

SENATE No. 2202

The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court
(2015-2016)
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SENATE, Thursday, March 31, 2016

The committee on Housing to whom was referred the petition (accompanied by bill, Senate, No. 708) of Barbara L'Italien, Jason M. Lewis, Timothy R. Madden and Marcos A. Devers for legislation relative to the development and preservation of affordable housing for persons with disabilities and the elderly,- reports the accompanying bill (Senate, No. 2202).

For the committee,
Linda Dorcena Forry

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to the development and preservation of affordable housing for persons with disabilities and the elderly.

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 23B of the General Laws is hereby amended by inserting the
2 following section:

3 Section 31: Disabled and Elderly Accessory Apartment Loan Program

4 (a) As used in this section, the following words shall have the following meanings unless
5 the context clearly requires otherwise:

6 “Dwelling unit”, a housing unit that includes self-contained cooking, sleeping and
7 bathroom facilities, and is located in the structure.

8 “Department”, the department of housing and community development

9 “Elderly”, an individual who has attained the age of 62.

10 “Individual with a disability”, an individual who, regardless of age, has a medically
11 determinable physical or mental impairment, which results in marked and severe functional

12 limitations, and which can be expected to result in death or which has lasted or can be expected
13 to last for a continuous period of not less than 12 months, or is blind.

14 “Owner-occupied”, a natural person owns the structure and occupies a dwelling unit in
15 the structure, or that a dwelling unit in the structure is occupied by a natural person who is the
16 beneficiary of a special needs trust that owns the structure.

17 “Structure”, a building that was originally built as a single-family residence.

18 (b) There shall be created a Disabled and Elderly Accessory Apartment Loan Program.

19 (1) The department of housing and community development may enter into
20 contracts for state financial assistance in the form of grants or loans by the Commonwealth
21 acting by and through the department provided that:

22 (A) grants made according to the provisions of this section may be made
23 only to public or quasi-public agencies;

24 (B) the department shall administer the Disabled and Elderly Accessory
25 Apartment Loan Program created by this section for the purpose of facilitating the creation and
26 retention of alternative forms of rental and ownership housing;

27 (C) at least one-half of the beneficiaries of such housing shall be persons
28 whose income is less than 80 per cent of the area-wide median income as determined from time
29 to time by the United States Department of Housing and Urban Development.

30 (2) Any such loan program shall be administered by the department through
31 contracts with authorities which shall include housing authorities and redevelopment authorities
32 duly organized and existing in accordance with chapter 121B of the General Laws, and may also

33 include community development corporations duly organized and existing in accordance with
34 chapter 40F of the General Laws, the Massachusetts Housing Finance Agency, a body politic and
35 corporate entity established by chapter 708 of the acts of 1966, the Community Economic
36 Development Assistance Corporation, a body politic and corporate entity established by chapter
37 40H of the General Laws, and the government land bank, a body politic and corporate entity
38 established by chapter 212 of the acts of 1975. These organizations may, pursuant to the terms
39 and conditions of their contracts with the department, directly issue loans for the purposes of this
40 program, or may enter into subcontracts with nonprofit organizations established pursuant to
41 chapter 180 of the General Laws for such purposes. Loans issued directly or indirectly by such
42 organizations shall be subject to the review and approval of the department.

43 (3) The department may direct the Community Economic Development
44 Assistance Corporation to fund loans by using a percentage of funds from each of the Facilities
45 Consolidation Fund, the Community Based Housing Fund, and the Housing Innovation Fund,
46 provided that:

47 (A) at least one dwelling unit in a structure benefiting from a loan is
48 occupied by at least one individual who is a client of the department of developmental services
49 or the department of mental health if the loan is funded by the Facilities Consolidation Fund;

50 (B) by at least one individual with a disability who is served by neither the
51 department of developmental services nor the department of mental health at the time of the loan
52 if the loan is funded by the Community Based Housing Fund;

53 (C) or by at least one elderly person if the loan is funded by the Housing
54 Innovations Fund.

55 (4) Loans issued pursuant to this section shall be subject to the following
56 provisions:

57 (A) proceeds of loans shall be used to construct an additional dwelling unit
58 of up to two bedrooms within a structure, or to improve, renovate, or rehabilitate not more than
59 one dwelling unit of up to two bedrooms located in a structure that, at the time of the loan
60 application, contains a total of not more than two dwelling units; each dwelling unit may not be
61 less than 450 square feet of gross living area.

62 (B) at least one dwelling unit within the structure shall be owner-occupied,
63 and, following completion of the project, at least one dwelling unit within the structure shall be
64 occupied by a household that includes one individual with a disability or one elderly individual.
65 The elderly individual or individual with a disability may be related to the borrower.

66 (C) loans shall be limited to the lesser of 50 per cent of the financing of
67 the total development costs or \$50,000;

68 (D) loans shall not be issued unless a contract or agreement for the use of
69 the property for the purposes of such housing provides for the recording of a restriction in the
70 registry of deeds or the registry district of the land court in the county in which the affected real
71 property is located, for the benefit of said department, running with the land, that the land be
72 used for the purpose of providing alternative forms of rental and ownership housing. Such
73 property shall not be released from such restriction until the balance of the principal and interest
74 for any such loan shall be repaid in full or until a mortgage foreclosure deed shall be recorded;

75 (E) loans shall be issued for a term of up to 30 years during which time
76 repayment may be deferred by the loan issuing authority. At maturity, the Director of DHCD

77 may extend a loan for an additional period of up to 10 years. Thereafter, as long as the housing
78 continues to comply with the requirements set forth in the loan documents, additional 10-year
79 extensions may be approved;

80 (F) interest rates for loans shall be fixed at a rate to be determined by the
81 director of housing and community development, in consultation with the state treasurer;

82 (G) expenditures from this section shall not be made for the purpose of
83 refinancing outstanding mortgage loans for housing in existence prior to the effective date of this
84 act; and

85 (H) the department shall take due consideration of a balanced geographic
86 plan for such alternative forms of housing when issuing such loans.

87 The department shall promulgate regulations for the implementation of the accessory
88 apartment loan program created by this section.