

**HOUSE . . . . . No. 4594**

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**The Commonwealth of Massachusetts**

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HOUSE OF REPRESENTATIVES, March 11, 2008.

The committee on Ways and Means, to whom was referred the House Bill financing the production and preservation of housing for low and moderate income residents (House, No. 4472), reports recommending that the same ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4594).

For the committee,

ROBERT A. DELEO.

**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Eight.

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AN ACT FINANCING THE PRODUCTION AND PRESERVATION OF HOUSING  
FOR LOW AND MODERATE INCOME RESIDENTS.

1     *Whereas*, The deferred operation of this act would tend to  
2 defeat its purpose, which is to authorize forthwith the financing of  
3 the production and preservation of housing for low and moderate  
4 income citizens of the commonwealth and to make related  
5 changes in certain laws, therefore it is hereby declared to be an  
6 emergency law, necessary for the immediate preservation of the  
7 public convenience.

*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. To provide for a capital outlay program to rehabil-  
2 itate, produce and modernize state-owned public housing develop-  
3 ments; to preserve the affordability and the income mix of  
4 state-assisted multifamily developments; to support home owner-  
5 ship and rental housing opportunities for low and moderate  
6 income citizens of the Commonwealth; to stem urban blight  
7 through the implementation of housing stabilization programs; to  
8 support housing production for the elderly, disabled and homeless;  
9 and preservation of housing for the elderly, the homeless, low and  
10 moderate income citizens of the commonwealth, and people with  
11 disabilities; and to promote economic reinvestment through the  
12 funding of infrastructure improvements, the sums set forth in  
13 Section 2, for the several purposes and subject to the conditions  
14 specified in this act, are hereby made available subject to the laws  
15 regulating the disbursement of public funds.

1     SECTION 2.

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

*Office of the Secretary.*

4000-7997     For a program of loan guarantees or interest subsidies to  
assist homeowners with blindness or severe disabilities in  
making modifications to their primary residence for the

purpose of improved accessibility or to allow such homeowners to live independently in the community; provided, that said secretary shall take all steps necessary to minimize such program's administrative costs; provided further, that such loan guarantees shall be available on the basis of a sliding scale that relates homeowner's income and assets to the cost of home modifications; provided further, that interest subsidies shall be means-tested and may be for 0 per cent pursuant to income standards developed by said secretary; provided further, that the repayment of any such loans may be delayed until the sale of the principal residence by any such homeowner; provided further, that persons residing in any development covered by section 4 of chapter 151B of the General Laws shall not be eligible for said program unless the owner can show that the modification is an undue financial burden; provided further, that said secretary shall consult with the Massachusetts commission for the blind and the Massachusetts rehabilitation commission in developing the rules, regulations and guidelines for such program; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services; and provided further, that said secretary shall submit quarterly reports to the house and senate committees on ways and means and the joint committee on housing detailing the status of the program herein established .....

50,000,000

4000-8300

For state financial assistance in the form of loans for the development of community-based housing for the mentally ill and mentally retarded; provided, that said loan program shall be administered by the department of housing and community development, hereinafter in this item referred to as the department, through contracts with the Massachusetts development finance agency established pursuant to chapter 23G of the General Laws, the community economic development assistance corporation established pursuant to chapter 40H of the General Laws, operating agencies established pursuant to chapter 121B of the General Laws and the Massachusetts housing finance agency established pursuant to chapter 708 of the acts of 1966; provided further, that said agencies may develop or finance said community-based housing, or may enter into subcontracts with non-profit organizations established pursuant to chapter 180 of the General Laws or organizations in which such non-profit corporations have a controlling financial or managerial interest or for-profit organizations; provided, however, that preference for such subcontracts shall be given to non-profit organizations; provided further, that the department shall take due consideration of a balanced geographic plan for such community-based housing when issuing said loans; provided further, that the department shall take due consideration of development of a balanced range of housing models by prioritizing funds for integrated housing as defined by the appropriate state housing and service agencies including, but not limited to, the following: the

department of housing and community development, the Massachusetts rehabilitation commission, the department of mental health, and the department of mental retardation in consultation with relevant and interested clients, their families, advocates, and other parties as necessary; provided further, that loans issued pursuant to this item shall: (1) not exceed 50 per cent of the financing of the total development costs; (2) be issued only when a contract or agreement for the use of said property for the purposes of such housing provides for repayment to the commonwealth at the time of disposition of the property in an amount equal to the commonwealth's proportional contribution from the Facilities Consolidation Fund to the cost of the development through payments made by the state agency making the contract; (3) only be issued when a contract or agreement for the use of said property for the purposes of such community-based housing provides for the recording of a deed restriction in the registry of deeds or the registry district of the land court of the county in which the real property is located, for the benefit of the said departments, running with the land, that the land be used for the purpose of providing community-based housing for eligible individuals as determined by the department of mental health and the department of mental retardation; provided, that the property shall not be released from such restrictions until the balance of the principal and interest for the loan is repaid in full or until a mortgage foreclosure deed is recorded; (4) be issued for a term not to exceed 30 years during which time repayment may be deferred by the loan issuing authority unless at the end of any fiscal year, cash collections from all sources in connection with a community-based housing project, except for contributions, donations, or grant moneys, exceed 105 per cent of cash expenditures on behalf of said project, including debt service, operating expenses, and capital reserves, in which event such excess cash shall be paid to the commonwealth within 45 days of the end of said fiscal year, payable first to interest due hereunder and thereafter to principal advanced pursuant to said loan; provided further, that if on the date said loans become due and payable to the commonwealth an outstanding balance exists, and if, on such date, the department, in consultation with the executive office of health and human services, determines that there still exists a need for such housing and that there is continued funding available for the provision of services to such development, said department may, by agreement with the owner of the development, extend the loans for such periods, each period not to extend beyond 10 years, as the department shall determine; provided, however, that the project shall continue to remain affordable housing for the duration of the loan term, including any extension thereof, as set forth in the contract or agreement entered into by the department; and provided further, that, in the event the terms of repayment detailed in this item would cause a project authorized by this item to become ineligible to

receive federal funds which would otherwise assist in the development of that project, the department may waive the terms of repayment which would cause the project to become ineligible; and (5) have interest rates fixed at a rate, to be determined by the department in consultation with the treasurer of the commonwealth; provided further, that expenditures from this item shall not be made for the purpose of refinancing outstanding mortgage loans for community-based housing in existence prior to the effective date of this act; provided further, that community-based housing projects developed pursuant to this item shall not be refinanced during the term of any loan issued pursuant to this item unless the balance of the principal and interest for such loan is repaid in full at the time of such refinancing; provided further, that said community-based housing projects may be refinanced if such financing would result in a reduction of costs paid by the commonwealth; provided further, that any such refinanced loan shall be due and payable on a date no later than the date on which the original loan was due and payable, except in accordance with clause (4) of this item, or is necessary to effect extraordinary repairs or maintenance to be approved by the commissioners of mental retardation, or mental health, as appropriate, and the department; provided further, that said loans shall be provided only for projects conforming to the provisions of this item; provided further, that said loans shall be issued in accordance with a facilities consolidation plan prepared by the secretary of health and human services, reviewed and approved by the department and filed with the secretary for administration and finance and the house and senate committees on ways and means and the joint committee on housing; provided further, that no expenditure shall be made pursuant to this item without the prior approval of the secretary for administration and finance; provided further, that the department, the department of mental health and the community economic development assistance corporation may identify appropriate financing mechanisms and guidelines for grants or loans, from this item, to promote private development to produce housing, provide for independent integrated living opportunities, write down building and operating costs, and to serve households at or below 15 per cent of area median income for the benefit of department of mental health clients; provided further, that not more than \$10,000,000 may be expended from this item for a pilot program of community-based housing loans to serve mentally ill homeless individuals in the current or former care of the department of mental health; provided further, that in implementing said pilot program, said department shall take due consideration of a balanced geographic plan when establishing community-based residences; provided further, that said housing services made available pursuant to such loans shall not be construed as a right or an entitlement for any individual or class of persons to the benefits of said pilot program; provided further, that eligibility for said pilot program shall be

established by regulations promulgated by the department; provided further, that the department shall promulgate regulations pursuant to chapter 30A of the General Laws for the implementation, administration and enforcement of this item, consistent with the facilities consolidation plan prepared by the secretary of health and human services and after consultation with said secretary and the commissioner of the division of capital asset management and maintenance .....

