

SENATE No. 895

The Commonwealth of Massachusetts

PRESENTED BY:

Susan L. Moran

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 promote sustainable affordable housing.

PETITION OF:

NAME:

Susan L. Moran

DISTRICT/ADDRESS:

Plymouth and Barnstable

SENATE No. 895

By Ms. Moran, a petition (accompanied by bill, Senate, No. 895) of Susan L. Moran for legislation to promote sustainable affordable housing. Housing.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to promote sustainable affordable 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. Section 20 of Chapter 40B of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting, after the definition of “low or moderate income
3 housing”, the following definition:-

4 “Mixed use development”, a development containing a mix of residential uses and non-
5 residential uses, including, without limitation: commercial, institutional, industrial or other uses;
6 all conceived, planned and integrated to create vibrant, workable, livable and attractive
7 neighborhoods.

8 SECTION 2. Section 20 of Chapter 40B of the General Laws, as appearing in the 2020
9 Official Edition, is hereby amended by inserting, at the end of the definition of “consistent with
10 local needs”, the following:-

11 Requirements or regulations shall be consistent with local needs if they impose a
12 requirement that the development have all of the requirements for mixed use development, as
13 defined by this section.

14 SECTION 3. Notwithstanding any general or special law to the contrary, the department
15 of housing and community development shall update the definition of “SHI Eligible Housing” in
16 760 CMR 56.02 to include:

17 (a) Any manufactured home or unit of a manufactured home, as defined by section 32Q
18 of chapter 140 of the General Laws;

19 (b) Any unit within an assisted living residence, as defined by section 1 of chapter 19D of
20 the General Laws; and

21 (c) Any unit of elderly housing, as defined by section 1 of chapter 19D of the General
22 Laws.

23 SECTION 4. Section 38Q of chapter 63 of the General Laws, as appearing in the 2020
24 Official Edition, is hereby amended by inserting, after the second sentence, the following
25 sentences:-

26 An additional credit of 10 per cent of these costs shall be allowed for a corporation which
27 achieves and maintains a permanent solution or remedy operation status in compliance with
28 chapter 21E and which develops the economically distressed area into housing accommodations
29 with at least 30 per cent but not more than 40 percent of units eligible for designation as low or
30 moderate income housing by the department of housing and community development. An
31 additional credit of 15 per cent of these costs shall be allowed for a corporation which achieves

32 and maintains a permanent solution or remedy operation status in compliance with chapter 21E
33 and which develops the economically distressed area into housing accommodations with more
34 than 40 per cent of developed units eligible for designated as low or moderate income housing by
35 the department of housing and community development.

36 SECTION 5. Chapter 184 of the General Laws, as appearing in the 2020 Official Edition,
37 is hereby amended by the adding after section 21, the following section:-

38 Section 21A. Municipal Right of First Refusal for Affordable Housing Units

39 (a) For the purposes of this section, the following words shall, unless the context clearly
40 requires otherwise, have the following meanings:

41 "Affiliate" an entity owned or controlled by an owner or under common control with the
42 owner.

43 "Auction" or "public auction", the sale of a housing accommodation, under power of sale
44 in a mortgage loan, by public bidding.

45 "Borrower", a mortgagor of a Mortgage Loan.

46 "Deed in lieu," a deed for the collateral property, that the mortgagee accepts from the
47 borrower in exchange for the release of the borrower's obligation under the mortgage loan.

48 "Department", Department of Housing and Community Development, or its successor
49 agency.

50 "Designee", a nonprofit organization established pursuant to chapter 180, a local housing
51 authority, or a controlled nonprofit or for-profit affiliate of either such entity; provided that the

52 parent organization has requisite experience in developing, owning and/or operating residential
53 real estate and with the financial capacity to secure the financing of the purchase transaction;
54 provided that any purchase by a Designee under this section shall be for the purpose of the use of
55 the property as long-term affordable rental housing set out in a recorded restriction.

56 "Elderly Tenant Household" a tenant household in which 1 or more of the residents are
57 age 65 or older.

58 "Foreclosure," a proceeding to terminate a borrower's interest in property instituted by
59 the mortgagee.

60 "Housing accommodation," a building or buildings, structure or structures, or part
61 thereof, rented or offered for rent for living or dwelling purposes, including, without limitation,
62 houses, apartments, condominium units, cooperative units and other multi-family residential
63 dwellings; provided, however, that a housing accommodation shall not include a group
64 residence, homeless shelter, lodging house, orphanage, temporary dwelling structure or
65 transitional housing; and provided, further that a housing accommodation shall not include 1-4
66 unit borrower-occupied housing accommodation if the borrower is domiciled in the housing
67 accommodation at the initiation of the short-sale, deed in lieu, or foreclosure process.

