

SENATE No. 592

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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 a public housing innovation program.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|------------------------------|------------------------------------|
| <i>Harriette L. Chandler</i> | <i>First Worcester</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> |
| <i>Gale D. Candaras</i> | <i>First Hampden and Hampshire</i> |

SENATE No. 592

By Ms. Chandler, a petition (accompanied by bill, Senate, No. 592) of Harriette L. Chandler, Denise Provost and Gale D. Candaras for legislation relative to a public housing innovation program. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION

SEE

□ □ SENATE
□ , NO. 1935 OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to a public housing innovation program.

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, as appearing in the 2008 Official Edition,
2 are hereby amended by inserting after section 26A of chapter 121B the following section:--

3 Section 26B.

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

6 “Affordable housing”, homeownership or rental housing which is restricted to
7 occupancy by low or moderate income households of 1 or more persons and for which the sale
8 price or rents are affordable as defined by the criteria for inclusion in the department’s
9 subsidized housing inventory or consistent with funding sources.

10 “Affordable housing development”, a development of new or rehabilitated
11 affordable housing, which may include market-rate housing if such market-rate housing is
12 reasonably necessary for the financial feasibility of construction or operation of the affordable
13 housing.

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

17 “Low or moderate income household”, a household with gross income at or
18 less than 80 per cent of area median household income as most recently determined by the U.S.
19 Department of Housing and Urban Development, adjusted for household size.

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

27 “Program”, the public housing innovation program under this section.

28 “Public housing”, state-assisted housing developed through funds provided
29 under chapter 200 of the acts of 1948, chapter 667 of the acts of 1956, chapter 705 of the acts of
30 1966, chapter 689 of the acts of 1974 and chapter 167 of the acts of 1987.

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

35 b. (1) A housing authority or regional housing authority may apply to the
36 department for approval to participate in the program. Participation shall be limited to applicants
37 that have the ability to plan and carry out activities under the program, as evidenced by prior
38 performance in the operation and maintenance of public housing, demonstrate a need to
39 redevelop and repair occupied and vacant public housing units, and other appropriate factors as
40 determined by the director of the department.

41 (2) The department may determine the housing authorities
42 participating in the program, provided that, the total number of authorities may not exceed 10
43 authorities. In selecting participating authorities, the department shall establish criteria that
44 provides for representation of housing authorities having various characteristics, including both
45 large and small housing authorities, housing authorities serving urban, suburban and rural areas,
46 and housing authorities in various geographical regions throughout the commonwealth.

47 (3) The department shall require program applicants to describe
48 how tenants shall be provided with independent technical assistance sufficient to allow them

49 meaningful and informed input and shall encourage applications that demonstrate, create, or seek
50 to achieve, with respect to public housing: (i) innovative models for the redevelopment and
51 repair of public housing including for the elderly and frail elderly; (ii) innovative models for
52 improved management; (iii) coordination among several housing authorities; (iv) economic
53 efficiencies; and (v) expansion of economic opportunities for tenants and the commonwealth.
54 Additionally, the department shall encourage applications that achieve the development of
55 affordable housing.

56 (4) Applications may include less than the applicant's entire
57 portfolio of housing at the applicant's choosing. The department shall act on the application
58 within 90 days of its submission and shall approve applications that meet the criteria established
59 by the director, up to the number established by the department. The department and the
60 participating housing authority shall enter into a program participation agreement summarizing
61 the terms of participation, voluntary withdrawal, and termination for material default and a
62 timetable for achieving objectives of the program. The initial term of participation shall be 7
63 years, unless the applicant requests a shorter time, which shall be extended in whole or in part by
64 the department so long as: (i) the housing authority has made satisfactory progress toward its
65 goals; (ii) the extension will meet the original objectives of the program; and (iii) the housing
66 authority has not received a negative evaluation pursuant to subsection (n) of this section.

67 (5) Upon expiration, withdrawal or termination of an agreement,
68 the department shall work cooperatively with the housing authority in a transition process. The
69 transition process may provide for retention of elements of the program implemented during
70 participation including, but not limited to, contractual agreements with third parties that contain
71 terms that extend beyond the term of participation that were referenced in the program
72 participation agreement, approved annual plan or approved annual report.