40,000,000

4000-8301

For state financial assistance in the form of loans for the development and redevelopment of community-based housing for persons with disabilities who are institutionalized or at risk of being institutionalized, who are not eligible for housing developed pursuant to item 4000-8300; provided, that said loan program shall be administered by the department of housing and community development, hereinafter in this item referred to as the department, through contracts with the Massachusetts development finance agency established pursuant to chapter 23G of the General Laws, the community economic development assistance corporation established pursuant to chapter 40H of the General Laws, operating agencies established pursuant to chapter 121B of the General Laws and the Massachusetts housing finance agency established pursuant to chapter 708 of the acts of 1966; provided further, that said agencies may develop or finance said community-based housing, or may enter into subcontracts with non-profit organizations established pursuant to chapter 180 of the General Laws or organizations in which such non-profit corporations have a controlling financial or managerial interest or for-profit organizations; provided, however, that preference for such subcontracts shall be given to non-profit organizations; provided further, that the department shall take due consideration of a balanced geographic plan for such community-based housing when issuing said loans; provided further, that all housing developed with these funds shall be integrated housing as defined by the appropriate state housing and service agencies including, but not limited to, the department, the department of mental health, and the department of mental retardation in consultation with relevant and interested clients, their families, advocates, and other parties as necessary; provided further, that loans issued pursuant to this item shall: (1) not exceed 50 per cent of the financing of the total development costs; (2) be issued only when a contract or agreement for the use of said property for the purposes of such housing provides for repayment to the commonwealth at the time of disposition of the property in an amount equal to the commonwealth's proportional contribution from Facilities Consolidation Fund to the cost of the development through payments made by the state agency making the contract; (3) only be issued when a contract or agreement for the use of said property for the purposes of such community-based housing provides for the recording of a deed restriction in the registry of deeds or the registry district of the land court of the county in

which the real property is located, for the benefit of the said departments, running with the land, that the land be used for the purpose of providing community-based housing for eligible individuals as determined by the Massachusetts rehabilitation commission or other agency of the executive office of health and human services; provided further, that the property shall not be released from such restrictions until the balance of the principal and interest for the loan is repaid in full or until a mortgage foreclosure deed is recorded; (4) be issued for a term not to exceed 30 years during which time repayment may be deferred by the loan issuing authority unless at the end of any fiscal year, cash collections from all sources in connection with a community-based housing project, except for contributions, donations, or grant moneys, exceed 105 per cent of cash expenditures on behalf of said project, including debt service, operating expenses, and capital reserves, in which event such excess cash shall be paid to the commonwealth within 45 days of the end of said fiscal year, payable first to interest due hereunder and thereafter to principal advanced pursuant to said loan; provided further, that if on the date said loans become due and payable to the commonwealth an outstanding balance exists, and if, on such date, the department, in consultation with the executive office of health and human services, determines that there still exists a need for such housing, said department may, by agreement with the owner of the development, extend the loans for such periods, each period not to extend beyond 10 years, as the department shall determine; provided, however, that the project shall continue to remain affordable housing for the duration of the loan term, including any extension thereof, as set forth in the contract or agreement entered into by the department; and provided further, that, in the event the terms of repayment detailed in this item would cause a project authorized by this item to become ineligible to receive federal funds which would otherwise assist in the development of that project, that commissioner may waive the terms of repayment which would cause the project to become ineligible; and (5) have interest rates fixed at a rate, to be determined by the department in consultation with the treasurer of the commonwealth; provided, further, that expenditures from this item shall not be made for the purpose of refinancing outstanding mortgage loans for community-based housing in existence prior to the effective date of this act; provided further, that community-based housing projects developed pursuant to this item shall not be refinanced during the term of any loan issued pursuant to this item unless the balance of the principal and interest for such loan is repaid in full at the time of such refinancing; provided further, that said community-based housing projects may be refinanced if such financing would result in a reduction of costs paid by the commonwealth; provided further, that any such refinanced loan shall be due and payable on a date no later than the date on which the original loan was due and payable, except in accordance with clause (4) of

this item, or is necessary to effect extraordinary repairs or maintenance to be approved by the commissioners of the Massachusetts rehabilitation commission or other agency of the executive office of health and human services, as appropriate, and the department; provided further, said loans shall be provided only for projects conforming to the provisions of this item; provided further, that said loans shall be issued in accordance with an enhancing community-based services plan prepared by the secretary of health and human services, in consultation with the department and filed with the secretary for administration and finance and the house and senate committees on ways and means and the joint committee on housing; provided further, that no expenditure shall be made pursuant to this item without the prior approval of the secretary for administration and finance; provided further, that the department shall promulgate regulations pursuant chapter 30A of the General Laws for the implementation, administration and enforcement of this item, consistent with the enhancing community-based services plan prepared by the secretary of health and human services and after consultation with said secretary and the commissioner of the division of capital asset management and maintenance .....

30,000,000

*Department of Housing and  
Community Development.*

7004-0030 For the capitalization of the Affordable Housing Trust Fund, established pursuant to section 2 chapter 121D of the General Laws .....

220,000,000

7004-0031 For the purpose of state financial assistance in the form of grants or loans for the housing stabilization and investment trust fund established pursuant to section 2 of chapter 121F of the General Laws and awarded pursuant only to the criteria established therein; provided, that not less than 25 per cent shall be used to fund projects which preserve and produce housing for families and individuals with incomes of not more than 30 per cent of the area median income, as defined by the United States Department of Housing and Urban Development; provided further, that if the department of housing and community development has not been able to meet the spending authorized under the bond cap for this program, at the end of each year following the effective date of this act, said department shall be allowed to award the remaining funds to projects that serve households earning more than 30 per cent of the area median income, as defined by said United States Department of Housing and Urban Development; provided further, that not less than \$5,000,000 shall be expended for the production or preservation of housing for people age 60 and over; and provided further, that not less than \$10,000,000 shall be expended to stabilize and promote reinvestment, through homeownership, in areas the department has determined to be weak markets as indicated by a high concentration of assisted rental housing or low rate of homeownership or low median family income or low average sales prices or high levels

of unpaid property taxes or vacant or abandoned buildings, and after making the finding, the department may waive requirements of this section and said chapter 121F which are found to be inconsistent with promoting homeownership in weak markets and take other steps necessary to promote homeownership in the weak market including, but not limited to, reducing the length of required affordability to not less than 10 years and permitting the funded property to be purchased by a household whose income at the time of purchase does not exceed 135 per cent of the area median income, adjusted for family size, or both; provided however, that the purchaser must own and occupy the property as his primary residence .....

125,000,000

7004-0032 For the purposes of state financial assistance in the form of grants for projects undertaken pursuant to clause(j) of section 26 of chapter 121B of the General Laws; provided, that contracts entered into by the department of housing and community development, hereinafter in this item referred to as the department, for such projects may include, but shall not be limited to, projects providing for renovation, remodeling, reconstruction, redevelopment, and hazardous material abatement, including asbestos and lead paint, and for compliance with state codes and laws and for adaptations necessary for compliance with the Americans with Disabilities Act, the provision of day care facilities, learning centers and teen service centers and the adaptation of units for families and persons with disabilities; provided further, that priority shall be given to projects undertaken for the purpose of compliance with state codes and laws or for other purposes related to the health and safety of residents; provided further, that funds may be expended from this item to make such modifications to congregate housing units as may be necessary to increase the occupancy rate of such units; provided further, that the department, in consultation with housing authorities, may establish a program to provide predictable funds to be used flexibly by housing authorities to provide for capital improvements to extend the useful life of state-assisted public housing; provided further, that not less than 25 per cent shall be used to fund projects which preserve and produce housing for families and individuals with incomes of not more than 30 per cent of the area median income, as defined by the United States Department of Housing and Urban Development; and provided further that a capital reserve account shall be administered by the department .....

