

Key Features of the Gateway Cities Bill

1. Historic Tax Credit

- Uncaps the Historic Tax Credits awarded to projects located in Gateway Cities until December 31, 2015
- Maintains the \$100,000,000 cap on Historic Tax Credits awarded to projects in all other municipalities
- At least 25% of the tax credits should be used for projects containing affordable housing when possible

2. Job Creation Tax Credit

- Authorizes the Department of Revenue to provide Job Creation Tax Credits to corporations creating new jobs in Gateway Cities in an amount not exceeding \$2,500 per new employee or 10% of that corporation's state income tax
- Excludes employees at point-of-final-purchase retail facilities, but includes employees at catalog distribution centers

3. Market-Rate Housing Tax Credit

- Establishes a Gateway Cities Market-Rate Housing Tax Credit in the amount of \$25 million annually to be awarded by the Department of Housing and Community Development and distributed among projects located in Gateway Cities
- The tax credit can be claimed over a period of 5 years
- Eligible projects include new construction, conversion of non-residential properties to residential use, and the rehabilitation of existing housing
- The tax credit is also transferable or can be sold to eligible third-parties

4. Homeowner Rehabilitation Tax Credit

- Creates a Gateway City Homeowner Rehabilitation Tax Credit for homes located within Gateway City Rehabilitation Zones and administered by the Secretary of Housing & Economic Development
- The tax credit may not exceed 25% of the home's appraised value and can be awarded annually in an amount not exceeding \$5,000. The credit can be carried forward over a 10 year period

5. Combined ITC and EOA Tax Credits

- Allows for corporations locating in Gateway Cities to be entitled to both a 3% Investment Tax Credit (ITC) and a 5% Economic Opportunity Area (EOA) tax credit for certified projects

6. Expansion of EOA to Leasing Property Owners

- Expands the Economic Opportunity tax credit to firms leasing property in a certified project (i.e. building owners are eligible for EOA tax credits) located in a Gateway City

HOUSE No. 2702

The Commonwealth of Massachusetts

PRESENTED BY:

Antonio F.D. Cabral

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 passage of the accompanying bill:

An Act to promote economic development in gateway cities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Antonio F.D. Cabral	13th Bristol
Stephen J. Buoniconti	Hampden
Mark C. Montigny	Second Bristol and Plymouth
Benjamin B. Downing	Berkshire, Hampshire and Franklin
Michael R. Knapik	Second Hampden and Hampshire
Michael J. Rodrigues	8th Bristol
Stephen R. Canessa	12th Bristol
Angelo J. Puppolo, Jr.	12th Hampden
Stephen L. DiNatale	3rd Worcester
Christine E. Canavan	10th Plymouth
Robert P. Spellane	13th Worcester
William Lantigua	16th Essex
David B. Sullivan	6th Bristol
Harriette L. Chandler	First Worcester
Robert M. Koczera	11th Bristol
Kevin Aguiar	7th Bristol
Barbara A. L'Italien	18th Essex
Steven J. D'Amico	4th Bristol
Michael O. Moore	Second Worcester

Richard T. Moore	Worcester and Norfolk
Joan M. Menard	First Bristol and Plymouth
Geraldine Creedon	11th Plymouth
Barbara A. L'Italien	18th Essex
James J. O'Day	14th Worcester District
Jennifer L. Flanagan	Worcester and Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROMOTE ECONOMIC DEVELOPMENT IN GATEWAY CITIES.

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 3A of Chapter 23A is hereby amended by adding the following definition:

2 “Gateway Cities” or “Gateway City”, municipalities or a municipality in the commonwealth
3 designated by the Secretary of Housing and economic Development pursuant to section 3I.

4 **Section 2**

5 Chapter 23A is hereby amended by adding the following section:

6 The Secretary of Housing and Economic Development shall designate as Gateway Cities
7 municipalities which meet the following criteria, no later than January 31 of each year:

8 (a) population exceeding 35,000 people;

9 (b) median household income below the state average;

10 (c) per capita income below the state average; and

11 (d) percentage of the city or town’s population having attained a bachelor’s degree or
12 higher below the state’s average.

13 Any municipality named a Gateway City shall remain a Gateway City for at least three
14 consecutive calendar years.

15 **Section 3**

16 Section 6J(b)(1)(i) of Chapter 62 is hereby amended by striking the words “an amount not to
17 exceed \$50,000,000 per year” and inserting in its place the following words: “an unlimited amount for

18 Gateway Cities as defined in Chapter 23A, and an amount not to exceed \$100,000,000 annually for all
19 other municipalities combined.”