73 c. The department, subject to appropriation, shall disburse all funding for a
74 participating housing authority or regional housing authority on a predictable schedule to permit
75 and encourage planning and efficiency by the housing authority.

76 d. The sections of this chapter which conflict with the powers granted under
77 this section or substantially restrict a housing authority's ability to achieve the goals specified in
78 its application or plan shall not apply to a housing authority or regional housing authority
79 approved by the department to participate in the public housing initiative program to the extent
80 the department determines it is necessary, and except for the provisions in paragraph g of this
81 section.

82 e. Housing authorities and regional housing authorities participating in the
83 program shall, in addition to those powers conferred in this chapter, have the following powers:

84 (1) to combine all forms of assistance received from the
85 commonwealth and other sources, including, but not limited to public housing operating

86 subsidies appropriated by the commonwealth through a general appropriations act and public
87 housing modernization funds authorized by the commonwealth to be funded through the sale of
88 general obligation bonds, other funds or grants; provided that, a housing authority shall not
89 receive diminished assistance by virtue of participation in the program under this chapter;

90 (2) to establish a reasonable rent policy, which shall be included
91 in the annual plan required by subsection (h), that shall: (A) provide for rents that are affordable
92 to tenants throughout the term of the program; (B) be designed to provide incentives to improved
93 employment and training and self-sufficiency by participating families; (C) include transition
94 and hardship provisions; (D) include in the transition period a limit on rent increases in any 1
95 year related solely to the change in the rent policy to no more than 10 per cent for the duration of
96 the transition period; (E) provide a rent cap for tenant households at or below 50 per cent of area
97 median income, adjusted for family size, of not more than the maximum tenant rental payments
98 including, if applicable, minimum rents permitted by section 32; and (F) provide a rent cap for
99 elderly and handicapped persons of low income of not more than the maximum tenant rental
100 payments including, if applicable, minimum rents permitted by section 32 and subsection (e) of
101 section 40;

102 (3) to establish, and include as part of the annual plan required by
103 subsection (h), local methods of tenant or homeowner selection; provided that, the method is fair,
104 objective, public and does not discriminate against any applicant based on any protected category
105 in chapter 151B or any other fair housing laws or department policies and provides admissions
106 preferences for homeless households, veterans and victims of domestic violence;

107 (4) to create efficient, fair and open procurement policies for
108 supplies, services, and real property, designed to reduce costs and to meet local need, which shall
109 be included in the annual plan required by subsection (h);

110 (5) To participate in a mixed public/private affordable housing
111 development or create any legal entities or instrumentalities necessary to participate in mixed
112 public private affordable housing development designed to rehabilitate, repair, replace, or
113 develop, affordable housing, including public housing developments and projects developed
114 pursuant to sections 26, 34, and 40 of chapter 121B.

115 (6) to create partnerships or consortia with other public or private
116 entities for the operation, financing, or development of any program otherwise authorized by
117 law;

118 (7) to acquire any property to carry out its purposes, and to
119 dispose of any property of the local housing authority without repayment of bonds to the
120 commonwealth notwithstanding any provision of this chapter to the contrary, unless otherwise
121 required by law or contract, provided that the proceeds of any such disposition must be applied

122 to acquisition, operation, development, rehabilitation, or repair of public or affordable housing
123 consistent with the limitations on use of proceeds in clause (E) of subsection (g); and

124 (8) to enter into energy services contracts in accordance with
125 section 11C of chapter 25 for a period of up to 20 years.

126 f. Projects pursuant to this section may include a mix of extremely low
127 income households, low or moderate income households, and market-rate housing, and may
128 utilize any available source of rental subsidy or financial assistance; . provided that operating
129 subsidies appropriated by the legislature and bond funds authorized by the legislature for the
130 benefit of low rent housing projects operated pursuant to sections 32 and 40 of chapter 121B
131 shall not be used to fund capital or operating costs other than those for the redevelopment, repair
132 and operation, including services benefitting the tenants, of such housing.