68 "Immediate Family Member", the parent, offspring, sibling, or spouse of the Owner.

69 "Mortgage loan," a loan secured wholly or partially by a mortgage on a housing
70 accommodation.

71 "Mortgagee," an entity to whom property is mortgaged, the mortgage creditor or lender
72 including, but not limited to, mortgage servicers, lenders in a mortgage agreement and any agent,

73 servant or employee of the mortgagee or any successor in interest or assignee of the mortgagee's
74 rights, interests or obligations under the mortgage agreement.

75 "Owner", a person, firm, partnership, corporation, trust, organization, limited liability
76 company or other entity, or its successors or assigns, that holds title to real property.

77 "Purchaser", a party who has entered into a purchase contract with an owner and who
78 will, upon performance of the purchase contract, become the new owner of the property.

79 "Purchase contract", a binding written agreement whereby an owner agrees to sell
80 property including, without limitation, a purchase and sale agreement, contract of sale, purchase
81 option or other similar instrument.

82 "Sale", an act by which an owner conveys, transfers or disposes of property by deed or
83 otherwise, whether through a single transaction or a series of transactions, within a 3 year period;
84 provided, that a disposition of housing by an owner to an affiliate of such owner shall not
85 constitute a sale.

86 "Short-sale," a sale approved by the mortgagee to a bona fide purchaser at a price that is
87 less than the borrower's existing debt on the housing accommodation.

88 "Tenant", a person entitled to possession or occupancy of a rental unit within residential
89 housing, including a subtenant, lessee and sublessee.

90 "Third-party offer", an offer to purchase the mortgaged property for valuable
91 consideration by an arm's length purchaser; provided, that a third-party offer shall not include an
92 offer by the borrower or the tenants.

93 "Third-party purchaser", a purchaser that is not the Tenant Association at the property, or
94 its Designee, Successor, or an Affiliate.

95 (b) An owner of a residential building with any units designated as affordable by Chapter
96 40B or any other chapter of the General Laws in the commonwealth shall:

97 (1) notify the executive and legislative body of the municipality in which the building is
98 located and each tenant household, in writing by hand delivery and United States' mail, of the
99 owner's intention to sell the property or any units within the property (including entertaining an
100 unsolicited offer from a third-party to purchase the property); and

101 (2) provide a municipality an opportunity to purchase the property or any units within the
102 property at a fair market rate prior to entering into an agreement to sell such property pursuant to
103 the time periods contained in this section, but no owner shall be under any obligation to enter
104 into an agreement to sell such property to the municipality.

105 (c) A municipality may, within 30 days after receipt of the owner's intention to sell,
106 submit an offer to the owner to purchase the property. Failure to submit a timely offer shall
107 constitute an irrevocable waiver of the municipality's rights under this subsection and the owner
108 may enter into a contract to sell the property to a third-party. If the owner and the municipality
109 have not entered into an agreement within 30 days after receipt of the notice of the owner's intent
110 to sell, the owner may enter into an agreement to sell the property to a third-party.

111 (d) Upon execution of any purchase contract with a third party, the owner shall, within 7
112 days, submit a copy of the executed contract and proof that the deposit toward the purchase has
113 been paid by the third party along with a proposed purchase contract for execution by the
114 municipality. If the municipality elects to purchase the property, the municipality shall within 30

115 days after the receipt of the third-party purchase contract and the proposed purchase contract,
116 execute the proposed purchase contract or such other agreement as is acceptable to both parties.
117 The time periods set forth in this subsection may be extended by agreement between the owner
118 and the municipality. Except as otherwise specified, the terms and conditions of the proposed
119 purchase contract offered to the municipality shall be the same as those of the executed third-
120 party purchase contract. Any purchase contract offered to, or proposed by, the municipality shall
121 provide at least the following terms:

122 (1) the earnest money deposit shall not exceed the lesser of:

123 (i) the deposit in the third-party purchase contract;

124 (ii) 5 per cent of the sale price; or

125 (iii) \$250,000; provided, however, that the owner and the municipality may agree to
126 modify the terms of the earnest money deposit; provided, further, that the earnest money deposit
127 shall be held under commercially-reasonable terms by an escrow agent selected jointly by the
128 owner and the municipality;

