



C H A P A

**Citizens' Housing and
Planning Association**

**Citizens' Housing and Planning Association Testimony Submitted to the
Joint Committee Economic Development and Emerging Technology
February 23, 2010**

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**An Act Promoting Economic Development
Throughout the Commonwealth (S.2270)**

and

An Act Providing for Job Creation Through Small Businesses (H.4866)

**Sean Caron
Director of Public Policy**

Dear Chairwoman Spilka and Chairman Dempsey,

Thank you for the opportunity to provide testimony in support of key aspects of S. 2270. As the legislature crafts an economic stimulus bill, it is important to take into account the relationship between jobs and housing. Affordable housing is critical to the Commonwealth's economy. Workers from diverse income levels are critical to vertical business growth. As the country recovers and employers expand and rehire, they will do so in areas with affordable housing costs where employers can afford to pay affordable wages. This is especially true for young professionals that are essential to our innovation economy. We support two provisions in S. 2270 that directly impact affordable housing and community development in a positive way. We are also proposing an additional provision to promote jobs and housing.

A) Permit Extension

Section 134 of S. 2270 allows projects that have received state and local permit approvals but have stalled due to temporary financial difficulties to retain approvals. The provision applies to permits in effect or existence from January 1, 2008 through January 1, 2011.

Many previously approved local and state permits are expiring or lapsing as a result of the inability to obtain or retain financing in this economic climate. This is a particular challenge for low income housing tax credit projects, although American Recovery and Reinvestment Act provisions have provided significant relief.

Obtaining state and local land use and environmental permits is time consuming and expensive, both for project proponents and the government bodies that issue such permits. As a result of housing developers' inability to secure financing due to the economic downturn and the expiration of state and local permits and approvals, many government actions will be undone by the passage of time. This section preserves these decisions for a limited time in response to extraordinary economic circumstances - at no cost to the Commonwealth.

Furthermore, reapplying for permits that had previously been approved will result in unnecessary delays, legal costs, and additional holding costs to the housing developments. Without this language, some affordable housing development may be abandoned because the developer cannot afford the additional costs. Section 134 supports the advancement of community supported housing developments and we ask that you advance the provision favorably.

B) Chapter 40F – Community Development Corporations

S. 2270 updates Chapter 40F of the General Laws to update the statute governing how Community Development Corporations (CDCs) are recognized and governed. These community-based organizations play a critical role in expanding housing opportunities and creating important links between housing, small businesses, local residents and jobs in neighborhoods across the Commonwealth. We appreciate that S. 2270 and H. 4866 both recognize the important role that CDCs play in communities and encourage the Committee to advance a 40F section that utilizes the best language from both bills.

C) Massachusetts Low Income Housing Tax Credit Proposal

The Massachusetts Low Income Housing Tax Credit (LIHTC) awards state tax credits to investors in multifamily affordable rental developments. It encourages private investment in affordable housing and allows developers to finance part of the cost of the development with equity invested by local corporations and individuals, thereby reducing the amount of debt financing and helping to keep rents low. The program has helped to create over 3,000 homes for Commonwealth workers and a significant amount of construction and property management jobs in both cities and suburbs across the Commonwealth.

Unfortunately, the economic downturn has significantly reduced the amount of investors willing to purchase tax credits because many are unwilling to assume the risk of the five-year credits. Corporations are unsure if they will have state tax liability over the next five years and these potential investors are fearful that they will not be able to transfer the five year credit if they do not have ample tax liability. Without these investors, the projects cannot advance and the Commonwealth loses out on additional much-needed rental housing and construction jobs. CHAPA is proposing the following changes to the LIHTC to return investors to the LIHTC market and stimulate the economy. We have shared this discussion draft with the Chairs of the Joint Committee on Revenue and have received positive feedback.

1) Remove a requirement that a LIHTC investor also has received a federal Low Income Housing Tax Credit. This requirement limits the pool of eligible investors and adds unnecessary legal costs despite not serving a public policy purpose.

2) Provide a temporary change to respond to the current financial market by accelerating the five-year credit to three years for the next three years worth of tax credit allocations. Companies have a much greater ability to forecast tax liability for a three year period rather than a five year period in a down economy because financial projections in the distant future are extremely difficult in these economic times. Therefore, reducing the tax credit length from five to three years will return investors to the LIHTC market because they will not have to rely on uncertain tax projections four and five years in the future. The additional investors will create more demand which will serve to push pricing (and therefore efficiency) of the credits higher. In addition, the compressed time period the tax benefits can be delivered significantly increases the return to the investor and also serves to

push pricing (and therefore efficiency) of the credits higher. The projected additional yield¹ will exceed the cost to the Commonwealth² for compressing the tax credit from five years to three years.

Consequently, we anticipate a higher yield per dollar of tax credits awarded and therefore an increased level of housing resources made available to funded projects. This in turn lessens the burden on the Commonwealth's other housing program funds and enables additional projects and constructions job to be created without increasing the program's budgeted credit cap. Furthermore, there is precedent for an accelerated tax credit. For example, the historic tax credit is a one year credit and is not phased in over multiple years.

3) Shift the risk of recapture from the investor to the developer to attract additional investors to the LIHTC market. Currently, if the investor does not follow the rules of the program, they are responsible for returning the value of the tax credit to the Commonwealth. However, this risk is actually assumed by the developer that sells the investor the credits through closing agreements. The proposed change puts the risk on the developer from the beginning of the process, which would make the LIHTC consistent with the current historic tax credit statute's recapture provisions. This would be helpful in attracting new LIHTC investors by making the credit easier to transfer and reducing the risk to the investor of the developer not following through on the program requirements.

4) Eliminate the limitation that an investor cannot use LIHTC to offset greater than 50 percent tax liability. This change would make the LIHTC consistent with the historic tax credit.

Please don't hesitate to contact us with any questions. Thank you.

¹ Projected increased yield of 11%

² Projected borrowing rate of 3%