500,000,000

7004-0033 For the purposes of state financial assistance in the form of grants for a 5 year demonstration program, administered by the department of housing and community development, hereinafter in this item referred to as the department, to demonstrate cost effective revitalization methods for state-aided family and elderly-disabled public housing that seek to reduce the need for future state modernization funding; provided further, that housing authorities with state-aided housing developments pursuant to chapter 200

of the acts of 1948, chapter 667 of the acts of 1954 or chapter 705 of the acts of 1966 shall be eligible to participate in said demonstration program; provided further, that said the department shall establish a 7 member advisory committee whose members shall include: the director of the department or his or her designee, 1 representative selected by citizens' housing and planning association, 1 representative selected by the Massachusetts chapter of the national association of housing and redevelopment officials, 1 representative selected by the Massachusetts union of public housing tenants, and 3 additional members chosen by the department to provide advice and recommendations to the department regarding regulations to implement said demonstration program; provided further, that grants shall be awarded on a competitive basis; provided further, that the department may exempt a recipient of demonstration grants from the requirements of chapter 7 and chapter 121B of the General Laws upon a showing by said recipient that such exemptions are necessary to accomplish the effective revitalization of public housing and will not adversely effect public housing residents or applicants of any income who are otherwise eligible; provided further, that the department may provide to recipients of demonstration grants such additional regulatory relief as is required to further the objectives of the demonstration; provided further, that funds shall be made available for technical assistance provided by the community economic development assistance corporation established pursuant to chapter 40H of the General Laws or the Massachusetts housing partnership fund established pursuant to section 35 of chapter 405 of the acts of 1985 to recipients of demonstration grants and for evaluation of the demonstration; provided further, that the department shall promulgate regulations for the implementation, administration and enforcement of this item within 90 days of the effective date of this act; provided, however, that said regulations shall (i) require that housing authorities selected demonstrate innovative, replicable solutions to the management, marketing or capital needs of state-aided family and elderly-disabled public housing developments and contribute to the continued viability of the housing as a resource for public housing eligible residents; (ii) encourage proposals that demonstrate regional collaborations among housing authorities; and (iii) encourage proposals that propose new affordable housing units on municipally owned land, underutilized public housing sites, or other land owned by the housing authority; and provided further, that the department shall report to the house and senate committees on ways and means and the joint committee on housing on the progress of the demonstration program within 90 days after regulations are promulgated and annually thereafter .....

50,000,000

7004-0034 For the purpose of state financial assistance in the form of community development action grants to be awarded pursuant to section 57A of chapter 121B of the General Laws; provided, however, that notwithstanding the provi-

	sions of said section 57A of said chapter 121B, any eligible city or town may designate a community development corporation organized in accordance with the provisions of chapter 40F of the General Laws to act on its behalf; provided further, that not less than \$2,000,000 shall be used for projects in seriously distressed areas having a significant amount of vacant land or buildings, as defined by the department of housing and community development; provided, further, that projects funded from this item shall be consistent with the principles of smart growth, so-called, as defined by said department .....	55,000,000
7004-0035	For the purpose of state financial assistance in the form of grants or loans for the Housing Innovations Trust Fund established pursuant to section 2 of chapter 121E of the General Laws; provided, however, that not less than 25 percent shall be used to fund projects which preserve and produce housing for families and individuals with incomes of not more than 30 percent of the area median income, as defined by the United States Department of Housing and Urban Development .....	75,000,000
7004-0036	For the purpose of state financial assistance in the form of grants or loans for the Capital Improvement and Preservation Trust Fund for expiring use properties established pursuant to section 2 of chapter 121G of the General Laws .....	100,000,000
7004-0037	For the purpose of providing financial support for developing residential housing units within neighborhood commercial areas including, but not limited to, those areas designated as Main Street areas; provided, however, that the developments may include projects which have residential units above commercial space and shall be located in areas characterized by a predominance of commercial land uses, a high daytime or business population or a high concentration of daytime traffic and parking; provided further, that the department of housing and community development shall give priority to developments for which municipalities have adopted a housing tax increment financing plan in an urban housing center tax increment financing zone pursuant to section 60 of chapter 40 of the General Laws; provided further, that \$15,000,000 shall be used to fund transit-oriented housing developments in proximity to public transit nodes; provided further, that eligible activities for transit-oriented development shall include without limitation planning grants, financing subsidies and environmental assessment; and provided further, that not less than 50 per cent of the beneficiaries of such housing in projects assisted by this item shall be persons whose income is not more than 80 per cent of the area median income as defined by the United States Department of Housing and Urban Development .....	30,000,000

1 SECTION 3. Subsection (b) of Section 6I of Chapter 62 of the  
 2 General Laws, as appearing in the 2006 Official Edition, is hereby

3 amended by striking out paragraph (1) and inserting in place  
4 thereof the following paragraph:—

5 (1) There shall be a Massachusetts low-income housing tax  
6 credit. The department may authorize annually under this section  
7 together with Section 31H of Chapter 63 the total sum of:— (i)  
8 \$10,000,000; (ii) unused Massachusetts low-income housing tax  
9 credits, if any, for the preceding calendar years; and (iii) Massa-  
10 chusetts low-income housing tax credits returned to the depart-  
11 ment by a qualified Massachusetts project.

1 SECTION 4. Subsection (b) of Section 31H of Chapter 63 of  
2 the General Laws, as so appearing, is hereby amended by striking  
3 out paragraph (1) and inserting in place thereof the following  
4 paragraph:—

5 (1) There shall be a Massachusetts low-income housing tax  
6 credit. The department may authorize annually under this section  
7 together with Section 6I of Chapter 62 the total sum of:— (i)  
8 \$10,000,000; (ii) unused Massachusetts low-income housing tax  
9 credits, if any, for the preceding calendar years; and (iii) any  
10 Massachusetts low-income housing tax credits returned to the  
11 department by a qualified Massachusetts project.

1 SECTION 5. The General Laws are hereby amended by  
2 inserting after Chapter 121D the following chapters:—

3 **CHAPTER 121E.**  
4 **Housing Innovations Trust Fund.**

5 Section 1. As used in this chapter the following words shall,  
6 unless the context clearly requires otherwise, have the following  
7 meanings:—

8 “Alternative forms of rental and ownership housing,” shall  
9 include, but not be limited to:— single room occupancy units;  
10 limited equity cooperative housing; transitional housing for the  
11 homeless; battered women’s shelters; mutual housing; housing  
12 acquired by nonprofit entities pursuant to Title II of the National  
13 Emergency Low Income Housing Preservation Act of 1987 and  
14 Title VI of the National Affordable Housing Act of 1990;  
15 employer assisted housing; lease to purchase housing; housing

16 produced pursuant to a court approved receivership; innovative  
17 forms of housing which seek to mitigate the adverse impact on  
18 housing affordability in communities with high concentrations of  
19 college or university students; joint projects between municipali-  
20 ties or housing development agencies and institutions of higher  
21 education designed to create or preserve affordable units within  
22 those areas; and other innovative forms of housing.

23 “Area median income”, income as determined, from time to  
24 time, by the United States Department of Housing and Urban  
25 Development.

26 “Authorities”, the Massachusetts development finance agency  
27 established pursuant to Chapter 23G, community development  
28 corporations established pursuant to chapter 40F, the community  
29 economic development assistance corporation established pur-  
30 suant to Chapter 40H, operating agencies established pursuant to  
31 Chapter 121B, the Massachusetts housing finance agency, estab-  
32 lished pursuant to Chapter 708 of the acts of 1966 and nonprofit  
33 agencies certified by the United States Department of Housing  
34 and Urban Development as community housing development  
35 organizations.

36 “Department”, the department of housing and community  
37 development.

38 “Fund”, the Housing Innovations Trust Fund established pur-  
39 suant to Section 2.