129 (2) the Owner must provide the following information, documentation, and permissions,
130 within 30 days of the date of the purchase contract of the municipality: the current rent roll with
131 names of all tenants; documentation of all operating expenses for the prior two years, including
132 utilities, insurance premiums, bills for repairs, and capital improvements; permission to inspect
133 all common and maintenance service areas of the property, including roof, boiler room, electrical
134 and telecommunications rooms; permission to conduct inspections and tests for the presence of
135 lead paint and asbestos, including permission to do small amounts of demolition that will be
136 restored after said inspections and tests are completed; and permission to do tests for regulated

137 environmental toxins on unbuilt areas of the property, if required by the lender of the
138 municipality;

139 (3) the contract will contain all reasonable contingencies, including financing,
140 marketability of title, and appraisal contingencies;

141 (4) the earnest money deposit shall be refundable for not less than 90 days from the date
142 of execution of the purchase contract or such greater period as provided for in the third-party
143 purchase contract; provided, however, that if the owner unreasonably delays the buyer's ability to
144 conduct due diligence during the 90 day period, the earnest money deposit shall continue to be
145 refundable for an additional period of one day for every day beyond 30 days that the owner has
146 not complied with the provisions of subsection (5) (ii) above. After the expiration of the
147 specified time period, the earnest money deposit shall become non-refundable but shall continue
148 to be a deposit toward the full purchase price; and

149 (5) real estate broker commissions or fees that are associated with the third-party
150 purchase transaction shall be payable upon the closing of the purchase.

151 (e) The municipality shall have 160 days from execution of the purchase and sale
152 agreement to perform all due diligence, secure financing for and close on the purchase of the
153 building. Failure to exercise the purchase option within 160 days shall constitute a waiver of the
154 purchase option by the municipality. The 160 day period may be extended by agreement of both
155 parties.

156 (f) If the municipality does not exercise their purchase option the Owner may proceed
157 with the sale to the third-party. If the closing date in the third-party contract is extended, for each
158 such extension, the Owner shall provide the municipality a notarized amendment to the purchase

159 contract extending the date of the closing. Within 7 days of the termination of the third-party
160 purchase contract the Owner shall notify the municipality of the termination.

161 (g) The municipality shall ensure that their purchase of the property will not result in the
162 displacement of any Elderly Tenant Households that choose not to participate in the purchase of
163 the property.

164 (h) The Department shall enforce this subsection and shall promulgate rules and
165 regulations necessary for enforcement. The Department shall provide municipalities with sample
166 purchase contracts incorporating the requirements of this Section that an owner can provide to a
167 municipality.

168 (e) Short-sales. In any city or town that adopts the provisions of this Section:

169 (1) An owner, other than the owner of a 1- 4 unit owner-occupied property, shall give
170 notice to each tenant household of a housing accommodation and the municipality within which
171 the housing accommodation is located of the intention to sell the housing accommodation by
172 way of short-sale to avoid foreclosure. Such notice shall be mailed by regular and certified mail,
173 with a simultaneous copy to the attorney general, and the municipality adopting this section
174 within 2 business days of the owner's submission of a request or application to the mortgagee for
175 permission to sell the housing accommodation by way of short-sale or to accept a deed in lieu.
176 This notice shall also include a notice of the rights provided by this section.

177 (2) No mortgagee may accept any third-party offers or deem the owner's application for
178 short-sale submitted for review unless and until: the mortgagee receives documentation in a form
179 approved by the attorney general demonstrating that the tenants of the housing accommodation
180 and the municipality within which the housing accommodation is located have been informed of

181 the owner's intent to seek a short-sale or deed in lieu and the municipality has had the
182 opportunity to express their interest in exercising a right of first refusal within 60 days or the
183 opportunity to assigned their right of first refusal, or the municipality has waived those rights. If
184 the municipality has not affirmatively expressed their interest in exercising a right of first refusal
185 or in assigning that right within 60 days, or have not affirmatively waived that right within 60
186 days, the municipality's rights are deemed waived.

187 (3) Before a housing accommodation may be transferred by short-sale or deed-in-lieu, the
188 owner, other than the owner of a 1-4 unit owner-occupied property shall notify each tenant
189 household, with a simultaneous copy to the attorney general and the municipality adopting this
190 section, by regular and certified mail, of any bona fide offer that the mortgagee intends to accept.