20 **Section 4**

21 Section 38R(b)(1)(i) of Chapter 63 is hereby amended by striking the words “an amount not to
22 exceed \$50,000,000 per year” and inserting in its place the following words: “an unlimited amount for
23 Gateway Cities as defined in Chapter 23A, and an amount not to exceed \$100,000,000 annually for all
24 other municipalities combined.”

25 **Section 5**

26 Chapter 63 is hereby amended by adding the following:

27 Definitions –

- 28 (1) “Commissioner” means the Commissioner of the Department of Revenue as
29 described in Section 2 of Chapter 14
30 (2) “Department of Revenue” means the Massachusetts Department of Revenue as
31 described in Section 1 of Chapter 14
32 (3) “Full-time employee” means, for the purposes of this Section only, an individual
33 who is employed for consideration for at least an average of thirty-five hours
34 a week, who renders any other standard of service generally accepted by
35 custom or specified by contract as full-time employment, or who is employed
36 for consideration for such time or renders such service but is on family or
37 medical leave under the federal Family and Medical Leave Act of 1993, Pub.
38 L. No. 103-3, 107 Stat. 6, as amended, or on active military duty reserve or
39 Massachusetts national guard service.
40 (4) “New employee” means, for the purposes of this Section only, a full-time
41 employee first employed by a taxpayer in the project that is the subject of the
42 agreement after the taxpayer enters into a tax credit agreement with the tax
43 credit authority under this section

44 The Department of Revenue shall have the authority to provide a credit for a corporation
45 against its corporate income tax to foster job creation in Gateway Cities in the commonwealth as
46 defined in Chapter 23A of these laws. The credit shall be claimed for the taxable years or tax
47 periods specified in the taxpayer’s agreement with the Department of Revenue. The amount of
48 the credit available for a taxable year cannot exceed either \$2500 per new employee or ten
49 percent (10%) of that corporation’s state income tax

50 A taxpayer or potential taxpayer who proposes a project to create new jobs in the
51 commonwealth may apply to the Department of Revenue to enter into an agreement for a tax
52 credit under this section. The Commissioner of the Department of Revenue shall prescribe the
53 form of the application. After receipt of an application, the Department may enter into an
54 agreement with the taxpayer for a credit under this section if it determines all of the following:

- 55 (1) The taxpayer’s project will create new jobs in this state;
56 (2) The taxpayer’s project is economically sound and will benefit the people of this state
57 by increasing opportunities for employment and strengthening the economy of this state; and

58 (3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with
59 the project.

60 An agreement under this section shall include all of the following:

61 (1) A detailed description of the project that is the subject of the agreement;

62 (2) The term of the tax credit, which shall not exceed ten years, and the first taxable year,
63 or first calendar year that includes a tax period, for which the credit may be claimed;

64 (3) A requirement that the taxpayer shall maintain operations at the project location for at
65 least twice the number of years as the term of the tax credit;

66 (4) A letter of support from the Mayor or Town Manager of the Gateway City in which
67 the jobs will be created;

68 (5) A specific method for determining how many new employees are employed during a
69 taxable year or during a calendar year that includes a tax period;

70 (6) A requirement that the taxpayer annually shall report to the Commissioner of the
71 Department of Revenue the number of new employees, the new income tax revenue withheld in
72 connection with the new employees, and any other information the Commissioner may need; and

73 (7) A provision requiring that the taxpayer shall not relocate employment positions from
74 elsewhere in this state to the project site that is the subject of the agreement;

75 If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax
76 credit agreement, the Department of Revenue may amend the agreement to reduce the percentage
77 or term of the tax credit. The reduction of the percentage or term may take effect in the immediate
78 taxable year in which the Commissioner of Revenue notifies the taxpayer in writing of such
79 failure. If the taxpayer fails to annually report any of the information required by this section
80 within the time required by the Commissioner, the reduction of the percentage or term shall take
81 effect in the current taxable year.

82 Projects that consist solely of point-of-final-purchase retail facilities, as defined by the
83 Department of Revenue, are not eligible for a tax credit under this section. If a project consists of
84 both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project
85 consisting of the nonretail facilities is eligible for a tax credit and only the new income tax
86 revenue from new employees of the nonretail facilities shall be considered when computing the
87 amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail facility
88 and supplies only that facility, the warehouse facility is not eligible for a tax credit. Catalog
89 distribution centers are not considered point-of-final-purchase retail facilities for the purposes of
90 this division, and are eligible for tax credits under this section.

