

HOUSE No. 1237

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey Sánchez

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 relative to public housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jeffrey Sánchez	15th Suffolk
Cleon H. Turner	1st Barnstable
Timothy J. Toomey, Jr.	26th Middlesex
Sarah K. Peake	4th Barnstable
William N. Brownsberger	24th Middlesex
Alice K. Wolf	25th Middlesex
Martha M. Walz	8th Suffolk
Byron Rushing	9th Suffolk
Anthony D. Galluccio	Middlesex, Suffolk and Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1280 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO PUBLIC HOUSING.

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 1. The General Laws are hereby amended by inserting after section 26A of chapter
2 121B the following new section:--

3 Section 26B. Public Housing Innovation Program Powers.

4 a. It is the purpose of this section to authorize, on a demonstration basis, the creative and
5 efficient use of all forms of financial assistance from the Commonwealth to public housing
6 authorities that operate state-assisted public housing developments to enable redevelopment and
7 repair of existing state-assisted public housing developments, the redeveloped and repaired
8 developments intended to serve primarily extremely low-income households, expansion and
9 development of housing opportunities for elderly persons of low income, families of low income,
10 and handicapped persons of low income, enhance opportunities for training, work, and education
11 of public housing residents, and enhance the ability of elderly persons of low income and
12 handicapped persons of low income to live independently.

13 b. The following words, whenever used in this section, shall, unless a different meaning
14 clearly appears from the context, have the following meanings:--

15 “Affordable Housing”, homeownership or rental housing which is restricted to occupancy by low
16 or moderate income households of one or more persons and for which the sales prices or rents
17 are affordable as defined by the criteria for inclusion in the department’s subsidized housing
18 inventory or consistent with funding sources.

19 “Affordable Housing Development”, a development of new or rehabilitated affordable housing,
20 which may include market-rate housing if such market-rate housing is reasonably necessary for
21 the financial feasibility of construction or operation of the affordable housing.

22 “Extremely low income household”, a household with a gross income at or less than 30 per cent
23 of area median household income as most recently determined by the U.S. Department of
24 Housing and Urban Development, adjusted for household size.

25 “Low or Moderate Income Household”, a household with gross income at or less than 80 per
26 cent of area median household income as most recently determined by the U.S. Department of
27 Housing and Urban Development, adjusted for household size.

28 “Market Rate Housing”, homeownership or rental housing which is not restricted to occupancy
29 by low or moderate income households. Market-rate housing may be made available for
30 occupancy by households without regard to income, and it may also include housing subject to
31 maximum income limits to be occupied by households with gross income greater than 80 per
32 cent but not more than 150 per cent of the area median household income as most recently
33 determined by the United States Department of Housing and Urban Development, adjusted for
34 household size.

35 “Public housing”, state-assisted housing developed through funds provided under chapter 167 of
36 the acts of 1987, chapter 200 of the acts of 1948, chapter 667 of the acts of 1956, chapter 689 of
37 the acts of 1974, and chapter 705 of the acts of 1966.

38 “Very low income household”, a household with a gross income at or less than 50 per cent but
39 greater than 30 per cent of area median household income as most recently determined by the
40 U.S. Department of Housing and Urban Development, adjusted for household size.

41 c. A housing authority or regional housing authority may apply to the department for
42 approval to participate in the public housing innovation program. Participation shall be limited
43 to applicants that have the ability to plan and carry out activities under this program, as
44 evidenced by prior performance in the operation and maintenance of public housing, need to
45 redevelop and repair occupied and vacant public housing units, and other appropriate factors as
46 determined by the director of the department; provided, that the department may determine the
47 total number of authorities, not to exceed ten, participating in this demonstration program. The
48 department shall require applicants to describe how residents will be provided with independent
49 technical assistance and shall encourage applications that demonstrate, create, or seek to achieve:
50 innovative models for the redevelopment and repair of public housing including for the elderly
51 and frail elderly, development of affordable housing, improved management, coordination
52 among several housing authorities, economic efficiencies, and expansion of economic
53 opportunities for residents and for the Commonwealth. Applications may include less than the
54 applicant’s entire portfolio at the applicant’s choosing. The department shall act on said
55 application within 90 days of submission thereof and shall approve applications that meet the
56 criteria established by the director, up to the number established by the department. The
57 department and the participating housing authority shall enter into an agreement summarizing the
58 terms of participation, voluntary withdrawal, and termination for material default and a timetable
59 for achieving objectives of the program. The initial term of participation shall be seven years,
60 unless the applicant requests a shorter time, which shall be extended in whole or in part by the
61 department so long as the housing authority has made satisfactory progress toward its goals, the
62 extension will meet the original objectives of the program, and the housing authority has not
63 received a negative evaluation pursuant to paragraph l of this section. Upon expiration or earlier
64 termination of an agreement the department shall work cooperatively with the housing authority

65 in a transition process, which may provide for retention of elements of the program implemented
66 during participation including but not limited to contractual agreements with third parties that
67 contain terms that extend beyond the term of participation that were referenced in the
68 demonstration program participation agreement or approved annual report.