191 (4) A municipality that is entitled to notice under the preceding paragraph (3) shall have
192 the collective right to purchase, in the case of a third-party offer that the mortgagee intends to
193 accept, provided that it:

194 (i) submits to the owner a proposed purchase and sale agreement on substantially
195 equivalent terms and conditions within 60 days of receipt of notice of the offer made under the
196 preceding paragraph (3),

197 (ii) obtains a binding commitment for any necessary financing or guarantees within an
198 additional 90 days after execution of the purchase and sale agreement, and

199 (iii) closes on such purchase within an additional 90 days after the end of the 90-day
200 period described in clause (iii).

201 No owner shall unreasonably refuse to enter into, or unreasonably delay the execution or
202 closing on a purchase and sale with a municipality which has made a bona fide offer to meet the
203 price and substantially equivalent terms and conditions of an offer for which notice is required to
204 be given pursuant to paragraph (3). Failure of the municipality to submit such a purchase and
205 sale agreement within the first 60-day period, to obtain a binding commitment for financing
206 within the additional 90-day period or to close on the purchase within the second 90-day period,
207 shall serve to terminate the rights of such municipality to purchase. The time periods herein
208 provided may be extended by agreement. Nothing herein shall be construed to require an owner
209 to provide financing to such municipality. A right to purchase hereunder shall be for the purpose
210 of maintaining the use of the housing accommodation as permanently affordable rental housing.

211 (5) The right of first refusal created herein shall inure to the municipality for the time
212 periods hereinbefore provided, beginning on the date of notice to the municipality under
213 paragraph (1). The effective period for such right of first refusal shall begin anew for each
214 different offer to purchase that the mortgagee intends to accept. The right of first refusal shall not
215 apply with respect to any offer received by the owner for which a notice is not required pursuant
216 to said paragraph (3).

217 (6) In any instance where the municipality is not the successful purchaser of the housing
218 accommodation, the mortgagee shall provide evidence of compliance with this section by filing
219 an affidavit of compliance with the attorney general and the registry of deeds for the county and
220 district where the property is located within 7 days of the sale.

221 (7) The attorney general shall enforce this subsection (e) and shall promulgate rules and
222 regulations necessary for enforcement. The attorney general may seek injunctive, declaratory,

223 and compensatory relief on behalf of tenants and the Commonwealth in a court of competent
224 jurisdiction. The attorney general shall post a sample intent to sell notice, sample proof of notice
225 to municipality, sample notice of offer, and other necessary documents.

226 (f) Foreclosures. In any city or town that adopts the provisions of this Section:

227 (1) When a mortgagee seeks to foreclose, the mortgagee shall provide copies of all
228 foreclosure notices required by Chapter 244, sections 14 and 35A, or any other applicable
229 foreclosure law by regular and certified mail to the tenants of the housing accommodation and to
230 the municipality adopting this Section. The mortgagee shall also provide tenants and the
231 municipality, by regular and certified mail, with a copy of any Complaint filed in Land Court and
232 any Order of Notice issued by the Land Court, pursuant to the Servicemembers Civil Relief Act
233 if applicable, within five (5) days of issuance.

234 (2) The mortgagee shall provide each tenant household and the municipality adopting this
235 Section, by regular and certified mail, a copy of any and all Notices of Sale published pursuant to
236 Section 14 of chapter 244.

237 (3) No later than 5 business days before the foreclosure auction of a housing
238 accommodation, the municipality shall inform the mortgagee, in writing, if the municipality
239 intends to exercise their right of first refusal at auction and desire to receive information relating
240 to the proposed auction.

241 (4) A municipality may exercise their collective right to purchase the housing
242 accommodation, in the event of a third-party offer at auction that the mortgagee receives,
243 provided that the municipality:

244 (i) submits to the mortgagee a proposed purchase and sale agreement on substantially
245 equivalent terms and conditions to that received by the mortgagee in the third-party offer within
246 sixty days of receipt of notice of the bid made under paragraph (3) of this section,

247 (ii) obtains a binding commitment for any necessary financing or guarantees within an
248 additional ninety days after execution of the purchase and sale agreement, and

249 (iii) closes on such purchase within an additional ninety days after the end of the ninety-
250 day period under clause (iii).

251 No mortgagee shall unreasonably refuse to enter into, or unreasonably delay the
252 execution or closing on a purchase and sale with a municipality which has made a bona fide offer
253 to meet the price and substantially equivalent terms and conditions of a bid received at auction.
254 Failure of the municipality to submit such a purchase and sale agreement within the first sixty
255 day period, to obtain a binding commitment for financing within the additional ninety day period
256 or to close on the purchase within the second ninety-day period, shall serve to terminate the
257 rights of such municipality to purchase. The time periods herein provided may be extended by
258 agreement.