40 Section 2. (a) There shall be established within the department  
41 a separate fund to be known as the Housing Innovations Trust  
42 Fund. The department shall administer the fund for the purpose of  
43 making grants and loans to public or quasi public entities to facili-  
44 tate the creation and retention of alternative forms of rental and  
45 ownership housing in the Commonwealth; provided, however, that  
46 25 per cent of the beneficiaries of the fund shall be persons whose  
47 income does not exceed 30 per cent of the area median income  
48 and 50 per cent of the beneficiaries of the fund shall be persons  
49 whose income does not exceed 80 per cent of the area median  
50 income. The department shall give preference to those projects  
51 that provide transitional and permanent housing for homeless indi-  
52 viduals and families and disabled persons. The fund shall be an  
53 expendable trust fund and shall not be subject to appropriation.

54 (b) There shall be credited to the fund revenue from appropria-  
55 tions or other monies authorized by the General Court and specifi-  
56 cally designated to be credited to the fund, and gifts, grants,  
57 private contributions, repayment of loans, any fees and charges  
58 imposed relative to the making of loans, grants, subsidies, credit  
59 enhancements and other financial assistance, any investment  
60 income earned on the fund's assets, and all other sources. Money  
61 remaining in the fund at the end of a fiscal year shall not revert to  
62 the general fund.

63 (c) The department shall administer assistance from the fund  
64 using only the criteria established pursuant to this chapter for pro-  
65 jects owned or sponsored by authorities, including but not limited  
66 to, projects that involve complex multiple-source financing or the  
67 preservation of existing affordable housing; provided, however,  
68 that no such assistance shall be permitted unless the sponsor  
69 thereof is current on all existing mortgage obligations with the  
70 commonwealth or any political subdivision thereof. The agency  
71 shall enter into agreements with the community economic devel-  
72 opment assistance corporation established pursuant to Chapter  
73 40H to administer assistance from the fund for projects owned or  
74 sponsored by nonprofit organizations.

75 Section 3. (a) The fund shall finance low and no interest loans,  
76 grants, subsidies, credit enhancements and other financial assis-  
77 tance for alternative forms of rental and ownership housing; pro-  
78 vided, however, that such assistance shall be the minimum amount  
79 necessary to make a project feasible. Activities eligible for assis-  
80 tance from the fund shall include, but not be limited to:—

81 (1) capital grants and deferred payment loans for new construc-  
82 tion, rehabilitation, or acquisition of alternative forms of rental  
83 and ownership housing units;

84 (2) capital grants and deferred payment loans for new construc-  
85 tion, rehabilitation, or acquisition of alternative forms of rental  
86 and ownership housing for homeless families and individuals;

87 (3) mortgage insurance guarantees and other credit enhance-  
88 ments for alternative forms of rental and ownership housing;

89 (4) projects making alternative forms of rental and ownership  
90 housing more accessible to senior citizens and people with dis-  
91 abilities;

92 (5) matching funds for municipalities that sponsor alternative  
93 forms of rental and ownership housing initiatives; and

94 (6) matching funds for employer-based programs to assist  
95 employees in meeting their rental and homeownership housing  
96 costs.

97 (b) A loan program established pursuant to subsection (a) shall  
98 be administered by the department through contracts with authori-  
99 ties. Said authorities may, pursuant to the terms and conditions of  
100 contracts with the department, directly issue loans for the pur-  
101 poses of the program or may enter into subcontracts with non-  
102 profit organizations established pursuant to chapter 180 for such  
103 purposes. Loans issued directly or indirectly by such organiza-  
104 tions shall be (1) subject to the review and approval of the depart-  
105 ment; (2) limited to not more than 50 per cent of the financing of  
106 the total development costs; provided, however, that this limita-  
107 tion shall not apply to loans provided for the creation of battered  
108 women's shelters which loans may be provided in amounts up to  
109 80 per cent of the financing of total development costs; and pro-  
110 vided further, that such loans shall not exceed \$2,500,000 per pro-  
111 ject; (3) only be issued when a contract or agreement for the use  
112 of the property for the purposes of such housing provides for the  
113 recording of a restriction in the registry of deeds or the registry  
114 district of the land court in the county in which the affected real  
115 property is located, for the benefit of the department, running with  
116 the land, that the land be used for the purpose of providing alter-  
117 native forms of rental and ownership housing; provided further,  
118 that such property shall not be released from such restriction until  
119 the balance of the principal and interest for any such loan shall be  
120 repaid in full or until a mortgage foreclosure deed shall be  
121 recorded; (4) be issued for a term of up to 30 years during which  
122 time repayment may be deferred by the loan issuing authority  
123 unless, at the end of a fiscal year, cash collections from all sources  
124 in connection with such housing, except for contributions, dona-  
125 tions or grant moneys, exceed 105 per cent of cash expenditures  
126 on behalf of such housing, including debt service, operating  
127 expenses, operating reserves and capital reserves; provided fur-  
128 ther, that such excess cash shall be paid to the commonwealth  
129 within 45 days of the end of the fiscal year, payable first to  
130 interest due under this section and then to principal advanced pur-

131 suant to such loan; provided further, that if, on the date such loans  
132 become due and payable to the commonwealth, an outstanding  
133 balance exists, such loans may be extended for such periods, each  
134 period not to extend 10 years, as the department determines, pro-  
135 vided that the project continues to remain affordable housing as  
136 set forth in the contract or agreement entered into for the duration  
137 of the project by the department; and provided further, that in the  
138 event that the terms of repayment detailed in this section would  
139 cause a project authorized by this section to become ineligible to  
140 receive federal funds which would otherwise assist in the develop-  
141 ment of that project, the department may waive the terms of  
142 repayment which would cause the project to become ineligible;  
143 (5) interest rates for such loans shall be fixed at rates to be deter-  
144 mined by the department, in consultation with the state treasurer;  
145 (6) the department shall take due consideration of a balanced geo-  
146 graphic plan for such alternative forms of housing when issuing  
147 such loans; and (7) housing projects developed pursuant to this  
148 section shall not be refinanced during the term of a loan issued  
149 pursuant to this section unless the balance of the principal and  
150 interest for such loan is repaid in full at the time of such refi-  
151 nancing; provided, however, that such housing projects may be  
152 refinanced if such refinancing would result in a reduction of costs  
153 paid by the commonwealth and any such refinanced loan shall be  
154 due and payable on a date not later than the date on which the  
155 original loan was due and payable, except in accordance with  
156 clause (4), or when necessary to effect extraordinary repairs or  
157 maintenance to be approved by the department.

158 Section 4. Within 120 days after the expiration of affordability  
159 restrictions on housing assisted pursuant to this chapter, the  
160 department or its assignee, who is a qualified developer selected  
161 pursuant to the terms of this section under the guidelines of the  
162 department, shall have an option to purchase any such property at  
163 its current appraised value reduced by any remaining obligation of  
164 the owner upon the expiration of the affordability restrictions. The  
165 department or its assignee may purchase or acquire such housing  
166 only for the purposes of preserving or providing affordable  
167 housing. The department or its assignee shall hold such purchase  
168 option for the first 120 days after the expiration of the afford-  
169 ability restrictions. Failure to exercise the purchase option within