133 g. Notwithstanding the provisions of subsection (e), the local housing
134 authority shall:

135 (1) comply with the provisions of section 12, related to wages,
136 labor requirements, and Social Security;

137 (2) comply with the provisions of section 29, related to wage rates
138 and collective bargaining;

139 (3) to retain the same number of public housing units as existed
140 before participation in this program to the greatest extent possible shall; (A) provide for full
141 tenant participation, including public hearing, on adoption or material amendment of its annual
142 plan as required under subsection (h); (B) provide for a tenant lease and grievance procedure
143 substantially similar to that in effect prior to entry into the program under this section; (C)
144 provide that evictions shall be only for good cause; (D) assure that housing assisted under the
145 program in this chapter is decent, safe and sanitary, and that, excepting any market-rate housing,
146 the housing is deed restricted to occupancy by extremely-low, very low, or low and moderate-
147 income households at affordable rents or sales prices, in perpetuity or for such other term as may
148 be approved by the department, consistent with funding sources; and (E) assure that proceeds
149 from the disposition of public housing and funds generated from new affordable and market
150 housing created to replace public housing, unless restricted to a particular use, shall be allocated
151 to the reconstruction, rehabilitation, or repair of public housing developments;

152 (4) assure that if a participating housing authority redevelops its
153 public housing units, all households residing in the units at the time of planned redevelopment
154 shall receive relocation assistance, if eligible, under this chapter or other applicable statutes. Said
155 households shall have the right to return to the redeveloped public housing, unless such
156 household is determined to be in unlawful occupancy prior to the approval of the housing
157 authority's application, has materially breached the lease agreement or has been evicted for

158 cause, under applicable law subject to units of the appropriate size and requirements being
159 available. Such households shall have priority for placement over new applicants; and

160 (5) comply with chapter 334 of the acts of 2006.

161 h. Each housing authority participating in the program under this section shall
162 prepare an annual plan. Tenants assisted by the housing authority and the wider community shall
163 be provided with adequate notice and opportunities to participate in the development and
164 preparation of the plan. Said tenants shall be provided an opportunity to comment and make
165 recommendations on the plan which shall include not less than 1 public hearing held at a time
166 and location that the participating housing authority reasonably believes will facilitate attendance
167 by, and input from, tenants.

168 The annual plan shall:

169 (1) state the housing authority's goals and objectives under the
170 program for its fiscal year;

171 (2) describe the housing authority's proposed use of assistance for
172 activities under the program for the fiscal year;

173 (3) describe how the housing authority will achieve the repair and
174 redevelopment of public housing;

175 (4) state the housing authority's proposed income mix for its
176 housing portfolio of: (A) extremely low income households; (B) very low income households;
177 (C) low or moderate income households; and (D) market rate housing;

178 (5) explain how the housing authority's proposed activities will
179 meet its goals and objectives;

180 (6) include appropriate budgets and financial statements; and

181 (7) describe the tenant participation procedure and what
182 independent technical assistance will be made available to tenants.

183 Any plan submitted pursuant to subsection (h) shall be deemed approved
184 unless the department, within 60 days of submission, issues a written disapproval. The
185 department shall disapprove the plan if the department reasonably determines, based on
186 information contained in the plan or other reliable information available to the department, that
187 the plan does not comply with the provisions of this section or other applicable law or cannot
188 reasonably be expected to achieve the purposes set out in this section. The housing authority
189 shall notify tenants of such approval or disapproval.

190 i. In place of all other planning and reporting requirements of the department,
191 each housing authority participating in the program under this chapter shall submit to the
192 department annually a single annual report, in a form and at a time specified by the department.
193 The annual report shall be the primary means by which the housing authority shall be required to
194 provide information to the department, to tenants and the public on the activities assisted under
195 this section during a fiscal year, unless the department has reason to believe that the housing
196 authority has violated the terms of the program.

197 Each annual report shall:

198 (1) document the housing authority's use of assistance under the
199 program, including appropriate financial statements;

200 (2) describe and analyze the effect of assisted activities in
201 addressing the objectives of this section, including the effect of rent and tenant selection policies;

202 (3) state the previous year's income mix of residents in the
203 housing authority's public housing and affordable housing developments under this program;

204 (4) include a certification by the housing authority that it has
205 prepared an annual plan that was prepared in accordance with subsection (h);

206 (5) describe and document how the housing authority has
207 provided tenants assisted under the program and the wider community with opportunities to
208 participate in the development or material modification of the annual plan, and an opportunity to
209 comment on the annual plan which shall include not less than 1 public hearing;

210 (6) include a report on the annual incomes of persons served in
211 the previous year; and

212 (7) include other information as may be required by the
213 department pursuant to subsection (k) to determine the effectiveness of the program.