259 Nothing herein shall be construed to require a mortgagee to provide financing to such
260 municipality. A right to purchase hereunder shall be for the purpose of maintaining the use of the
261 housing accommodation as permanently affordable rental housing.

262 If there are no third-party bids at auction for the housing accommodation, the
263 municipality shall have a right of first refusal whenever the mortgagee seeks to sell the housing
264 accommodation. The municipality shall be notified of any offers the mortgagee intends to accept

265 and shall be given an opportunity to meet the price and substantially the terms of a third-party
266 offer based on the same time line described in paragraph (4).

267 (5) The right of first refusal created herein shall inure to the municipality for the time
268 periods herein before provided, beginning on the date of notice to the municipality under
269 paragraph (1).

270 (6) The attorney general shall enforce this subsection (f) and shall promulgate rules and
271 regulations necessary for enforcement. The attorney general may seek injunctive, declaratory,
272 and compensatory relief on behalf of tenants and the Commonwealth in a court of competent
273 jurisdiction. The attorney general shall post a sample intent to sell notice, sample proof of notice
274 to municipality, sample notice of offer, and other necessary documents.

275 (g) In any instance where the municipality is not the successful purchaser, the seller of
276 such unit shall provide evidence of compliance with this section by filing an affidavit of
277 compliance with the attorney general, the Department, and the official records of the county
278 where the property is located within seven days of the sale.

279 (h) Any notice required by this section shall be deemed to have been provided when
280 delivered in person or mailed by certified or registered mail, return receipt requested, to the party
281 to whom notice is required; except that with respect to providing notice to tenants, notice shall be
282 deemed to have been provided when either: (i) the notice is delivered in hand to the tenant or an
283 adult member of the tenant's household; or (ii) the notice is sent by first class mail and a copy is
284 left in or under the door of the tenant's dwelling unit. A notice to the affected municipality shall
285 be sent to the chief executive officer.

286 (i) It is illegal for an owner or their agent to take any action to evict, threaten, coerce, or
287 retaliate against a tenant or tenants in order to avoid application of this Section.

288 (j) This section shall not apply to the following:

289 (1) property that is the subject of a government taking by eminent domain or a negotiated
290 purchase in lieu of eminent domain;

291 (2) rental units in any hospital, skilled nursing facility, or health facility;

292 (3) rental units in a nonprofit facility that has the primary purpose of providing short term
293 treatment, assistance, or therapy for alcohol, drug, or other substance abuse; provided, that such
294 housing is incident to the recovery program, and where the client has been informed in writing of
295 the temporary or transitional nature of the housing;

296 (4) rental units in a nonprofit facility that provides a structured living environment that
297 has the primary purpose of helping homeless persons obtain the skills necessary for independent
298 living in a permanent housing and where occupancy is restricted to a limited and specific period
299 of time of not more than 24 months and where the client has been informed in writing of the
300 temporary or transitional nature of the housing at its inception;

301 (5) any unit that is held in trust on behalf of a disabled individual who permanently
302 occupies the unit, or a unit that is permanently occupied by a disabled parent, sibling, child, or
303 grandparent of the owner of that unit;

304 (10) any property that is owned by a college or university that is occupied exclusively by
305 students; or

306 (11) any sale to an Immediate Family Member of the owner for a total purchase price
307 below the current assessed value of the property.

308 (k) A municipality shall not solicit or accept payment or any other consideration for
309 assigning or waiving any rights under this section.

310 (l) Aggrieved municipalities may seek damages under General Law Chapter 93A and
311 may file a complaint with the attorney general, and may also file a court complaint for equitable
312 and/or monetary relief, including but not limited to damages of a percentage of the sales price
313 and/or injunctive relief in the form of specific performance. At all times, all parties must
314 negotiate in good faith.

315 SECTION 6. Section 20 of Chapter 40B of the General Laws, as appearing in the 2020
316 Official Edition, is hereby amended by inserting, at the end of the definition of “consistent with
317 local needs”, the following:-

318 A requirement that a housing proposal considered under sections 20 to 23 of this chapter
319 include a stipulation that the proposed housing development shall not utilize a septic system for
320 waste disposal and shall utilize a sewer system or modular wastewater treatment system for
321 wastewater disposal shall be consistent with local needs if the proposed housing development
322 would be partially or wholly located on a nitrogen-sensitive area, as designated by the
323 department of environmental protection.

324 SECTION 7. (a) The department of environmental protection shall establish a grant
325 program to provide funding to upgrade wastewater treatment plants to accommodate affordable
326 housing developments.