69 d. The department shall disburse all funding for a participating housing authority or
70 regional housing authority on a predictable schedule to permit and encourage planning and
71 efficiency by the housing authority.

72 e. To the extent necessary, and except for the provisions in paragraph g of this section,
73 the sections of this chapter which conflict with the powers granted under this section or
74 substantially restrict a housing authority's ability to achieve the goals specified in its application
75 or plan shall not apply to a housing authority or regional housing authority approved by the
76 department to participate in the public housing initiative program.

77 f. Housing authorities and regional housing authorities participating in the public housing
78 innovation program, in addition to those powers conferred in chapter 121B, shall have the
79 following powers:

80 i. To combine all forms of assistance received from the Commonwealth and other
81 sources, including, but not limited to, operating subsidy, modernization funds, and other
82 funds or grants, such funds to be utilized for the operation, redevelopment, and repair of
83 public housing, affordable housing, and other purposes as authorized by this section,
84 provided that a housing authority shall not receive diminished assistance by virtue of
85 participation in the program under this chapter.

86 ii. To establish a reasonable rent policy, which shall be included in the annual plan
87 required by paragraph h, that shall (a) be designed to provide incentives to improved
88 employment and training and self-sufficiency by participating families, (b) include
89 transition and hardship provisions, (c) include in the transition period a limit on rent
90 increases in any one year related solely to the change in the rent policy to no more than
91 10 per cent for the duration of the transition period, (d) provide a rent cap for tenant
92 households at or below 50 per cent of area median income, adjusted for family size, of
93 not more than the maximum tenant rental payments including, if applicable, minimum
94 rents permitted by section 32, and (e) provide a rent cap for elderly and handicapped
95 persons of low income of not more than the maximum tenant rental payments including,
96 if applicable, minimum rents permitted by section 32 and section 40(e).

97 iii. To establish, and include as part of the annual plan required by paragraph h, local
98 methods of tenant or homeowner selection, provided that the method is fair, objective,
99 public, and does not discriminate against any applicant based on any protected category
100 in chapter 151B or any other fair housing laws and provides admissions preferences for
101 homeless households, veterans, and victims of domestic violence.

102 iv. To create efficient, fair and open procurement policies for supplies, services, and real
103 property, designed to reduce costs and to meet local need, which shall be included in the
104 annual plan required by paragraph h.

105 v. To participate in mixed public/private affordable housing developments designed to
106 rehabilitate, repair, replace, or develop, affordable housing, including public housing
107 developments and projects developed pursuant to sections 26, 34, and 40 of chapter
108 121B, and to create any legal entities or instrumentalities necessary to accomplish these
109 purposes. Projects pursuant to this section may include a mix of extremely low, low,
110 moderate, and market rate units, and may utilize any available source of rental subsidy or
111 financial assistance.

112 vi. To create partnerships or consortia with other public or private entities for the
113 operation, financing, or development of any program otherwise authorized by law.

114 vii. To acquire any property to carry out its purposes, and to dispose of any property of
115 the local housing authority without repayment of bonds to the commonwealth
116 notwithstanding any provision of chapter 121B to the contrary, unless otherwise required
117 by law or contract, provided that the proceeds of any such disposition must be applied to
118 acquisition, operation, development, rehabilitation, or repair of public or affordable
119 housing.

120 viii. To enter into energy services contracts in accordance with chapter 25 section 11C for
121 a period of up to 20 years.

122 g. Notwithstanding the provisions of paragraph f of this section, the local housing
123 authority shall:

124 i. comply with the provisions of section 12 of chapter 121B, related to wages, labor
125 requirements, and Social Security;

126 ii. comply with the provisions of section 29 of chapter 121B, related to wage rates and
127 collective bargaining;

128 iii. to the extent possible, retain the same number of public housing units as existed
129 before participation in this program;

130 iv. provide for full tenant participation, including public hearing, on adoption or material
131 amendment of its annual plan as required under paragraph h;

132 v. provide for a tenant lease and grievance procedure substantially similar to that in effect
133 prior to entry into the program under this section;

134 vi. provide that evictions shall be only for good cause;

135 vii. assure that housing assisted under the program in this chapter is decent, safe and
136 sanitary, and that, excepting any market-rate housing, the housing is deed restricted to
137 occupancy by extremely-low, very low, or low and moderate-income households at
138 affordable rents or sales prices, in perpetuity or for such other term as may be approved
139 by the department, consistent with funding sources;

140 viii. assure that proceeds from the disposition of public housing and funds generated from
141 new affordable housing created to replace public housing, unless restricted to a particular

142 use, shall be allocated to the reconstruction, rehabilitation, or repair of public housing
143 developments;

144 ix.. assure that if a participating housing authority redevelops its public housing units, all
145 households residing in the units at the time of planned redevelopment shall receive
146 relocation assistance, if eligible, under this chapter or other applicable statutes, and shall
147 have the right to return to the redeveloped public housing, subject to remaining in good
148 standing and subject to units of the appropriate size and requirements being available.
149 Such households shall have priority for placement over new applicants; and

150 x. comply with chapter 334 of the acts of 2006.