214 j. Any report submitted pursuant to subsection (i) shall be deemed approved
215 unless the department, within 60 days of submission, issues a written disapproval because the
216 department reasonably determines, based on information contained in the report or other reliable
217 information available to the department, that the housing authority is not in compliance with the
218 provisions of this section or other applicable law.

219 k. Each housing authority shall keep such records as the department may
220 prescribe as reasonably necessary to document the amount of funds and the disposition of funds
221 under this program, to ensure compliance with the requirements of this section, and to measure
222 performance.

223 l. The department shall have access, for the purpose of audit and examination
224 to any: books; documents; papers; and records that are pertinent to assistance in connection with,
225 and the requirements of, this section; provided however, that reporting shall be conducted solely
226 through the annual report unless the department has reason to believe that the housing authority
227 is not in compliance with its program.

228 m. The auditor of the commonwealth shall have access for the purpose of
229 audit and examination to any books, documents, papers, and records that are pertinent to
230 assistance in connection with, and the requirements of, this section.

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

235 o The department shall establish a manner in which to post the housing
236 innovations plan, annual report, independent evaluation and other public records pertaining to
237 each housing authority's public housing innovations program established pursuant to this act so
238 that the progress of each public housing innovations program is publicly available and free to
239 access.

240 p. The department shall establish a 9 member advisory committee whose
241 members shall include the director of the department or the director's designee, 1 representative
242 selected by Citizens' Housing and Planning Association, 1 representative selected by the
243 Massachusetts Chapter of the National Association of Housing and Redevelopment Officials, 1
244 representative selected by the Massachusetts Union of Public Housing Tenants, 1 representative
245 selected by the Massachusetts Coalition for the Homeless, and 4 additional members chosen by
246 the director of the department to provide advice and recommendations to the department
247 regarding regulations to implement the provisions of this section and to provide ongoing
248 assistance in determining the effectiveness of the program.

249 SECTION 2. The department of housing and community development shall
250 adopt regulations implementing the provisions of this act within 90 days of the effective date of
251 the act. Except for emergency regulations adopted pursuant to section 2 of chapter 30A of the
252 general laws, any such regulation, or any amendment or repeal thereof, shall, after compliance
253 with all applicable provisions of chapter 30A except section 5, be submitted to the general court.
254 The director of the department shall file any proposed regulation, amendment or repeal with the
255 clerk of the house of representatives, together with a statement that the pertinent provisions of
256 said chapter 30A have been complied with and a summary of the regulations in layperson's
257 terms. The clerk shall refer such filing to the joint committee on housing within 5 days of the
258 filing thereof. No such regulation shall take effect until 90 days after it has been so filed;

259 provided, however, that such 90 day period shall not include days when the general court is
260 prohibited by law or rule from meeting in formal session.

261 The department shall annually report to the house and senate committees on
262 ways and means and the joint committee on housing on the participation of housing authorities in
263 the public housing innovation program.

264 SECTION 3. No more than 5 housing authorities shall participate in the
265 public housing innovation program created pursuant to section 26(b) of chapter 121B within the
266 first 2 years of enactment of this section. In selecting these participating authorities, the
267 department shall establish criteria that provides for representation of housing authorities having
268 various characteristics, including both large and small housing authorities, housing authorities
269 serving urban, suburban and rural areas, and housing authorities in various geographical regions
270 throughout the commonwealth.

271 SECTION 4. At least 180 days prior to approving the participation of more
272 than five housing authorities in the public housing innovation program authorized pursuant to
273 section 26B of chapter 121B, the department, with input by the advisory committee, shall submit
274 to the Joint Committee on Housing and the clerks of the House of Representatives and the Senate
275 a report containing a thorough evaluation of the effectiveness of the program as implemented by
276 the previously approved participants over at least a two year period. Such report shall evaluate
277 the success of the previously approved participants in fulfilling the requirements of subsections f
278 and g of said section 26B, the terms of their annual plans as required by subsection h of said
279 section 26B, and in preserving or expanding the number of public housing units as compared to
280 the number that existed prior to participation in the program. Before approving participation of
281 additional housing authorities, the department shall meet with the advisory committee and
282 recommend any changes that would improve the program.