327 (b) Eligible grantees shall include any person, entity, or state agency that owns or
328 operates a wastewater treatment plant or modular wastewater treatment system whose sewer load
329 would expand beyond the plant's maximum rated load capacity by serving future residents of a
330 housing development proposal that has been approved by a municipality or the commonwealth
331 under sections 20 to 23 of chapter 40B of the General Laws.

332 (c) Funding distributed pursuant to this section shall not be used for any other purpose
333 besides physical upgrades to said wastewater treatment plant or modular wastewater treatment
334 system or to expand operational capacity for management of said plant or system.

335 (d) Funding distributed pursuant to this section shall not exceed 100 thousand dollars.

336 (e) The department shall adopt regulations for the implementation and administration of
337 this section.

338 SECTION 8. Chapter 29C of the General Laws is hereby amended by inserting, after
339 section 20, the following section:-

340 Section 21. Affordable Housing Septic and Sewer Loan Program

341 There shall be an affordable housing septic and sewer loan program administered by the
342 department of housing and community development, in consultation with the department of
343 environmental protection.

344 The program shall provide zero-interest loans to eligible loan applicants for upgrades to
345 existing residential properties to ensure compliance with Title 5 of the state environmental code.

346 Eligible loan applicants shall be any public agency or limited dividend or nonprofit
347 organization that owns or operates a residential housing facility that was previously approved for

348 construction under the requirements of sections 20 to 23 of chapter 40B of the General Laws and
349 is currently designated as low or moderate income housing by the department of housing and
350 community development on the state's subsidized housing inventory.

351 Loan funding distributed pursuant to this section shall only be used by an eligible loan
352 applicant to conduct, or contract for the following upgrades to a residential housing facility that
353 was previously approved for construction under the requirements of sections 20 to 23 of chapter
354 40B of the General Laws and is currently designated as low or moderate income housing by the
355 department of housing and community development on the state's subsidized housing inventory:

356 (a) physical upgrades to the septic system of a residential housing facility to ensure
357 compliance with Title 5 of the state environmental code; or

358 (b) transition of a residential housing facility from a septic system to a sewage system.

359 The department of housing and community development shall consult with the
360 department of environmental protection and promulgate regulations for the administration of this
361 section.

362 SECTION 9. The department of housing and community development shall develop a
363 pilot program for intergenerational affordable housing development.

364 The program will seek to support individuals aged 60 years or older in providing housing
365 accommodation to any individual aged 18 years or older, or families, in exchange for services or
366 rent.

367 Eligible program participants shall be individuals or families currently on the state's
368 central housing application list, and any individual aged 60 years or older that owns their own
369 home and has adequate accommodation available.

370 In designing the program, the department shall consult with existing privately
371 intergenerational housing programs in the state, including but not limited to:

- 372 (a) LifePath HomeShare;
- 373 (b) Treehouse at Easthampton Meadow;
- 374 (c) The Oak at the Island Creek Village; and
- 375 (d) Lasell Village.

376 The department shall promulgate regulations for the administration of this program.

377 SECTION 10. Section 25 of Chapter 23B of the General Laws, as appearing in the 2020
378 Official Edition, is hereby amended by striking the definition of the term "Annual Income" and
379 inserting in place thereof the following:-

380 "Annual Income", a person or family's gross annual income less the following expenses:

- 381 (a) payments made towards student loan payments and payments made to licensed child
382 care providers up to an annual combined deduction of \$10,000;
- 383 (b) reasonable allowances for dependents, other than spouse; and
- 384 (c) medical expenses.

385 SECTION 11. Section 38D of Chapter 121B of the General Laws, as appearing in the
386 2020 Official Edition, is hereby amended by striking the definition of the term “Low or moderate
387 income household” and inserting in place thereof the following:-

388 “Low or moderate income household”, a household with a gross income of not more than
389 80 per cent of the area median household income as most recently determined by the United
390 States Department of Housing and Urban Development, adjusted for household size less
391 payments made towards student loan payments and payments made to licensed child care
392 providers up to an annual combined deduction of \$10,000; provided, however, that in Nantucket
393 or Dukes county "low or moderate income household" shall mean persons and households
394 earning less than 150 per cent of Nantucket county or the county of Dukes County median
395 household income as reported from time to time by the United States Department of Housing and
396 Urban Development.