151 h. Each housing authority participating in the program under this section shall prepare an
152 annual plan, after providing residents assisted by the housing authority and the wider community
153 with adequate notice and opportunities to participate in the development of the plan, and an
154 opportunity to comment and make recommendations on the plan which shall include not less
155 than one public hearing held at a time and location that the participating housing authority
156 reasonably believes will facilitate attendance by and input from residents. The annual plan shall:

157 i. state the housing authority's goals and objectives under the program for its fiscal year;

158 ii. describe the housing authority's proposed use of assistance for activities under the
159 program for the fiscal year;

160 iii. describe how the housing authority will achieve the repair or redevelopment or both
161 of public housing;

162 iv. state the housing authority's proposed income mix, extremely low, very low, low,
163 moderate, and market, for its portfolio;

164 v. explain how the housing authority's proposed activities will meet its goals and
165 objectives;

166 vi. include appropriate budgets and financial statements; and

167 vii. describe the resident participation procedure and what independent technical
168 assistance will be made available to residents.

169 Any plan submitted pursuant to paragraph h shall be deemed approved unless the
170 department, within 45 days of submission, issues a written disapproval. The department shall
171 disapprove the plan if the department reasonably determines, based on information contained in
172 the plan or other reliable information available to the department, that the plan does not comply
173 with the provisions of this section or other applicable law.

174 i. In place of all other planning and reporting requirements, each housing authority
175 participating in the program under this chapter shall submit to the department annually a single
176 annual report, in a form and at a time specified by the department. The annual report shall be
177 the primary means by which the housing authority shall be required to provide information to the
178 department on the activities assisted under this section during a fiscal year, unless the department
179 has reason to believe that the housing authority has violated the terms of the program. Each
180 annual report shall:

181 i. document the housing authority's use of assistance under the program, including
182 appropriate financial statements;

183 ii. describe and analyze the effect of assisted activities in addressing the objectives of this
184 section, including the effect of rent and tenant selection policies;

185 iii. state the previous year's income mix of residents in the housing authority's public
186 housing and affordable housing developments under this program;

187 iv. include a certification by the housing authority that it has prepared an annual plan that
188 was prepared in accordance with paragraph h;

189 v. describe and document how the housing authority has provided residents assisted
190 under the program and the wider community with opportunities to participate in the
191 development of the annual plan, and an opportunity to comment on the annual plan which
192 shall include not less than one public hearing;

193 vi. include a report on the annual incomes of persons served in the previous year; and

194 vii. include other information as may be required by the department pursuant to
195 paragraph k to determine the effectiveness of the program.

196 j. Any report submitted pursuant to paragraph i shall be deemed approved unless the
197 department, within 45 days of submission, issues a written disapproval because the department
198 reasonably determines, based on information contained in the report or other reliable information
199 available to the department that the housing authority is not in compliance with the provisions of
200 this section or other applicable law.

201 k. Each housing authority shall keep such records as the department may prescribe as
202 reasonably necessary to document the amounts and the disposition of amounts under this
203 program, to ensure compliance with the requirements of this section, and to measure
204 performance.

205 ii. The department shall have access for the purpose of audit and examination to any
206 books, documents, papers, and records that are pertinent to assistance in connection with,
207 and the requirements of, this section; provided, however, that such access shall be
208 obtained solely through the annual report, unless the department has reason to believe
209 that the housing authority is not in compliance with its program.

210 iii. The Auditor of the Commonwealth, or any of the duly authorized representatives of
211 the Inspector General, shall have access for the purpose of audit and examination to any
212 books, documents, papers, and records that are pertinent to assistance in connection with,
213 and the requirements of, this section.

214 l. Each authority shall be evaluated by an independent evaluator twice during the initial
215 term of participation and periodically thereafter, in accordance with standards adopted by the
216 department, to determine the success of initiatives undertaken under this program in achieving
217 the purposes set forth in this section and the housing authority's plan.

218 SECTION 2. The department of housing and community development shall establish a nine
219 member advisory committee whose members shall include the director of the department or his
220 designee, one representative selected by Citizens' Housing and Planning Association, one
221 representative selected by the Massachusetts Chapter of the National Association of Housing and
222 Redevelopment Officials, one representative selected by the Massachusetts Union of Public
223 Housing Tenants, one representative selected by the Massachusetts Coalition for the Homeless,
224 and four additional members chosen by the director to provide advice and recommendations to
225 the department regarding regulations to implement the provisions of this act and to provide
226 ongoing assistance in determining the effectiveness of the public housing innovation program,
227 and the department shall adopt regulations implementing the provisions of this act within ninety
228 days of the effective date of the act, and the department shall annually report to the house and
229 senate committees on ways and means and the joint committee on housing on the participation of
230 housing authorities in the public housing innovation program. Participation in the advisory

231 committee, or actions taken on behalf of the committee, or actions in relation to transactions
232 between the committee, or actions in relation to transactions between the committee and other
233 public or private entities represented on the committee, by any individual otherwise subject to
234 chapter 268A of the General Laws, shall not be deemed to violate the provisions of chapter
235 268A.