

HOUSE No. 428

The Commonwealth of Massachusetts

PRESENTED BY:

Adrian C. Madaro and Carlos González

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 adoption of the accompanying bill:

An Act to end housing discrimination in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/19/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/26/2021</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/26/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/1/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>3/16/2021</i>

HOUSE No. 428

By Messrs. Madaro of Boston and González of Springfield, a petition (accompanied by bill, House, No. 428) of Adrian C. Madaro, Carlos González and others for legislation to further regulate real estate brokers and salespersons. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to end housing discrimination in the Commonwealth.

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. Chapter 13 of the General Laws, as appearing in the 2018 Official Edition,
2 is hereby amended by striking out section 54 and inserting in place thereof the following
3 section:-

4 Section 54. There shall be a board of registration of real estate brokers and salespersons,
5 in this section and in sections fifty-five to fifty-seven, inclusive, called the board, to be appointed
6 by the governor with the advice and consent of the council, consisting of not less than five
7 members, residents of the commonwealth, two of whom shall have been actively engaged in the
8 real estate business as a full-time occupation for at least seven years prior to their appointment
9 and who shall be licensed real estate brokers, one of whom shall be an expert in fair housing and
10 civil rights, one of whom shall be a tenant receiving public assistance from a local, state or
11 federal rental voucher program and one or more of whom shall be representatives of the public.
12 The governor shall designate the chairman. As the term of office of a member of the board

13 expires, his successor shall be appointed by the governor, with like advice and consent, to serve
14 for five years. Each member shall be eligible for reappointment and shall serve until the
15 qualification of his successor. The governor may also, with like advice and consent, fill any
16 vacancy in the board for the unexpired portion of the term.

17 SECTION 2. Section 55 of said chapter 13, as so appearing, is hereby amended by
18 inserting, at the end of the section, the following words:-

19 The board shall publish, not less than quarterly, an account of newly licensed members.
20 The board shall also publish, not less than quarterly, a summary of complaints filed against
21 licensed members, the actions taken by the board to investigate such complaints, disciplinary
22 hearings, disciplinary actions or revocations of licenses, the reason for such actions by the board
23 and the name of the affected license holder.

24 SECTION 3. Said chapter 13 is hereby further amended by inserting after section 57 the
25 following section:-

26 Section 58. There shall be professional standards of practice for real estate brokers and
27 salespersons, which may be issued and updated by the board through regulation or policy. Such
28 standards of practice shall include a prohibition regarding discrimination against any classes
29 protected by Chapter 151B of the General Laws or otherwise protected by session law or federal
30 statute. The board shall, within 90 days of any change to Chapter 151B of the General Laws or
31 passage of any session law imbuing protections upon a class of residents, review and update as
32 necessary the professional standards of practice to ensure compliance and consistency with anti-
33 discrimination statutes.

34 The board shall ensure any policy or regulation adopted by the board to codify
35 certification of licensees, instructors, educational facilities, or educational curricula for real estate
36 schools include standards regarding discrimination against any classes protected by Chapter
37 151B of the General Laws or otherwise protected by session law or federal statute.

38 SECTION 4. Section 87PP of chapter 112 of the General Laws, as appearing in the 2018
39 Official Edition, is hereby amended by inserting after the definition of “Board” the following
40 definitions:-

41 “Fair housing enforcement agency”, an agency that administers fair housing laws and is
42 certified by the Assistant Secretary for Fair Housing and Equal Opportunity pursuant to the Fair
43 Housing Act, 42 U.S.C. 3601 et seq.

44 “Fair housing enforcement organization”, an organization that receives funding from the
45 U.S. Department of Housing and Urban Development to investigate complaints of housing
46 discrimination by conducting testing and or enforcement activities pursuant to 42 U.S.C. 3616a.

47 SECTION 5. Said chapter 112 of the General Laws is hereby further amended by striking
48 out section 87XX1/2 and inserting in place thereof the following section:-

49 Section 87XX1/2. Any person holding a license as a real estate broker or salesman, which
50 is subject to renewal on or after January first, nineteen hundred and ninety-nine, shall, within
51 twenty-four months prior to each renewal, satisfactorily complete courses or programs of
52 instruction approved by the board; provided, that for licenses renewed on or before December
53 thirty-first, two thousand, the attendance at such courses or programs of instruction shall be equal
54 to a total of twelve hours; and provided, further, that for licenses renewed on or after January
55 first, two thousand and one, such number shall be no less than ten hours but no more than sixteen