397 SECTION 12. Chapter 63 of the General Laws is hereby amended by inserting, after
398 section 38JJ, the following section:-

399 Section 38KK. Seasonal Employer Housing Tax Credit

400 (a) For the purposes of this section, the following words shall have the following
401 meanings:

402 “Seasonal employer”, an employer that, because of climatic conditions or the nature of
403 the product or service, customarily operates more than 70 percent of its business only during a
404 regularly recurring period or periods of less than 20 weeks for all seasonal periods during a
405 calendar year

406 “Employment season”, any period of time of less than 20 weeks during a calendar year.

407 (b) There shall be established a seasonal employer housing tax credit program under
408 which a seasonal employer may be allowed a refundable income tax credit based on the amount
409 of rent paid to house any workers employed by the seasonal employer during the employment
410 season. The credit may be claimed against the taxes due pursuant to this chapter.

411 (c) The tax credit shall only be claimed by the seasonal employer for rent paid to house
412 employees during the employment season.

413 (d) The commissioner of revenue shall adopt regulations for the implementation,
414 administration and enforcement of this section.

415 (e) The total cumulative value of the tax credits authorized pursuant to this section shall
416 not exceed \$10,000 annually.

417 (f) If the amount of the credit allowed under this section exceeds the taxpayer's liability,
418 the commissioner of revenue shall treat such excess as an overpayment and shall pay the
419 taxpayer 100 per cent of the amount of such excess, without interest.

420 SECTION 13. Chapter 63 of the General Laws is hereby amended by inserting, after
421 section 38KK, the following section:-

422 Section 38LL. Affordable Housing Contractor Tax Credit

423 (a) For the purposes of this section, the following words shall have the following
424 meanings:

425 “Affordable housing contractor”, a housing contractor contracted to construct housing
426 accommodations that will be designated as low or moderate income housing by the department
427 of housing and community development on the state’s subsidized housing inventory.

428 designated as low or moderate income housing by the department of housing and
429 community development on the state’s subsidized housing inventory.

430 (b) There shall be established an affordable housing contractor tax credit program under
431 which an affordable housing contractor may be allowed a refundable income tax credit based on
432 the amount of rent paid to house any workers employed by the contractor. The credit may be
433 claimed against the taxes due pursuant to this chapter.

434 (c) The tax credit shall only be claimed by the contractor for rent paid to house workers
435 contracted for work on a project to construct housing accommodations that will be designated as
436 low or moderate income housing by the department of housing and community development on
437 the state’s subsidized housing inventory.

438 (d) The commissioner of revenue shall adopt regulations for the implementation,
439 administration and enforcement of this section.

440 (e) The total cumulative value of the tax credits authorized pursuant to this section shall
441 not exceed \$10,000 annually.

442 (f) If the amount of the credit allowed under this section exceeds the taxpayer's liability,
443 the commissioner of revenue shall treat such excess as an overpayment and shall pay the
444 taxpayer 100 per cent of the amount of such excess, without interest.

445 SECTION 14. Chapter 64G of the General Laws is hereby amended by inserting, after
446 section 3C, the following section:-

447 Section 3D. Short Term Rental Business Excise

448 (a) An operator of a short-term rental, as defined in section 1 of this chapter, shall pay an
449 annual assessment of 5 per cent of the operator's gross revenues derived from operation of short-
450 term rentals in the commonwealth.

451 (1) For the purposes of this section, an operator of a short-term rental shall not include
452 any person operating an owner-occupied property.

453 (b) An operator shall pay the above assessment to the department of revenue annually,
454 not later than the 30th of January in the following year.

455 (c) An operator shall submit to the department of revenue a full report of the revenues
456 generated from each of the operator's short-term rental properties and the addresses of each of
457 said properties.

458 (d) All monies derived from the assessment in this section shall be credited by the
459 department of revenue to the municipal affordable housing trust fund, as authorized by section
460 55C of chapter 44, of the municipality in which the person operated said short-term rentals.

461 (e) If the municipality in which the person operated said short-term rentals has not
462 established a municipal affordable housing trust fund, all monies derived from monetary
463 penalties under this section shall be credited to the General Fund of the city or town, provided,
464 however that all monies derived from monetary penalties under this section shall not be used for
465 any other purpose besides the development of affordable housing within the municipality.

466 (f) If the person operated said short-term rentals in multiple municipalities, the monies
467 shall be distributed among the municipalities proportionally based on the percentage of the
468 operator's total properties in each municipality.