91 Financial statements and other information submitted to the Department of Revenue by
92 an applicant or recipient of a tax credit under this section, and any information taken for any
93 purpose from such statements or information, are not public records subject to Massachusetts
94 General Laws. However, the Commissioner of Revenue may make use of the statements and

95 other information for purposes of issuing public reports or in connection with court proceedings
96 concerning tax credit agreements under this section. The Commissioner shall preserve the
97 confidentiality of the statement or information.

98 **Section 6**

99 Chapter 63 is hereby amended by adding the following section:

100 Section 38U

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

103 “Commissioner”, the Commissioner of the Department of Revenue

104 "Department", the Department of Housing and Community Development,
105 or its successor agency.

106 “Gateway City”, a municipality as defined by Chapter 23A

107 "Gateway City housing project", a project to build, convert from non-
108 residential uses or rehabilitate housing in a Gateway City.

109 “Secretary”, the Secretary of Housing and Economic Development

110 (b)(1) There shall be a tax credit for Gateway City housing projects. The
111 department may authorize annually under this section the total sum of \$25,000,000
112 collectively amongst the Gateway Cities as defined in Chapter 23A.

113 (2) The department shall allocate the total available Gateway City housing project
114 tax credit among as many qualified projects as fiscally feasible, with the goal of
115 increasing market rate housing the commonwealth's Gateway Cities.

116 (c)(1) The Gateway City housing tax credit shall be taken against the taxes
117 imposed under this chapter, claimed equally for five years, subtracted from the amount of
118 state tax otherwise due for each taxable period and shall not be refundable. The tax credit
119 shall not exceed the amount of state tax owed annually by the claimant.

120 (2) An owner of a Gateway City housing project shall certify to the commissioner
121 the amount of credit allocated to such owner. The owner of the Gateway City
122 housing project shall provide to the commissioner appropriate information as
123 needed by the Commissioner.

124 (d) The owner of a Gateway City housing project eligible for the Gateway City
125 housing tax credit shall submit, at the time of filing the project owner's state tax return, a
126 letter of support from the Mayor or Town Manager of the Gateway City in which the
127 project is located, and a copy of the required statements issued by the department with

128 respect to such Gateway City housing project. In the case of failure to attach the required
129 statements, a credit under this section shall not be allowed with respect to such qualified
130 Gateway City housing project for that year until the copy is provided to the
131 Commissioner.

132 (e) The Commissioner, through the promulgation of regulations, may require the
133 filing of additional documentation necessary to determine the eligibility or accuracy of a
134 tax credit claimed under the provisions of this section.

135 (f)(1) All or any portion of tax credits issued in accordance with the provisions of
136 this section may be transferred, sold or assigned to parties who are eligible under the
137 provisions of paragraph (1) of subsection (c).

138 (2) An owner or transferee desiring to make a transfer, sale or assignment as
139 described in paragraph (1) of subsection (f) shall submit to the Commissioner a
140 statement which describes the amount of Gateway City housing tax credit for
141 which such transfer, sale or assignment of Gateway City housing tax credit is
142 eligible. The owner shall provide to the commissioner appropriate information so
143 that the housing tax credit can be properly allocated.

144 (3) In the event that recapture of Gateway City housing tax credits is required, any
145 statement submitted to the commissioner as provided in paragraph (2) of
146 subsection (f) shall include the proportion of the Gateway City housing tax credit
147 required to be recaptured, the identity of each transferee subject to recapture and
148 the amount of credit previously transferred to such transferee.

149 (4) The commissioner, in consultation with the department, shall promulgate
150 regulations necessary for the administration of the provisions of paragraph (f).

151 (g) The department, in consultation with the commissioner, shall monitor and
152 oversee compliance with the Gateway City housing tax credit program and may
153 promulgate regulations requiring the filing of additional documentation deemed
154 necessary to determine continuing eligibility for the Gateway City housing tax credit. The
155 department or the commissioner shall report specific occurrences of noncompliance to
156 appropriate state, federal and local authorities.

157 **Section 7**

158 Chapter 62 is hereby amended by adding the following section:

159 (a) Definitions

160 For the purposes of this section, unless the context clearly requires otherwise, the
161 following words shall have the following meanings:-

162 "Certified housing structure", a housing structure within a Gateway City Housing Rehabilitation
163 Zone which meets the rehabilitation requirements set forth by the Department of Housing and
164 Community Development.