170 120 days after the expiration of the affordability restriction shall  
171 constitute a waiver of the purchase option by the department or its  
172 assignee. Two impartial appraisers shall determine, within 60 days  
173 after the expiration of these affordability restrictions, the current  
174 appraised value in accordance with recognized professional stan-  
175 dards. Two professionals in the field of multi-unit residential  
176 housing shall select each such appraiser. The owner and the  
177 department, respectively, shall designate such professionals within  
178 30 days after the expiration of these affordability restrictions. If  
179 there is a difference in the valuations the 2 valuations shall be  
180 added together and divided by 2 to determine the current  
181 appraised value of the property. No sale, transfer or other disposi-  
182 tion of such land shall be consummated unless and until either this  
183 purchase option period shall have expired or the owner shall have  
184 been notified in writing by the department or assignee in question  
185 that the option will not be exercised. This option may be exercised  
186 only by written notice signed by a designated representative of the  
187 department or its assignee, mailed to the owner by certified mail  
188 at such address as may be specified in his notice of intention and  
189 recorded with the registry of deeds or the registry district of the  
190 land court of the county in which the affected real property is  
191 located, within the option period. If the purchase option has been  
192 assigned to a qualified developer selected pursuant to this section  
193 under guidelines issued by the department, the written notice shall  
194 state the name and address of the developer and the terms and  
195 conditions of the assignment. Before any sale or transfer or other  
196 disposition of any such housing where the department has not pre-  
197 viously exercised an option to purchase, an owner shall offer the  
198 department or its assignee, who shall be a qualified developer  
199 selected pursuant to this section under the guidelines of the  
200 department, a first refusal option to meet a bona fide offer to pur-  
201 chase the property. The owner shall provide to the department or  
202 its assignee written notice by regular and certified mail, return  
203 receipt requested, of the owner's intention to sell, transfer or oth-  
204 erwise dispose of the property. The department or its assignee  
205 shall hold such first refusal option for the first 120 days after  
206 receipt of the owner's notice of intent to transfer the property.  
207 Failure to respond to the written notice of the owner's intent to  
208 sell, transfer or otherwise dispose of the property within 120 days

209 after the receipt thereof shall constitute a waiver of the right of  
210 first refusal by the department. No sale, transfer or other disposi-  
211 tion of such land shall be consummated unless and until either this  
212 first refusal option period shall have expired or the owner shall  
213 have been notified in writing by the department or assignee in  
214 question that the option will not be exercised. This option may be  
215 exercised only by written notice signed by a designated represen-  
216 tative of the department or its assignee, mailed to the owner by  
217 certified mail at such address as may be specified in his notice of  
218 intention and recorded with the registry of deeds or the registry  
219 district of the land court of the county in which the affected real  
220 property is located, within the option period. If the first refusal  
221 option has been assigned to a qualified developer selected pur-  
222 suant to this section under guidelines issued by the department,  
223 the written notice shall state the name and address of the devel-  
224 oper and the terms and conditions of the assignment. An affidavit  
225 before a notary public that he has so mailed this notice of intent  
226 on behalf of an owner shall conclusively establish the manner and  
227 time of the giving of such notice and such an affidavit, and such a  
228 notice that the option will not be exercised, shall be recorded with  
229 the registry of deeds or the registry district of the land court of the  
230 county in which the affected real property is located. Each notice  
231 of intention, notice of exercise of the purchase option or first  
232 refusal option and notice that the purchase option or first refusal  
233 option will not be exercised shall contain the name of the record  
234 owner of the land and description of the premises to be sold or  
235 converted adequate for identification thereof and each such affi-  
236 davit before a notary public shall have attached to it a copy of the  
237 notice of intention to which it relates. Such notices of intention  
238 shall be duly mailed to the parties above specified if addressed to  
239 them in care of the keeper of records for the party in question.  
240 Upon notifying the owner in writing of its intention to pursue its  
241 purchase option or first refusal option during this 120-day period,  
242 the department or its assignee shall have an additional 120 days,  
243 beginning on the date of the termination of the purchase option  
244 period or first refusal option period, to purchase the property.  
245 Such time periods may be extended by mutual agreement between  
246 the department or its assignee and the owner of the property. Any  
247 such extension agreed upon shall be recorded in the registry of

248 deeds or the registry district of the land court of the county in  
249 which the affected real property is located. Within a reasonable  
250 time after request, the owner shall make available to the depart-  
251 ment or its assignee any information that is reasonably necessary  
252 for the department to exercise its rights.

253 Section 5. The department shall promulgate regulations for the  
254 implementation, administration and enforcement of this chapter.

255 Section 6. The department shall annually file a report with the  
256 house and senate committees on ways and means, the joint com-  
257 mittee on housing and the joint committee on bonding, capital  
258 expenditures and state assets detailing all expenditures from the  
259 fund, including but not limited to the recipient of the funds, the  
260 cost of administration, and the number of units constructed,  
261 acquired and rehabilitated.

262

**CHAPTER 121F.**

263

**Housing Stabilization and Investment Trust Fund.**

264 Section 1. As used in this chapter the following words shall,  
265 unless the context clearly requires otherwise, have the following  
266 meanings:—

267 “Department”, the department of housing and community  
268 development.

269 “Fund”, the Housing Stabilization and Investment Trust Fund  
270 established pursuant to section 2.

271 Section 2. (a) There shall be established within the department  
272 a separate fund to be known as the Housing Stabilization and  
273 Investment Trust Fund. The department shall administer the fund  
274 and shall ensure that funds are distributed in a balanced fashion  
275 among urban, suburban, and rural areas of the Commonwealth  
276 with a particular emphasis on the local and regional need for the  
277 purpose of undertaking projects to develop and support affordable  
278 housing developments and homeownership affordability, through  
279 the acquisition, preservation and rehabilitation of affordable  
280 housing; provided further, that such program may include assis-  
281 tance for projects to stabilize and promote reinvestment in cities  
282 and towns including, but not limited to, acquisition, rehabilitation  
283 and preservation of foreclosed and distressed properties and any  
284 other techniques necessary to achieve such reinvestment. The fund

285 shall be an expendable trust fund and shall not be subject to  
286 appropriation.

287 (b) There shall be credited to the fund, revenue from appropria-  
288 tions or other monies authorized by the general court and specifi-  
289 cally designated to be credited to the fund, and gifts, grants,  
290 private contributions, repayment of loans, any fees and charges  
291 imposed relative to the making of loans, grants, subsidies, credit  
292 enhancements and other financial assistance, any investment  
293 income earned on the fund's assets, and all other sources. Money  
294 remaining in the fund at the end of a fiscal year shall not revert to  
295 the general fund.

296 (c) The department shall administer assistance from the fund  
297 using only the criteria established pursuant to this chapter for pro-  
298 jects owned or sponsored by non-profit or for-profit organizations  
299 including, but not limited to, projects that involve complex mul-  
300 tiple-source financing or the preservation of existing affordable  
301 housing; provided, however, that no such assistance shall be per-  
302 mitted unless the sponsor thereof is current on all existing mort-  
303 gage obligations with the Commonwealth or any political  
304 subdivision thereof. The agency shall enter into agreements with  
305 the community economic development assistance corporation  
306 established pursuant to Chapter 40H to administer assistance from  
307 the fund for projects owned or sponsored by nonprofit organiza-  
308 tions.

309 Section 3. (a) The fund shall finance low and no interest loans,  
310 grants, subsidies, credit enhancements and other financial assis-  
311 tance for alternative forms of rental and ownership housing; pro-  
312 vided, however, that such assistance shall be the minimum amount  
313 necessary to make a project feasible. The fund shall be used for:—

314 (1) a revolving rehabilitation loan program to support the revi-  
315 talization of certain abandoned or severely distressed privately-  
316 owned residential housing for which a court appointed, nonprofit  
317 receiver has been selected pursuant to Chapter 111; provided fur-  
318 ther, that such program may include activities necessary to make  
319 essential repairs and to pay operating expenses necessary to main-  
320 tain habitability of such housing units in order to prevent aban-  
321 donment and deterioration of such housing in primarily low and  
322 moderate income neighborhoods; provided further, that such loans  
323 may be administered by the department through contracts with the

324 community economic development assistance corporation estab-  
325 lished pursuant to Chapter 40H, and through contracts with the  
326 Massachusetts Housing Partnership Fund established pursuant to  
327 Section 35 of Chapter 405 of the acts of 1985; provided further,  
328 that said recipients may enter into subcontracts to administer the  
329 purposes of such contracts with other for-profit or nonprofit orga-  
330 nizations; and

331 (2) loans to nonprofit developers for the acquisition of property  
332 to provide or preserve affordable housing; provided further, that  
333 such program of loans may be administered by the department  
334 through contracts with said community economic development  
335 assistance corporation; provided further, that such program may  
336 include acquisition, financing and other holding costs, interim  
337 management and operating costs and may also be used by said  
338 community economic development assistance corporation to  
339 secure, collateralize or reserve against other financing obtained by  
340 said community economic development assistance corporation to  
341 support such costs; provided further, that not less than 50 per cent  
342 of the beneficiaries of such housing shall be persons of income  
343 not more than 80 per cent of the area median income as deter-  
344 mined from time to time by the United States Department of  
345 Housing and Urban Development and not less than 25 per cent of  
346 the beneficiaries of such housing shall be persons whose income  
347 is not more than 30 per cent of the area median income as deter-  
348 mined from time to time by the United States Department of  
349 Housing and Urban Development.