469 SECTION 15. Section 6 of Chapter 64G of the General Laws, as appearing in the 2020
470 Official Edition, is hereby amended by inserting, after the first sentence, the following:-

471 A person that operates a short-term rental without a certificate of registration shall be
472 liable for a monetary penalty of 5 per cent of the person's gross annual revenues derived from
473 operating short-term rentals within the commonwealth.

474 A person that operates a short-term rental without a certificate of registration shall be
475 liable for an additional monetary penalty of 1 per cent of the person's gross annual revenues
476 derived from operating short-term rentals within the commonwealth for each successive year
477 after the first year that the person operates a short-term rental without a certificate of registration,
478 such that the monetary penalty for operating a short-term rental without a certificate of
479 registration shall be 5 per cent of the person's gross annual revenues derived from operating
480 short-term rentals within the commonwealth in the first year, 6 per cent in the second year, 7 per
481 cent in the third year, and further.

482 A monetary penalty imposed on a person that operates a short-term rental without a
483 certificate of registration pursuant to this section shall never exceed 15 per cent of the person's
484 gross annual revenues derived from operating short-term rentals within the commonwealth.

485 The department of revenue shall enforce this section and shall distribute all monetary
486 penalties collected pursuant to this section.

487 All monies derived from monetary penalties under this section shall be credited to the
488 municipal affordable housing trust fund, as authorized by section 55C of chapter 44, of the
489 municipality in which the person operated said short-term rentals.

490 If the municipality in which the person operated said short-term rentals has not
491 established a municipal affordable housing trust fund, all monies derived from monetary
492 penalties under this section shall be credited to the General Fund of the city or town, provided,
493 however that all monies derived from monetary penalties under this section shall not be used for
494 any other purpose besides the development of affordable housing within the municipality.

495 If the person operated said short-term rentals in multiple municipalities, the monies shall
496 be distributed among the municipalities proportionally based on the percentage of the operator's
497 total properties in each municipality.

498 Notwithstanding the provisions of this section, the department of revenue shall have the
499 authority to enter into an agreement with an unregistered operator of a short-term rental that may
500 exempt said operator from paying any monetary penalties derived from this section, provided
501 that the terms of such agreement shall include that:

502 (a) said operator shall apply for a certificate of registration as detailed in section 67 of
503 chapter 62C;

504 (b) said operator shall not further operate a short-term rental until said operator is granted
505 said certificate of registration; and

506 (c) if said operator shall, upon obtaining a certificate of registration and resuming
507 operations of a short term rental, fails to pay the assessment described in section 3D of chapter
508 64G, such failure shall constitute a violation of the terms of such agreement.

509 In accordance with section 1 of chapter 12, the Attorney General is authorized to enforce
510 this section. The Attorney General may, within 7 years, bring an action to recover any unpaid
511 assessments and monetary penalties, or enjoin the operations of any non-compliant entity, in any
512 court of competent jurisdiction.

513 Any municipality or group of municipalities adversely impacted by the action, or failure
514 to act, of any short-term rental operator under this section, may, within 10 years, bring an action
515 to recover any unpaid assessments and monetary penalties, or enjoin the operations of any non-
516 compliant entity, in any court of competent jurisdiction.

517 SECTION 16. The department of housing and community development shall conduct a
518 study to determine the most effective and sustainable use of state funds for housing individuals
519 and families experiencing homelessness in the commonwealth, with the goal of achieving long-
520 term housing accommodation and supportive services for all residents of the commonwealth.

521 The study shall consider:

522 (a) the amount of state funds expended to place anyone in the commonwealth
523 experiencing homelessness in any shelter or temporary accommodation, including but not limited
524 to a hotel or motel;

525 (b) the amount of state funds expended to cover hospital stays and emergency department
526 visits caused by chronic homelessness, including mental health emergencies or substance use
527 disorder emergencies.

528 (c) the potential amount of state funding that could be expended to place anyone in the
529 commonwealth experiencing homelessness in permanent housing accommodations, including
530 but not limited to vacant rental units or vacant houses;

531 (d) whether state funds could be saved by placing individuals and families in permanent
532 housing accommodations instead of temporary accommodations in the event that state shelters
533 are at full capacity;

534 (e) any legislative or regulatory impediments to placing individuals and families
535 experiencing homelessness in vacant rental units or vacant houses and any challenges associated
536 with removing said impediments;

537 (f) any other potential alternatives to placing individuals and families experiencing
538 homelessness in hotels and motels that would facilitate more permanent housing
539 accommodations; and

540 (g) any other potential actions the state could take to achieve the goal stated above.

541 The department shall consult with any other state agencies or organizations within the
542 commonwealth necessary to compile the study.