

## Summary: Changes to the Community Preservation Act

July 2012

**This document summarizes the major changes to the Community Preservation Act included in H. 4200 signed by Governor Patrick on July 8, 2012. The section numbers shown below are those found in Chapter 44B, The Community Preservation Act enabling statute, which can be found at: [www.communitypreservation.org/content/text-legislation](http://www.communitypreservation.org/content/text-legislation)**

**In addition to the changes explained below, H. 4200 also included a \$25 million transfer from the state's FY 2013 budget surplus to the statewide CPA Trust Fund, for distribution to CPA communities in the fall of 2013.**

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### Section 2

- Adds a new definition for “Capital improvement” as shown below.

*“Capital improvement”, reconstruction or alteration of real property that: (1) materially adds to the value of the real property or appreciably prolongs the useful life of the real property; (2) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself; and (3) is intended to become a permanent installation or is intended to remain there for an indefinite period of time.*

- “Historic resources” definition: Deletes the confusing phrase “or eligible for listing,” as shown below.

*“Historic resources”, a building, structure, vessel, real property, document or artifact that is listed ~~or eligible for listing~~ on the state register of historic places or has been determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of a city or town.*

- Adds a clearer definition of the term “Maintenance” as shown below, and relocates the prohibition on using CPA funds for maintenance to Section 5(b)2.

*“Maintenance”, incidental repairs which neither materially add to the value of the property nor appreciably prolong the property's life, but keep the property in a condition of fitness, efficiency or readiness.*

- For recreation projects only, expands the definition of “rehabilitation,” as shown below, to allow for replacement of recreational equipment and other capital improvements.

*“Rehabilitation”, capital improvements, or the making of extraordinary repairs, to historic resources, open spaces, lands for recreational use and community housing for the purpose of making such historic resources, open spaces, lands for recreational use and community housing functional for their intended uses including, but not limited to, improvements to comply with the Americans with Disabilities Act and other federal, state or local building or access codes; provided, that with respect to historic resources, “rehabilitation” shall comply with the Standards for Rehabilitation stated in the United States Secretary of the Interior's Standards for the Treatment of Historic Properties codified in 36 C.F.R. Part 68; and provided further, that with respect to land for recreational use, “rehabilitation” shall include the replacement of playground equipment and other capital improvements to the land or the facilities thereon which make the land or the related facilities more functional for the intended recreational use.*

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- Adds a definition of “support of community housing,” as shown below, to clarify that assistance may be provided directly to persons that qualify for community housing.

*“Support of community housing”, shall include, but not be limited to, programs that provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing or to an entity that owns, operates or manages such housing, for the purpose of making housing affordable.*

### **Section 3**

- Allows communities to adopt CPA at the ballot with a minimum 1% property tax surcharge and then dedicate additional municipal revenues (such as hotel/motel excise taxes) to their CPA Fund, up to the full 3% of the real estate levy against real property.
- Adds a new, optional commercial exemption for the first \$100,000 of property value for commercial and industrial properties, mirroring the current optional \$100,000 residential exemption.

### **Section 5**

- Adds a requirement that Community Preservation Committees should, as part of their Community Preservation Plan, consider CPA projects that are regional in scope.
- Modifies the allowable uses of CPA funds to permit the rehabilitation of existing recreational land not created or acquired with CPA funds.
- Adds a prohibition on using CPA funds to acquire artificial turf for athletic fields.
- Clarifies that in the case of cities, legislative body action on CPA spending recommendations will be governed by the same procedures used for other city appropriations, as specified in the city charter.

### **Section 6**

- Allows communities to use their annual 10% open space set-aside on both passive and active recreation projects.
- Allows communities to use some of their CPA administrative and operating expenses, in their first year only, to cover CPA costs associated with tax billing software upgrades. Such costs currently must be paid from non-CPA revenue sources.

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### **Section 7**

- For communities that adopt CPA with the provision allowing for additional municipal revenue to be deposited into their Community Preservation Fund, this section provides the language that allows that additional revenue to be deposited into the fund.

### **Section 10**

- Allows the CPA Trust Fund disbursement for municipalities to be delayed to November 15<sup>th</sup> each year, if necessary, so that monies from the state budget surplus can be deposited into the CPA Trust Fund prior to the distribution. Previously the deadline was October 15<sup>th</sup>.
- If applicable, requires municipalities to certify to the commissioner of revenue by October 30<sup>th</sup> each year the maximum additional funds it intends to transfer to its Community Preservation Fund from other allowable municipal revenues for the following fiscal year, and clarifies that such municipalities will qualify for annual CPA matching funds for those additional funds, as well.

### **Section 12**

- Clarifies that a real property interest *acquired* by a municipality by any mechanism using CPA funds shall be bound by a permanent restriction. Current legislation uses the word *purchased*.
- Changes the term “deed restriction” to the more proper “permanent restriction,” and clarifies that the restriction must be recorded as a separate instrument that meets the requirements of Chapter 184, sections 31 to 33.
- Clarifies that CPA funds may be appropriated to non-profit organizations to hold, monitor and enforce restrictions limiting the use of land to CPA purposes.

### **Section 16**

- Allows communities that have already accepted the CPA at a surcharge level above 1% the option of reducing their CPA surcharge to 1% and committing additional municipal revenues to their Community Preservation Fund, pursuant to Section 2 above.

Please Note: This document was prepared on July 9, 2012 by the Community Preservation Coalition based on an unofficial version of the Community Preservation Act as amended on July 8, 2012. The Coalition does not render legal opinions or advice, and recommends consulting with an attorney.