165 "Department", the department of housing and community development, or its successor agency.

166 "Gateway City", a municipality as defined by Chapter 23A

167 "Gateway City Rehabilitation Zone", an area of a Gateway City designed pursuant to Subsection
168 (b)

169 "Qualified rehabilitation expenditure" means any amount that is properly chargeable to the
170 homeowner, is expended in the rehabilitation of a structure that, by the end of the taxable year in
171 which the certified rehabilitation is completed, is a certified heritage structure, is expended in
172 compliance with a plan of proposed rehabilitation that has been approved by the Department, and
173 is not funded, financed, or otherwise reimbursed by any state or local grant, grant made from the
174 proceeds of tax-exempt bonds issued by the Commonwealth, a political subdivision of the
175 Commonwealth, or an instrumentality of the Commonwealth or of a political subdivision of the
176 Commonwealth, State tax credit other than the tax credit provided for under the Act, or other
177 financial assistance from the Federal government, the Commonwealth, or a political subdivision
178 of the Commonwealth.

179 "Rehabilitation" means the process of returning a structure to a state of utility, through repair or
180 alteration, which makes possible an efficient use while preserving those portions and features of
181 the structure and its site and environment which make the structure and its site and environment
182 historically, architecturally, or culturally significant.

183 "Secretary" means the Secretary of Housing and Economic Development.

184 "Substantial rehabilitation" means rehabilitation of a structure for which the qualified
185 rehabilitation expenditures, during the 24-month period selected by the taxpayer ending with or
186 within the taxable year, exceed \$5,000

187 "Taxpayer" means resident of the Commonwealth that makes qualified rehabilitation
188 expenditures.

189 (b) There shall be a Gateway City Homeowner Rehabilitation Tax Credit. The Secretary, or
190 her designee, in an agreement with the Gateway City shall establish a Gateway City
191 Rehabilitation Zone within which homes will be eligible for the Gateway City
192 Homeowner Rehabilitation Tax Credit. The Secretary shall establish standards to
193 determine an application process by which a taxpayer may request the Gateway City
194 Homeowner Rehabilitation Tax Credit. The application shall include proof of ownership,
195 rehabilitation plans, estimated rehabilitation expenses, and any other information he
196 needs to be able to award the Gateway City Homeowner Rehabilitation Tax Credit.

197 A taxpayer may file an application with the Secretary or his designee. An incomplete
198 application may not be processed until all required application information has been received.

199 The Gateway City Homeowner Rehabilitation Tax Credit shall be for individual
200 homeowners who make substantial rehabilitation to their home. The credit shall not exceed 25%
201 of the home appraised value. The credit shall be awarded annually in an amount not to exceed
202 \$5,000. If the credit allowable for any taxable year exceeds the annual limit for that tax year, the
203 taxpayer may carry forward and apply in the next nine subsequent taxable years, the remaining
204 portion, still subject to the annual limit. The carryover period shall not exceed 9 taxable years
205 after the close of the taxable year during which the Gateway City Homeowner Rehabilitation Tax
206 Credit was first taken.

207 The Secretary or her designee shall determine whether the proposed substantial
208 rehabilitation for which a complete application is received meets the Standards in
209 determining awarding of the tax credit.

210 **Section 8**

211 Section 38N(a) of Chapter 63 is hereby amended by adding after the words “taken by such
212 corporation” the following words: “except that the corporation shall also be entitled to any
213 credits earned pursuant to section thirty-one A of chapter sixty-three if the property were
214 purchased by a manufacturing corporation or a business corporation engaged primarily in
215 research and development and used exclusively in a certified project located in a Gateway City,
216 as defined in Chapter 23A. Corporations leasing property located in a Gateway City to unrelated
217 parties shall be entitled to the tax credit provided that the property is used exclusively in a
218 certified project.”

219 **Section 9**

220 Section 6 (g)(1) of Chapter 62 is hereby amend by inserting after the words “chapter twenty-
221 three A”, the following sentences: “Property used exclusively in a certified project located in a
222 Gateway City, as defined in Chapter 23A, shall be entitled to the Economic Opportunity Area
223 credit in addition to any credits earned pursuant to section thirty-one A of chapter sixty-three if
224 the property were purchased by a manufacturing corporation or a business corporation engaged
225 primarily in research and development. Taxpayers leasing property located in a Gateway City to
226 unrelated parties shall be entitled to the tax credit provided that the property is used exclusively
227 in a certified project.”