SENATE . . . . No. 1604

By Mr. McKinnon, a petition (accompanied by bill, Senate, No. 1604)
of Allan R. McKinnon, B. Joseph Tully, John W. Olver and members of
the House of Representatives, for legislation to create the Massachu-
setts community development finance corporation. Urban Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Five.

AN ACT CREATING THE MASSACHUSETTS COMMUNITY DEVELOPMENT
FINANCE CORPORATION.

Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:

1 The Massachusetts General Laws are hereby amended by
2 inserting after Chapter 40E the following new chapter:
3 CHAPTER 40F
4 Section 1. Definitions
5 For the purposes of this chapter the following terms shall
6 have the following meaning unless the context clearly indi-
7 cates otherwise:—
8 (a) "corporation" shall mean the Massachusetts Community
9 Development Finance Corporation (hereafter referred to as
10 CDFC).
11 (b) "Community Development Corporation" (or C.D.C.)
12 shall mean a quasi public not-for-profit corporation organized
13 under Chapter 180 of the Massachusetts General Laws, to
14 carry out certain public purposes and with by-laws providing
15 that
16 (1) it is organized to operate within a specified geograph-
17 ic area coincident with existing geo-political boundaries and
18 (2) that membership in the corporation shall be open to
19 all residents of the area who are eighteen years or older,
20 and
21 (3) that its officers and Board of Directors shall be elected
22 by the membership, and
23 (4) that the said elections shall be held so that officers are
24 elected at least every two years and directors on a rotating basis at least every three years.
26 Any existing geo-political boundary — precinct, ward, town, representative district, senatorial district, city or county — shall be acceptable except that under no circumstances shall any designated area include a population in excess of one hundred thousand as reported in the most recent United States Census. Elections for officers and directors held pursuant to this section shall be held in accordance with policies adopted by the Board of Directors of the CDFC.
34 (c) “Small business” shall mean any business that has either: average gross sales of less than $7,500,000/year for the most recent two fiscal years, or has less than two hundred and fifty full time employees, except that businesses primarily engaged in wholesaling shall be considered eligible if their average gross annual sales for the most recent two fiscal years do not exceed $15,000,000.
36 (d) “Small Business Investment Corporation” (or SBIC) shall mean a Massachusetts corporation organized to provide capital to small businesses in the Commonwealth and licensed according to the provisions of the Small Business Investment Act — Public Law 669, 85th Congress, 2nd session., as amended.
38 (e) “Target area” shall mean any contiguous geographic area which is 1) a decadent, substandard or blighted open area as defined in Chapter 121A of the General Laws, and 2) in which according to the most recent United States Census, the average household income is reported to be at least 15% lower than that reported for the Boston SMSA; or any contiguous geographic area in which the Board of Directors find and publish that substantial conditions of blight, economic depression, and widespread reliance on public assistance exist.
40 (f) “Project” shall mean any commercial, industrial or real estate business or other economic development activity undertaken in a “target area”, and designed to reduce conditions of blight, economic depression, or widespread reliance on public assistance.
42 (g) “Costs of a project” shall mean any and all costs associated with the design, planning and implementation of a “proj-
SENATE — No. 1604.

63 ect” undertaken in a “target area”. Such costs may include
64 but are not limited to: the costs of planning and design; op-
65 tions to buy feasibility or other studies; venture capital, con-
66 struction, and working capital; and any other costs determined
67 by the Directors of the corporation to be necessary to the pur-
68 poses of this act.

69 (h) “Capital participation investments” shall include pur-
70 chase of stock, both common and preferred, convertible secur-
71 ities, warrants, subscriptions, options to acquire, capital loans,
72 and working capital or inventory loans, royalties, and any
73 other lawful derivations of the foregoing.

74 Section 2. Declaration of Public Necessity
75 It is hereby found and declared that there exists in parts of
76 the Commonwealth substandard, decadent, or blighted open
77 areas; that each such area is inimical to the safety, health,
78 morals and welfare of the residents of the area and the Com-
79 monwealth, decreases the value of private investments and
80 threatens the sources of public revenue; that because of the
81 economic and social interdependence of communities, the eco-
82 nomic and industrial development of cities and towns of the
83 Commonwealth is substantially impaired; that there exists in
84 the Commonwealth a condition of substantial and persistent
85 unemployment and underemployment seriously aggravated by
86 an unacceptably low level of economic activity in such areas;
87 that the redevelopment of such areas requires the stimulation
88 of private investment therein; that community development
89 corporations in Massachusetts have themselves invested sub-
90 stantial funds in development projects in such areas and ex-
91 perience difficulty in undertaking additional such projects by
92 reason of the inadequacy of investment funds; that the fur-
93 ther activity of such community development corporations is
94 necessary to the redevelopment of such areas; that the provi-
95 sion of capital to small businesses in such areas is necessary
96 to their redevelopment; that the menace of such areas is be-
97 yond remedy and control solely by regulatory process in the
98 exercise of the police power and cannot be dealt with effec-
99 tively by the ordinary operations of private enterprise with-
100 out the aids provided herein; that increasing the number of
101 development projects in decadent, substandard and blighted
SENATE — No. 1604.