350 (b) Activities eligible for assistance from the fund shall include,  
351 but not be limited to:—

352 (1) projects to develop and support affordable housing develop-  
353 ments and homeownership affordability, through the acquisition,  
354 preservation and rehabilitation of affordable housing;

355 (2) projects to stabilize and promote reinvestment in cities and  
356 towns including, but not limited to, acquisition, rehabilitation and  
357 preservation of foreclosed and distressed properties and any other  
358 techniques necessary to achieve such reinvestment;

359 (3) the preservation of affordable housing developments which  
360 are or were subject to prepayment or payment of a state or feder-  
361 ally assisted mortgage or which are receiving project-based rental  
362 assistance under section 8 of the United States Housing Act of

363 1937, 42 U.S.C. Section 1437f, and such rental assistance is  
364 expiring or which have received other project based federal or  
365 state subsidies which are terminating or have terminated; pro-  
366 vided, however, that property eligible for assistance shall include  
367 housing where the prepayment or payment of a state or federally-  
368 assisted mortgage or the expiration of federal low income housing  
369 tax credits or other federal or state subsidies would lead or has led  
370 to the termination of a use agreement for low income housing or  
371 in which a project-based rental assistance contract is expiring or  
372 has expired; provided further, that the department, in consultation  
373 with nonprofit organizations, the community economic develop-  
374 ment assistance corporation established pursuant to Chapter 40H,  
375 the Massachusetts housing finance agency established pursuant to  
376 Chapter 708 of the acts of 1966 and the Massachusetts Housing  
377 Partnership Fund established pursuant to Section 35 of Chapter  
378 405 of the acts of 1985 shall identify those projects at greatest risk  
379 of prepayment, payment, termination of subsidies and use restric-  
380 tions, or non-renewal of rental assistance; provided further, that  
381 funding priority shall be based on at-risk criteria to be determined  
382 by the department of housing and community development and set  
383 forth in regulations promulgated by the department;

384 (4) for grants to cities and towns to assist with the costs of  
385 demolishing certain privately-owned vacant and abandoned build-  
386 ings that have been found to be uninhabitable and not economi-  
387 cally feasible to rehabilitate and which the city or town may  
388 demolish pursuant to Sections 127A and 127B of Chapter 111 or  
389 Sections 6 to 9, inclusive, of Chapter 143 and the regulations pro-  
390 mulgated pursuant to each of said chapters or which have been  
391 taken by the city or town for taxes; and provided further, that any  
392 such demolition shall be undertaken in accordance with a neigh-  
393 borhood revitalization plan adopted by the city or town after a  
394 public hearing and after approval by the department which pro-  
395 vides for the rehabilitation and development of housing in the  
396 areas in which such demolition is being undertaken;

397 (5) to support the rehabilitation of owner-occupied 1 to 4-  
398 family properties and the acquisition and rehabilitation of such  
399 properties by persons of low or moderate income; provided, how-  
400 ever, that said program may include, but shall not be limited to,  
401 direct loans, loan guarantees and loan loss reserves; provided fur-

402 ther, that the objective of such program shall include the  
403 following:—

404 (a) projects shall rely, to the greatest extent possible, on bank  
405 financing and other taxable financing to support the costs of such  
406 acquisition and rehabilitation;

407 (b) coordinating the delivery of such financing and related  
408 rehabilitation services with cities and towns that provide such  
409 assistance utilizing federal community development block grants,  
410 federal HOME funds, and other resources;

411 (c) expediting and simplifying the process by which home  
412 buyers may obtain financial and technical assistance for such  
413 acquisitions and rehabilitation; and (d) ensuring that adequate pro-  
414 visions are in place to assure that rehabilitation is completed in a  
415 timely and professional manner and to protect homeowners from  
416 excessive acquisition and rehabilitation costs;

417 (6) for deferred payment second mortgage loans to support the  
418 acquisition and rehabilitation or new construction of small multi-  
419 family rental properties pursuant to the Permanent PLUS Program  
420 to be administered by the department through contracts with the  
421 Massachusetts Housing Partnership Fund established pursuant to  
422 Section 35 of Chapter 405 of the acts of 1985; provided, however,  
423 that the Massachusetts Housing Partnership Fund shall enter into  
424 binding agreements to ensure that at least 20 per cent of the units  
425 are affordable to persons whose income is less than 50 per cent of  
426 the area median income, at least 40 per cent of the units are  
427 affordable to persons whose income is less than 60 per cent of the  
428 area median income, or at least 50 per cent of such units are  
429 affordable to persons whose income is less than 80 per cent of the  
430 area median income, as such incomes are determined from time to  
431 time by the United States Department of Housing and Urban  
432 Development; and

433 (7) for the purposes of the Soft Second Mortgage program  
434 described in item 3322-8880 of Section 2 of Chapter 110 of the  
435 acts of 1993.

436 (c) Assistance provided through such program may be made in  
437 a manner which qualifies the assistance as a matching contribu-  
438 tion under Section 220 of the HOME Investment Partnership Act  
439 Title II of the Cranston-Gonzalez National Affordable Housing  
440 Act including, in the case of assistance provided in the form of a

441 loan, a commitment to repay such loan to the Commonwealth's  
442 HOME Investment Trust Fund established pursuant to Section  
443 92.5000(o) of the regulations of the United States Department of  
444 Housing and Urban Development.

445 (d) Loans pursuant to this chapter may be provided to any  
446 agency, department, board, commission, authority or instrumen-  
447 tality of the commonwealth or any political subdivision thereof, to  
448 housing authorities, nonprofit agencies certified by the United  
449 States Department of Housing and Urban Development as com-  
450 munity housing development organizations, community develop-  
451 ment corporations and limited equity cooperative housing  
452 corporations established pursuant to Chapter 157B of the General  
453 Laws. Such recipients may enter into subcontracts to carry out the  
454 purposes of such contract with other for-profit or not-for-profit  
455 organizations. Prior to providing assistance, the department shall  
456 find that:— (1) the housing would not, by private enterprise alone  
457 and without government assistance, be available to lower income  
458 families and individuals;

459 (2) the amount of assistance appears to be the minimum amount  
460 necessary to make the housing development feasible;

461 (3) with respect to rental housing, the operations of the owner  
462 and its articles of organization and by-laws and any changes to  
463 either shall be subject to regulation by the department; and

464 (4) the housing shall remain affordable for its useful life as  
465 determined by the department. Such housing shall be considered  
466 affordable if, during the first 40 years after assistance is first pro-  
467 vided, substantially all of the assisted units shall be rented to or  
468 owned by families and individuals whose income at initial occu-  
469 pancy is equal to or less than 80 per cent of the median income as  
470 determined by the secretary of Housing and Urban Development  
471 for the federal housing programs and that thereafter such units  
472 shall be rented or sold, subject to such restrictions on appreciation  
473 as determined by the department to be reasonable and necessary to  
474 maintain long term affordability, to families or individuals at  
475 incomes at or below 100 per cent of the median income.

