projects that have received certification; (iii) information about each
93 certified rural housing development project, including the site address, project sponsor, range of
94 rents of the residential units, type of residential units, number of each type of residential unit,
95 number of affordable rental units for persons whose income is not more than 60 per cent of the
96 area median income and the number of affordable owner-occupied units for persons whose
97 income is not more than 80 per cent of the area median income; and (iv) the total amount of

98 qualified project expenditures for which a tax credit was issued or reserved for each rural
99 housing development project, the year the credit was issued and the completion or estimated
100 completion year of the housing development project.

101 SECTION 2. Section 6 of chapter 62 of the General Laws is hereby amended by adding
102 the following subsection:-

103 (dd)(1) A credit shall be allowed against the tax liability imposed by this chapter, to the
104 extent awarded by the department of housing and community development as established by
105 chapter 23B, for a certified rural housing redevelopment project, as defined in chapter 40Z, in an
106 amount up to 25 per cent of the cost of qualified project expenditures of the market rate
107 residential units within the certified rural housing development project, as those terms are
108 defined in said chapter 40Z. The credit under this subsection shall be allowed for the taxable year
109 in which the department gives the commissioner written notification of completion of the
110 certified rural housing redevelopment project.

111 (2) Taxpayers eligible for the this credit may, with prior notice to and under regulations
112 adopted by the commissioner, transfer the credits, in whole or in part, to any individual or entity,
113 and the transferee shall be entitled to apply the credits against the tax with the same effect as if
114 the transferee had incurred the qualified project expenditures itself. If the sponsor of the certified
115 rural housing development project is a partnership or a limited liability company taxed as a
116 partnership, the credit, if transferred must be transferred by the partnership or the limited liability
117 company. If the credits allowed to a partnership, a limited liability company taxed as a
118 partnership or multiple owners of property are not transferred they shall be passed through to the
119 persons designated as partners, members or owners, respectively, pro rata or pursuant to an

120 executed agreement among the persons designated as partners, members or owners documenting
121 an alternative distribution method without regard to their sharing of other tax or economic
122 attributes of the entity. Credits passed through to individual partners and members are not
123 transferable.

124 (3) If the credit allowable for any taxable year exceeds the taxpayer's tax liability for that
125 tax year, the taxpayer may carry forward and apply in any subsequent taxable year, the portion,
126 as reduced from year to year, of those credits which exceed the tax for the taxable year;
127 provided, however, that in no event shall the taxpayer apply the credit to the tax for any taxable
128 year beginning more than 10 years after the taxable year in which department gives the
129 commissioner written notification of completion of the rural housing redevelopment project. If
130 the credit is transferred by the taxpayer, the carry over provisions applicable to the transferee
131 apply.

132 (4) A transferee shall use the credit in the year it is transferred. If the credit allowable for
133 any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry
134 forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of
135 those credits which exceed the tax for the taxable year; provided, however, that in no event shall
136 the transferee apply the credit to the tax for any taxable year beginning more than 10 years after
137 the taxable year in which the department gives the commissioner written notification of
138 completion of the certified rural housing development project.

139 (5) For any rural housing redevelopment project, qualified project expenditures
140 applicable to this credit shall be treated for purposes of this subsection as made on the date that

141 the department gives the commissioner written notification of completion of the rural housing
142 redevelopment project.

143 (6) The total amount of credits that may be authorized by the department in a calendar
144 year pursuant to this subsection shall not exceed \$10,000,000 and shall include: (i) credits
145 granted during the year pursuant to this subsection; and (ii) carry forwards of credits from prior
146 years pursuant to this subsection, to the extent that such credit carry forwards are estimated by
147 the

148 commissioner to offset tax liabilities during the year. Any portion of the \$10,000,000
149 annual cap not awarded by the department in a calendar year shall not be applied to awards in a
150 subsequent year. The department shall provide the commissioner with any documentation that
151 the commissioner deems necessary to confirm compliance with the annual cap and the
152 commissioner shall provide a report confirming compliance with the annual cap to the secretary
153 of administration and finance and the secretary of housing and economic development.

154 (7) The commissioner, in consultation with the department, shall prescribe regulations
155 necessary to carry out this subsection.