102 open areas, providing capital to community development corpora-
tions and small businesses within such areas, and stimulating private investment in such businesses and areas are public uses and purposes for which public money may be ex-
pended.

107 Section 3. Massachusetts Community Development Finance Corporation

109 There is hereby created by a body politic and corporate to be known as the Massachusetts Community Development Finance Corporation (CDFC). The CDFC is hereby constituted a public instrumentality and the exercise by the CDFC of the powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

115 The CDFC is hereby placed in the Department of Community Affairs but shall not be subject to the supervision or control of the Department of Community Affairs or of any board, bureau or agency of the Commonwealth except as specifically provided in this act.

120 The Corporation shall consist of seven directors to be appointed by the Governor, and shall include persons experienced in venture capital, investment finance and community economic development. At least three of the directors of the corporation shall be persons from target areas and members of community development corporations. Each appointed member shall serve at the pleasure of the governor but shall be appointed for a term of 5 years, except that in making his initial appointments the governor shall appoint 1 member to serve for a term of 1 year, 1 member for a term of 2 years, 2 members for terms of 3 years, 2 members for terms of 4 years, and 1 member for a term of 5 years. Any person appointed to fill a vacancy shall serve for only the unexpired term. Any member shall be eligible for reappointment. Any member may be removed from his appointment by the governor only for good cause. The governor shall appoint the chairman of the corporation who shall be a member of the board. The directors shall annually elect one of their members as vice-chairman and secretary-treasurer who shall keep a record of the proceedings of the corporation and shall be the custodian of all books, documents, and papers filed with the corporation.
and of the minute books of the corporation and its official seal. Four of the directors of the corporation then in office shall constitute a quorum and four affirmative votes shall be necessary for the transaction of any business or the exercise of any power or function of the corporation. Each director shall be entitled to reimbursement for his or her actual and necessary expenses incurred in the performance of his official duties. The corporation, its directors, officers, and employees shall be subject to the provisions of section one through four of chapter 268A except that the corporation may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any public not-for-profit community development corporation organized to carry out the purposes of this act of which any director of the corporation is a member or officer provided that such interest is disclosed in the minutes of the corporation and provided further that no director having such a financial interest may participate in any decision affecting such transaction. The President of the corporation shall be appointed by the Board of Directors. The President shall be the chief administrative and operational officer of the corporation and shall direct and supervise administrative affairs and the general management of the corporation. The president may employ such other employees as shall be designated by the board of directors; and shall attend all meetings of the board; he shall cause copies to be made of all minutes and other records and documents of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely upon such certificates.

Section 4. General grant of powers
(a) Adopt by-laws for the regulation of its affairs and the conduct of its business.
(b) Adopt an official seal.
(c) Sue and be sued in its own name.
(d) Make and execute contracts and all other instruments necessary or convenient for the exercise of its power and functions.
(e) Acquire, hold and dispose of personal property for its corporate purposes.
SENATE—No. 1604.