56 hours as determined by the board. The curriculum contained in such courses or programs shall
57 contain at least six hours of instruction concerning or related to compliance with laws and
58 regulations selected from any of the following subjects: equal employment opportunity;
59 accessibility for the disabled; agency law; environmental issues in real estate; zoning and
60 building codes; real estate appraisal and financing; property tax assessments and valuation; and
61 real estate board regulations. In addition, the curriculum shall contain at least four hours of fair
62 housing training. The board shall certify in advance the curriculum forming the basis of such
63 courses or programs which satisfy the provisions of this section. Any entity certified to provide
64 fair housing training pursuant to this section shall video and audio record each course or program
65 in its entirety. Such recordings and other materials relating to the training must be preserved for a
66 period of two years and shall be made available to the Office of the Attorney General or the
67 Massachusetts Commission Against Discrimination upon request for purposes of auditing the
68 course to evaluate its quality. Should the Office of the Attorney General or the Massachusetts
69 Commission Against Discrimination audit the fair housing course material and find it insufficient
70 in quality, they may recommend changes that those certified to conduct the training shall then be
71 required to adopt.

72 Every person who is subject to the requirements of this section shall furnish, in a form
73 satisfactory to the board, written certification that the required courses or programs were
74 successfully completed. Upon successful completion of approved courses or programs, the
75 licensee shall be deemed to have met the continuing education requirements of this section for
76 license renewal. Every person who fails to furnish, in a form satisfactory to the board, written
77 certification that the required courses or programs were completed shall be granted inactive
78 status by the board upon renewal of his license in accordance with section eighty-seven XX.

79 Any person failing to meet requirements imposed upon him by this section or who has
80 submitted to the board a false or fraudulent certificate of compliance therewith, shall, after a
81 hearing thereon, which hearing may be waived by such person, be subject to the suspension of
82 his license until such time as such person shall have demonstrated to the satisfaction of the board
83 that he has complied with all the requirements of this section as well as with all other laws, rules
84 and regulations applicable to such licensing.

85 The provisions of this section shall not apply to any person licensed by the board under
86 the provisions of section eighty-seven SS who is not required to take an examination to be
87 licensed; provided, however, that any out-of-state licensee who receives reciprocity from the
88 board to practice in the commonwealth shall demonstrate to the board compliance with a
89 continuing education program in such licensee's home state.

90 The provisions of this section shall not apply to any person licensed by the board who has
91 been granted inactive status by the board. A person licensed by the board and whose license is
92 inactive may not engage in the business of, or act as, a real estate broker or salesman, as defined
93 in section eighty-seven PP, except that he may assist with or direct the procuring of prospects
94 and may receive referral fees for such procurement activities. A person licensed by the board
95 whose license is inactive shall be considered unlicensed for purposes of section eighty-seven RR.
96 Engaging in the business of, or acting as, a real estate broker or salesman while a license is
97 inactive, except as otherwise provided for in this section, may be grounds for revocation of such
98 license. A person licensed by the board and whose license is inactive shall renew such license in
99 accordance with section eighty-seven XX while such license is inactive. A person licensed by the
100 board and whose license is inactive may apply to the board to reactivate such license, upon
101 demonstration of the completion of the continuing education requirements for the renewal period

102 immediately preceding the application for reactivation of such license and compliance with all
103 then applicable requirements for licensure.

104 The board shall perform such duties and functions necessary to carry out the provisions
105 of this section and shall promulgate rules and regulations pertaining to the development and
106 administration of an inactive license designation. Such rules and regulations shall include, but
107 not be limited to, developing procedures for the granting of inactive status, the reactivation of
108 licenses, renewal fees and the notification of licensees of continuing education requirements
109 prior to license reactivation.

110 SECTION 6. Said chapter 112 of the General Laws is hereby further amended by striking
111 out section 87AAA and inserting in place thereof the following section:-

112 Section 87AAA. The board may, and upon the verified complaint in writing of an
113 aggrieved person shall, investigate the action of any broker or salesman or any person who
114 attempts to act in such capacity within the commonwealth, and, in addition to any grounds
115 hereinbefore enumerated, may suspend, revoke or refuse to renew any license which it has found
116 to have been obtained by false or fraudulent representation. The board may suspend, revoke or
117 refuse to renew any license, when the board has found as a fact that the licensee, in performing
118 or attempting to perform any act authorized by his license, has (a) knowingly made any
119 substantial misrepresentation; (b) acted in the dual capacity of broker and undisclosed principal
120 in the same transaction; (c) acted for more than one party to a transaction without the knowledge
121 and consent of all the parties for whom he acts; (d) failed, within a reasonable time, to account
122 for or remit any moneys belonging to others which have come into his possession as a broker or
123 salesman; (e) paid commissions or fees to or divided the same with any person, who, being