476 Section 4. No later than 120 days after the expiration of afford-  
477 ability restrictions on housing assisted under this section, the  
478 department or its assignee, who is a qualified developer selected  
479 pursuant to the terms of this section under the guidelines of the

480 department, shall have an option to purchase any such property at  
481 its current appraised value reduced by any remaining obligation of  
482 the owner upon the expiration of the affordability restrictions. The  
483 department or its assignee may purchase or acquire such housing  
484 only for the purposes of preserving or providing affordable  
485 housing. The department or its assignee shall hold such purchase  
486 option for the first 120 days after the expiration of the afford-  
487 ability restrictions. Failure to exercise the purchase option within  
488 120 days after the expiration of the affordability restriction shall  
489 constitute a waiver of the purchase option by the department or its  
490 assignee. Two impartial appraisers shall determine, within 60 days  
491 after the expiration of these affordability restrictions, the current  
492 appraised value in accordance with recognized professional stan-  
493 dards. Two professionals in the field of multi-unit residential  
494 housing shall select each such appraiser. The owner and the  
495 department, respectively, shall designate such professionals within  
496 30 days after the expiration of these affordability restrictions. If  
497 there is a difference in the valuations provided by the appraisals,  
498 the 2 valuations shall be added together and divided by 2 to deter-  
499 mine the current appraised value of the property. No sale, transfer  
500 or other disposition of such land shall be consummated unless and  
501 until either this purchase option period shall have expired or the  
502 owner shall have been notified in writing by the department or  
503 assignee in question that the option will not be exercised. This  
504 option may be exercised only by written notice signed by a desig-  
505 nated representative of the department or its assignee, mailed to  
506 the owner by certified mail at such address as may be specified in  
507 his notice of intention and recorded with the registry of deeds or  
508 the registry district of the land court of the county in which the  
509 affected real property is located, within the option period. If the  
510 purchase option has been assigned to a qualified developer  
511 selected pursuant to this section under guidelines issued by the  
512 department, the written notice shall state the name and address of  
513 the developer and the terms and conditions of the assignment.  
514 Before any sale or transfer or other disposition of any such  
515 housing where the department has not previously exercised an  
516 option to purchase, an owner shall offer the department or its  
517 assignee, who shall be a qualified developer selected pursuant to  
518 this section under the guidelines of the department, a first refusal

519 option to meet a bona fide offer to purchase the property. The  
520 owner shall provide to the department or its assignee written  
521 notice by regular and certified mail, return receipt requested, of  
522 the owner's intention to sell, transfer or otherwise dispose of the  
523 property. The department or its assignee shall hold such first  
524 refusal option for the first 120 days after receipt of the owner's  
525 notice of intent to transfer the property. Failure to respond to the  
526 written notice of the owner's intent to sell, transfer or otherwise  
527 dispose of the property within 120 days after the receipt thereof  
528 shall constitute a waiver of the right of first refusal by the depart-  
529 ment. No sale, transfer or other disposition of such land shall be  
530 consummated unless and until either this first refusal option  
531 period shall have expired or the owner shall have been notified in  
532 writing by the department or assignee in question that the option  
533 will not be exercised. This option may be exercised only by  
534 written notice signed by a designated representative of the depart-  
535 ment or its assignee, mailed to the owner by certified mail at such  
536 address as may be specified in his notice of intention and recorded  
537 with the registry of deeds or the registry district of the land court  
538 of the county in which the affected real property is located, within  
539 the option period. If the first refusal option has been assigned to a  
540 qualified developer selected pursuant to this section under guide-  
541 lines issued by the department, the written notice shall state the  
542 name and address of the developer and the terms and conditions of  
543 the assignment. An affidavit before a notary public that he has so  
544 mailed this notice of intent on behalf of an owner shall conclu-  
545 sively establish the manner and time of the giving of such notice  
546 and such an affidavit, and such a notice that the option will not be  
547 exercised, shall be recorded with the registry of deeds or the reg-  
548 istry district of the land court of the county in which the affected  
549 real property is located. Each notice of intention, notice of exer-  
550 cise of the purchase option or first refusal option and notice that  
551 the purchase option or first refusal option will not be exercised  
552 shall contain the name of the record owner of the land and  
553 description of the premises to be sold or converted adequate for  
554 identification thereof and each such affidavit before a notary  
555 public shall have attached to it a copy of the notice of intention to  
556 which it relates. Such notices of intention shall be duly mailed to  
557 the parties above specified if addressed to them in care of the

558 keeper of records for the party in question. Upon notifying the  
559 owner in writing of its intention to pursue its purchase option or  
560 first refusal option during this 120-day period, the department or  
561 its assignee shall have an additional 120 days, beginning on the  
562 date of the termination of the purchase option period or first  
563 refusal option period, to purchase the property. Such time periods  
564 may be extended by mutual agreement between the department or  
565 its assignee and the owner of the property. Any such extension  
566 agreed upon shall be recorded in the registry of deeds or the reg-  
567 istry district of the land court of the county in which the affected  
568 real property is located. Within a reasonable time after request, the  
569 owner shall make available to the department or its assignee any  
570 information that is reasonably necessary for the department to  
571 exercise its rights.

572 Section 5. The department shall promulgate regulations for the  
573 implementation, administration and enforcement of this chapter  
574 including, but not limited to, regulations relative to the grants to  
575 cities and towns for demolition of certain vacant and abandoned  
576 buildings and procedures for neighborhood revitalization plans.

577 Section 6. The department shall annually file a report with the  
578 house and senate committees on ways and means, the joint com-  
579 mittee on housing and the joint committee on bonding, capital  
580 expenditures and state assets detailing all expenditures from the  
581 fund, including but not limited to the recipient of the funds, the  
582 cost of administration, and the number of units constructed,  
583 acquired and rehabilitated.

584

**CHAPTER 121G.**

585

**Capital Improvement and Preservation Trust Fund.**

586 Section 1. As used in this chapter the following words shall,  
587 unless the context clearly requires otherwise, have the following  
588 meanings:—

589 “Area median income”, income as determined, from time to  
590 time, by the United States Department of Housing and Urban  
591 Development.

592 “Department”, the department of housing and community  
593 development.

594 “Fund”, the Capital Improvement and Preservation Trust Fund  
595 established pursuant to Section 2.

596 Section 2. (a) There shall be established within the department  
597 a separate fund to be known as the Capital Improvement and  
598 Preservation Trust Fund. The department shall administer the fund  
599 for the purpose of preserving and improving existing privately-  
600 owned, state or federally assisted housing. Property eligible for  
601 assistance shall include housing where the prepayment or payment  
602 of a state or federally-assisted mortgage or the expiration of fed-  
603 eral or state low income housing tax credits or other federal or  
604 state subsidies would lead or has led to the termination of a use  
605 agreement for low income housing or in which a project-based  
606 rental assistance contract is expiring or has expired; provided,  
607 however, that preference for loans or grants from the fund shall be  
608 given to nonprofit organizations and housing authorities seeking  
609 to purchase an eligible property. The fund shall be an expendable  
610 trust fund and shall not be subject to appropriation.

611 (b) There shall be credited to the fund, revenue from appropria-  
612 tions or other monies authorized by the general court and specifi-  
613 cally designated to be credited to the fund, and gifts, grants,  
614 private contributions, repayment of loans, any fees and charges  
615 imposed relative to the making of loans or grants, subsidies, credit  
616 enhancements and other financial assistance, any investment  
617 income earned on the fund’s assets, and all other sources. Money  
618 remaining in the fund at the end of a fiscal year shall not revert to  
619 the general fund.

620 (c) The department shall administer assistance from the fund  
621 using only the criteria established pursuant to this chapter for pro-  
622 jects owned or sponsored by non-profit or for-profit organizations,  
623 including but not limited to, projects that involve complex mul-  
624 tiple-source financing or the preservation of existing affordable  
625 housing; provided, however, that no such assistance shall be per-  
626 mitted unless the sponsor thereof is current on all existing mort-  
627 gage obligations with the Commonwealth or any political  
628 subdivision thereof. The agency shall enter into agreements with  
629 the community economic development assistance corporation  
630 established pursuant to Chapter 40H to administer assistance from  
631 the fund for projects owned or sponsored by nonprofit organiza-  
632 tions.