180  (f) Enter into agreements or other transactions with any federal or state agency.
182  (g) Acquire real property, or an interest therein, by purchase of foreclosure, where such acquisition is necessary or appropriate to protect any investment or loan in which the agency has an interest; to sell, transfer and convey any such property to a buyer and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant.
189  (h) Invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries in the commonwealth.
193  (i) Borrow money by the making of notes and the issuance of bonds including tax exempt revenue bonds and secure such bonds by the pledge of revenues, mortgages and notes of others.
197  (j) Employ a president, who shall be the chief executive officer of the corporation, and such other agents, employees, professional and business advisers as may from time to time be necessary in its judgment and to fix their compensation. The president, professional advisers and business advisers shall not be subject to the provision of chapter thirty-one or section nine A of chapter thirty.
204  (k) Appear in its own behalf before boards, commissions, departments or other agencies of government, municipal, state or federal.
207  (l) Procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable.
210  (m) Consent, subject to the provisions of any contract with noteholders or bondholders, whenever it deems it necessary or desirable in the fulfillment of the purposes of this act, to the modification, with respect to rate of interest, time of payment or any installment of principal or interest, or any other terms, of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the MHFA is a party.
218  (n) Do any and all things necessary or convenient to carry
219 out its purposes and exercise the powers expressly given and
220 granted in this act.
221 (o) Accept gifts or grants or loans of funds or property or
222 financial or other aid from any federal or state agency or
223 private fund.
224 (p) Create, issue, buy and sell stock and other capital par-
225 ticipation instruments; to hold such stock and capital partic-
226 ipation instruments and to underwrite the creation of a capital
227 market for these securities in a manner which provides first
228 offer of resale to the community development corporation,
229 business or residents of the target area and which is designed
230 to enhance development of capital ownership in the target
231 area.
232 (q) Provide and pay for such advisory services and tech-
233 nical assistance as may be necessary or desirable to carry out
234 the purposes of this act.
235 Section 5. Public investment
236 The Treasurer and Receiver General is hereby directed to
237 purchase shares of the Corporation in the amount of $10,000,-
238 000. The Treasurer and Receiver General is further directed
239 to sell or cause the sale of $10,000,000 in general obligation
240 bonds of the Commonwealth to finance said purchase. Such
241 bonds shall have such maturities and bear such interest as may
242 be determined by the Treasurer consistent with Section 3 Act
244 In return for the $10,000,000 investment the Commonwealth
245 shall receive 1,000,000 shares of Class A Common Stock in
246 the corporation. These shares shall have no par value and
247 shall constitute the entire issue of Class A Common Stock.
248 The Corporation shall hold the $10,000,000 proceeds in an
249 account or accounts separate from other funds. The Corpora-
250 tion shall use the $10,000,000 for only two purposes: 1) to
251 purchase capital participation instruments from Community
252 Development Corporations only when the Board of the CDFC
253 finds that the Community Development Corporation will use
254 the funds in support of a project consistent with the purposes
255 of this act; and 2) to pay for the normal business expenses
256 associated with the day to day operation of the CDFC.
257 Before a capital participation instrument may be purchased,
the Board of Directors of the CDFC must find that all funds given to a community development corporation will be used for the purposes of planning, acquiring or developing a business, real estate or other project; that there is a reasonable expectation that the project will be successful; that the benefits, including increased employment and improved standard of living, shall primarily accrue to residents of the target area; and that each of the requirements of a community development corporation and target area as defined in section 1 have been fulfilled.

**Section 6. Subsidiary Special Small Business Investment Corporation**

Because of the critical importance of small business to the economic development of the Commonwealth and to blighted substandard and decadent target areas, the CDFC is specifically authorized to establish a Special Small Business Investment Corporation. This subsidiary Small Business Investment Corporation shall provide equity capital and loans to stand-up, acquire or expand small businesses which carry out the purposes of this act.

Two and one half million dollars are hereby appropriated from the general funds to the CDFC for initial investment in the subsidiary Special Small Business Investment Corporation. None of the proceeds derived from the investment provided for in section 5 above shall be used to support the establishment or operation of this subsidiary Special Small Business Investment Corporation.

Twenty-five per cent of the total funds available to the Small Business Investment Corporation shall be set aside for investments in Community Development Corporations or projects undertaken by Community Development Corporations which are eligible to execute capital participation instruments with the CDFC under the provisions of section 5 of this act.

**Section 7. Liberal construction**

This act, being necessary for the welfare of the Commonwealth and its inhabitants shall be liberally construed to effect the purposes thereof.

**Section 8. Annual report**

The chairman of the Board of Directors shall on the third
SENATE—No. 1604.

297 Monday of January each year submit to the governor, to the
298 clerk of the House of Representatives and to the clerk of the
299 Senate an annual report of the authority’s activities.

300  **Section 9. Audit**

301 The accounts and books of the CDFC, including its receipts,
302 disbursements, contracts, mortgages, investments and other
303 matters relating to its finances, operations and affairs shall
304 be examined and audited from time to time by the State
305 Auditor.

306  **Section 10. Severability**

307 The provisions of this act are severable and if any of its
308 provisions shall be held unconstitutional by any court or com-
309 petent jurisdiction, the decisions of such court shall not affect
310 or impair any of the remaining provisions.
From the Reader of the Conference on Alternative State & Local Public Policies held June 10-13, 1976 in Austin, Texas. The reader was edited and compiled by Derek Shearer, California Public Policy Center Los Angeles, California and Lee Webb, Professor of Public Policy, Goddard College Plainfield, Vermont.

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