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# CPA: Past, Present and Future

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Nearly two years ago, Governor Patrick signed into law a number of changes to the Community Preservation Act (CPA). These amendments expanded the acceptable uses for CPA funds and offered communities more flexibility in how these funds are raised. Reflecting back, we thought we would reintroduce readers to CPA by briefly highlighting some of those changes and ways in which communities are taking advantage of them. We also delve into recent collection trends at the state level that impact the distribution of matching funds.

Enacted in 2000 as MGL c. 44B, the CPA enables adopting cities and towns to raise additional revenue beyond the tax levy for community preservation purposes that include providing community affordable housing, protecting open space, preserving historic resources and developing outdoor recreational opportunities.

Under the CPA an adopting city or town elects to implement up to a three percent surcharge on its real estate tax bills. The revenue is deposited into a special revenue fund along with an annual distribution of matching funds from a state trust derived from a surcharge on Registry of Deed recordings. At a minimum, the city or town must spend or reserve ten percent of its annual CPA revenue towards each of the community preservation purposes of open space, historic resources and community housing. Revenue can also be appropriated to a discretionary budgeted reserve, providing the flexibility to fund any CPA purpose until the end of the fiscal year.

Once the CPA is adopted, the community must establish a Community Preservation Committee (CPC). Whether elected or appointed, CPC members are selected from the community's conservation, historical, planning, park and housing authority boards. The city or town can also choose up to four additional at-large members for a maximum total of nine. Overall, the committee's role in administering the program locally involves studying the community's needs, possibilities and resources as they relate to community preservation; accepting and reviewing project proposals; and making recommendations to the legislative body for spending, citing the reasoning behind each choice. Both an affirmative recommendation of the CPC and a legislative body appropriation vote are required to expend CPA funds on a project.

Throughout the last 14 years, CPA has been amended eight times. Early changes largely clarified various aspects of the law or added minor modifications. More recently, however, Chapter 139 of the Acts of 2012, Sections 69-83, contained several significant changes, including an expansion of the allowable CPA spending purposes and the creation of a new option for local CPA funding.

Before the 2012 amendment, communities could use CPA funding to rehabilitate recreational lands only if the recreational land was acquired or created with CPA funding. Today, however, because of the 2012 amendment, communities have the ability to appropriate funds towards previously prohibited recreational-related projects. In expanding the program, these new CPA funding purposes allow cities and towns to rehab existing outdoor recreational spaces and invest in capital improvements to make them more functional for the intended recreational use, including the replacement of playground equipment. Changes in the law also now credit spending on recreational projects towards meeting the annual ten percent open space spending (or reservation) requirements.

In exploring ways in which these changes are expanding CPA spending, we found funds being appropriated to purchase ADA accessible playground equipment, construct a new skate park, resurface outdoor basketball courts, install lighting for a multipurpose athletic field, rebuild a dock landing and create community gardens.

The second significant change in the law offers communities an alternative funding method to supplement the surcharge on real estate tax bills. A community may now adopt CPA, pursuant to MGL c. 44B, s. 3(b1/2), which allows it to approve at least a one percent surcharge on the levy and to appropriate additional revenues up to two percent of the levy from other general fund sources, such as meal and room occupancy taxes. The total surcharge and additional revenue cannot exceed three percent. To date, Somerville and Salem have adopted the CPA through Section 3(b1/2), sometimes referred to as the "blended" method. Quincy and Littleton recently amended its original CPA acceptance by adopting Section 3(b1/2) so that it can appropriate other local revenue into the Community Preservation Fund. Communities that have already adopted CPA, but wish to appropriate other general fund revenues to CPA as described above, must amend their CPA acceptance under MGL c. 44B, s. 16(a) and seek voter approval at a town-wide referendum.

Lastly, a new provision in the law added an optional surcharge exemption for commercial and industrial properties on the first $100k of property value to mirror the existing exclusion for residential property. To add this exemption, an existing CPA community must follow the CPA amendment process, MGL c. 44B, s. 16(a). The law also now requires that preservation restrictions be recorded as separate instruments regarding property acquired with CPA funds to better protect CPA long-term interests, MGL c. 44B, s. 12.