124 required to be licensed as a broker or salesman in this or any other state, is not so licensed; (f)
125 accepted, given or charged any undisclosed commission, rebate or profit on expenditures for a
126 principal; (g) induced any party to a contract or lease relating to real estate to break the same
127 when such action is effected for the personal gain of the licensee; (h) commingled the money or
128 other property of his principal with his own; (i) failed to give to both the buyer and seller a copy
129 of the purchase and sale agreement; (j) committed any act expressly prohibited in sections
130 eighty-seven RR to eighty-seven CCC, inclusive; (k) affirmatively solicited for sale, lease, or the
131 listing for sale or lease, of residential property on the grounds of alleged change of value due to
132 the presence or the prospective entry into the neighborhood of a person or persons of another
133 race, economic level, religion or ethnic origin or distributes, or causes to be distributed, material
134 or makes statements designated to induce a residential property owner to sell or lease his
135 property due to such change in the neighborhood; or (l) accepted from a prospective seller a net
136 listing, an agreement to sell real estate for a stated price which authorized the broker to keep as
137 commission any amount of money received from the sale of said real estate in excess of the
138 stated price. After notice by the Massachusetts commission against discrimination or any other
139 fair housing enforcement agency that said commission or agency has made a finding, which
140 finding has become final, that a licensed broker or salesman committed an unlawful practice in
141 violation of chapter one hundred and fifty-one B arising out of or in the course of his occupation
142 as a licensed broker or salesman, shall suspend forthwith the license of said broker or salesman
143 for a period of one hundred eighty days. After notice by said commission or agency of a final
144 finding of a subsequent violation of said chapter one hundred and fifty-one B occurring within
145 four years of a prior violation, the board shall forthwith suspend the license of said broker or
146 salesman for a period of one year. The commission or other fair housing enforcement agency

147 must refer to the board all cases in which it has made a finding, which finding has become final,
148 that a licensed broker or salesperson committed an unlawful practice in violation of chapter one
149 hundred and fifty-one B arising out of or in the course of his or her occupation as a licensed
150 broker or salesperson. After notice by a fair housing enforcement organization of evidence,
151 based on one or more fair housing discrimination tests or a written statement of a broker or
152 salesman, that said broker or salesman engaged in discriminatory conduct as described in chapter
153 one hundred and fifty-one B, the board shall initiate a complaint against such broker or salesman.
154 If the board finds as a result of its investigation that the broker or salesman has engaged in
155 discriminatory conduct as described in chapter one hundred and fifty-one B, the board shall
156 forthwith suspend the license of such broker or salesman for one hundred and eighty days, and, if
157 the board finds that said violation by such licensed broker or salesman occurred within four years
158 of the date of a prior violation of said chapter one hundred and fifty-one B, the board shall
159 forthwith suspend the license of such broker or salesman for a period of one year. Although the
160 commission may take administrative notice of the board's determination of a complaint, the
161 board's determination shall not have a preclusive effect in any commission proceeding.

162 Whoever violates the provisions of clause (k) shall be punished by a fine of not less than
163 one thousand nor more than twenty-five hundred dollars, or by imprisonment for not more than
164 six months, or both.

165 No broker shall engage in a sale in the commonwealth of real property located in a land
166 development in another state which is the subject of promotional advertising in the
167 commonwealth unless the owner or developer of such land has submitted to the board full
168 particulars regarding such land and the proposed terms of sale thereof and has deposited with the
169 board such sum as it shall determine, to pay the expense of the investigation hereinafter

170 prescribed. Any broker acting for such owner or developer, and his salesmen, shall comply with
171 such rules, regulations, restrictions and conditions pertaining thereto as the board in its discretion
172 may impose. The board shall investigate such matters and all reasonable expenses incurred by
173 the board in such investigation shall be borne by the owner or developer of the property
174 involved. No broker or salesman shall in any manner refer to the board of registration of real
175 estate brokers and salesmen or to any member or employee thereof, in selling, offering for sale,
176 or advertising or otherwise promoting the sale, mortgage or lease of any such property, nor make
177 any representation whatsoever that such property has been inspected or approved or otherwise
178 passed upon by said board or by any official, department or employee of the commonwealth. The
179 board may suspend, revoke or refuse to renew any license when it has found that the licensee has
180 failed to comply with the requirements of this paragraph or any part thereof.

181 The board may also suspend, revoke or refuse to renew any license when it has found that
182 the licensee has been convicted of a criminal offence by a court of competent jurisdiction of this
183 or any other state which demonstrates his lack of good moral character to act as a broker or
184 salesman as the case may be.

185 The board may reconsider any decision made by it and may reinstate any license which
186 has been suspended and reissue any license which has been revoked.

187 Any person whose license is suspended or revoked shall also be liable to such other
188 punishment as may be provided by law.