

# HOUSE . . . . . No. 3858

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## 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

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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.

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## The Commonwealth of Massachusetts

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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-

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

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

(i) contains 2 or more residential units;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Taxpayers eligible for the this credit may, with prior notice to and under regulations adopted by the commissioner, 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 project expenditures itself. If the sponsor of the certified rural housing development project is a partnership or a limited liability company taxed as a partnership, the credit, if transferred must be transferred by the partnership or the limited liability company. If the credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of property are not transferred they shall be passed through to the 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.