**Future Outlook**

As of May 2014, 155 communities have accepted CPA with over a billion dollars appropriated to more than 6,000 projects. It is also worth noting that CPA funds have allowed communities to leverage funds from other outside sources that might not otherwise have been available.

This year also marks a point where a larger number of communities are scheduled to vote on whether to adopt CPA than in the past. Several communities are even seeking to increase their levy surcharge, with at least one looking to reduce it. This renewed interest may be the result of the $25 million infusion of surplus state revenue from the Legislature last year along with the potential for more this year. Another motive could be the recent changes in the law expanding the recreational-related purposes cities and towns can fund.

Ria Knapp, Communications Director for the Community Preservation Coalition, says the combination of these two factors sparked the interest of communities that otherwise might not have considered CPA in the past. She adds that "many communities are embracing the new provision in the CPA legislation allowing the rehabilitation of existing parks, playgrounds, and athletic fields," with "over $40 million in such projects approved recently, and many more proposals being voted on during this spring's municipal budget process."

Despite amendments to the law and renewed interest, local advocates are concerned that this year's state match could be significantly less. Current Registry of Deed collection trends reported by the Department of Revenue are lagging collections of the previous three years. Concern in the real estate market over high home prices and low inventory levels could also continue to hamper buying over the coming months, creating further uncertainty. The rising number of new communities participating in the program also further dilutes the initial distribution of state matching funds.

**CPA Trust Fund Collections as of May 2014**

| | FY2011 | FY2012 | FY2013 | FY2014 | Diff | % Change |
|---|---|---|---|---|---|---|
| July | $0 | $0 | $0 | $0 | $0 | |
| August | 2,117,310 | 1,876,370 | 2,525,330 | 2,695,070 | **169,740** | 6.72 |
| September | 2,363,720 | 2,088,110 | 2,851,900 | 2,532,780 | (319,120) | -11.19 |
| October | 2,478,650 | 2,045,050 | 2,397,360 | 2,143,720 | (253,640) | -10.58 |
| November | 2,442,410 | 2,187,220 | 2,736,380 | 2,286,180 | (450,200) | -16.45 |
| December | 2,530,320 | 2,364,050 | 2,557,910 | 1,836,140 | (721,770) | -28.22 |
| January | 2,756,480 | 2,511,710 | 2,768,870 | 1,875,470 | (893,400) | -32.27 |
| February | 2,303,030 | 2,173,650 | 2,115,660 | 1,685,400 | (430,260) | -20.34 |
| March | 1,915,090 | 2,206,500 | 2,747,930 | 1,442,850 | (1,305,080) | -47.49 |
| April | 2,049,500 | 2,420,960 | 2,401,320 | 1,619,520 | (781,800) | -32.56 |
| May | 1,840,260 | 2,325,490 | 2,420,060 | 1,735,060 | (685,000) | -28.31 |
| June | 3,840,930 | 5,164,040 | 5,075,310 | | | |
| **Total:** | **$26,637,700** | **$27,363,150** | **$30,598,030** | **$19,852,190** | **($5,670,530)** | |

In FY2014, 148 participating communities were eligible for a state match that totaled $54.9

million. Funded through Registry of Deed revenue collections and a one-time infusion of $25 million in state budget surplus, these combined sources allowed for a first round state match of 52.2 percent. Without the additional $25 million appropriation added to the trust fund, cities and towns in the program would have received a first round match of less than 31 percent based on total state funding of $32.7 million.

Although the recent drop in collections at the state level is cause for concern, CPA advocates are applauding the Legislature's inclusion and the Governor's signing of the FY2015 budget, which transfers $25 million in state budget surplus to the CPA Trust Fund. Because this additional funding is coming from the state budget surplus, the amount will not be known until the state closes its books on October 31st.