633 Section 3. The department, in consultation with nonprofit orga-  
634 nizations, the community economic development assistance cor-  
635 poration established pursuant to Chapter 40H, the Massachusetts  
636 housing finance agency established pursuant to Chapter 708 of the  
637 acts of 1966 and the Massachusetts Housing Partnership Fund  
638 established pursuant to Section 35 of Chapter 405 of the acts of  
639 1985 shall identify those projects at greatest risk of prepayment or  
640 non-renewal of rental assistance and shall grant preference in allo-  
641 cating funds pursuant to this chapter to such developments. The  
642 department shall enter into binding agreements to ensure that not  
643 less than 50 per cent of the units in such housing shall be occupied  
644 and affordable to persons of income of 80 per cent or less of the  
645 area median income and that not less than 10 per cent of such  
646 affordable units in said housing is available and affordable to  
647 households with income of 50 per cent or less of the area median  
648 income or such greater percentage of units as required by the  
649 Massachusetts housing finance agency or the United States  
650 Department of Housing and Urban Development regulations. The  
651 department may enter into subcontracts with community develop-  
652 ment corporations, for-profit organizations or nonprofit organiza-  
653 tions to carry out the purposes of such grants and loans and shall  
654 enter into contracts with the community economic development  
655 assistance corporation established pursuant to Chapter 40H, the  
656 Massachusetts housing finance agency established pursuant to  
657 Chapter 708 of the acts of 1966 and the Massachusetts Housing  
658 Partnership Fund established pursuant to Section 35 of Chapter  
659 405 of the acts of 1985. A portion of the funds may be allocated in  
660 the form of predevelopment grants or loans from the community  
661 economic development assistance corporation and the Massachu-  
662 setts Housing Partnership Fund to nonprofit purchasers of such  
663 housing. Such housing shall remain affordable for not less than 40  
664 years or for such longer period, based upon the useful life of the  
665 housing as determined by the department, as may be specified in  
666 the applicable recorded restriction at the registry of deeds or the  
667 registry district of the land court of the county in which the  
668 affected real property is located.

669 Section 4. The department shall promulgate regulations for the  
670 implementation, administration and enforcement of this chapter.

671 Section 5. The department shall annually file a report with the  
672 house and senate committees on ways and means, the joint com-  
673 mittee on housing and the joint committee on bonding, capital  
674 expenditures and state assets detailing all expenditures from the  
675 fund, including but not limited to the recipient of the funds, the  
676 cost of administration, and the number of units constructed,  
677 acquired and rehabilitated.

1 SECTION 6. Notwithstanding any general or special law to the  
2 contrary, to meet the expenditures necessary in carrying out  
3 Section 2, the state treasurer shall, upon receipt of a request by the  
4 governor, issue and sell bonds of the Commonwealth in an amount  
5 to be specified by the governor from time to time but not  
6 exceeding, in the aggregate, \$1,275,000,000. All bonds issued by  
7 the Commonwealth, as aforesaid, shall be designated on their  
8 face, Housing Production, Preservation, Modification and Neigh-  
9 borhood Development Loan Act of 2008, and shall be issued for a  
10 maximum term of years, not exceeding 30 years, as the governor  
11 may recommend to the general court pursuant to Section 3 of  
12 Article LXII of the Amendments to the Constitution; provided,  
13 however, that all such bonds shall be payable not later than June  
14 30, 2043. All interest and payments on account of principal on  
15 such obligations shall be payable from the General Fund. Bonds  
16 and interest thereon issued under the authority of this section  
17 shall, notwithstanding any other provisions of this act, be general  
18 obligations of the Commonwealth. An amount not to exceed 2 per  
19 cent of said authorizations may be expended by the department of  
20 housing and community development for administrative costs  
21 directly attributable to the purposes of this act, including costs of  
22 clerical and support personnel. The director of the department of  
23 housing and community development shall file an annual  
24 spending plan with the fiscal affairs division, the house and senate  
25 committees on ways and means, the joint committee on bonding,  
26 capital expenditures and states assets and the joint committee on  
27 housing which details, by subsidiary, all personnel costs and any  
28 administrative costs charged to expenditures made pursuant to  
29 this act.

1 SECTION 7. Notwithstanding any general or special law to the  
2 contrary, within 120 days after the expiration of affordability  
3 restrictions on housing assisted under items 4000-8300 and 4000-  
4 8301 of Section 2, the department of housing and community  
5 development or its assignee, who is a qualified developer selected  
6 pursuant to the terms of said items 4000-8300 and 4000-8301 of  
7 Section 2 under the guidelines of the department, shall have an  
8 option to purchase any such housing at its current appraised value  
9 reduced by any remaining obligation of the owner upon the expi-  
10 ration of the affordability restrictions. The department or its  
11 assignee may purchase or acquire such housing only for the pur-  
12 poses of preserving or providing affordable housing. The depart-  
13 ment or its assignee shall hold such purchase option for the first  
14 120 days after the expiration of the affordability restrictions.  
15 Failure to exercise the purchase option within 120 days after the  
16 expiration of the affordability restriction shall constitute a waiver  
17 of the purchase option by the department or its assignee. Two  
18 impartial appraisers shall determine, within 60 days after the expi-  
19 ration of these affordability restrictions, the current appraised  
20 value in accordance with recognized professional standards. Two  
21 professionals in the field of multi-unit residential housing shall  
22 select each such appraiser. The owner and the department, respec-  
23 tively, shall designate such professionals within 30 days after the  
24 expiration of these affordability restrictions. If there is a differ-  
25 ence in the valuations provided by the appraisals, the 2 valuations  
26 shall be added together and divided by 2 to determine the current  
27 appraised value of the property. No sale, transfer or other disposi-  
28 tion of such land shall be consummated unless and until either this  
29 purchase option period shall have expired or the owner shall have  
30 been notified in writing by the department or assignee in question  
31 that the option will not be exercised. This option may be exercised  
32 only by written notice signed by a designated representative of the  
33 department or its assignee, mailed to the owner by certified mail  
34 at such address as may be specified in his notice of intention and  
35 recorded with the registry of deeds or the registry district of the  
36 land court of the county in which the affected real property is  
37 located, within the option period. If the purchase option has been  
38 assigned to a qualified developer selected pursuant to said items  
39 4000-8300 and 4000-8301 of Section 2 under guidelines issued by

40 the department, the written notice shall state the name and address  
41 of the developer and the terms and conditions of the assignment.  
42 Before any sale or transfer or other disposition of any such  
43 housing where the department has not previously exercised an  
44 option to purchase, an owner shall offer the department or its  
45 assignee, who shall be a qualified developer selected pursuant to  
46 this section under the guidelines of the department, a first refusal  
47 option to meet a bona fide offer to purchase the property. The  
48 owner shall provide to the department or its assignee written  
49 notice by regular and certified mail, return receipt requested, of  
50 the owner's intention to sell, transfer or otherwise dispose of the  
51 property. The department or its assignee shall hold such first  
52 refusal option for the first 120 days after receipt of the owner's  
53 notice of intent to transfer the property. Failure to respond to the  
54 written notice of the owner's intent to sell, transfer or otherwise  
55 dispose of the property within 120 days after the receipt thereof  
56 shall constitute a waiver of the right of first refusal by the depart-  
57 ment. No sale, transfer or other disposition of such land shall be  
58 consummated unless and until either this first refusal option  
59 period shall have expired or the owner shall have been notified in  
60 writing by the department or assignee in question that the option  
61 will not be exercised. This option may be exercised only by  
62 written notice signed by a designated representative of the depart-  
63 ment or its assignee, mailed to the owner by certified mail at such  
64 address as may be specified in his notice of intention and recorded  
65 with the registry of deeds or the registry district of the land court  
66 of the county in which the affected real property is located, within  
67 the option period. If the first refusal option has been assigned to a  
68 qualified developer selected pursuant to said items 4000-8300 and  
69 4000-8301 of Section 2 under guidelines issued by the depart-  
70 ment, the written notice shall state the name and address of the  
71 developer and the terms and conditions of the assignment. An affi-  
72 davit before a notary public that he has so mailed this notice of  
73 intent on behalf of an owner shall conclusively establish the  
74 manner and time of the giving of such notice and such an affi-  
75 davit, and such a notice that the option will not be exercised, shall  
76 be recorded with the registry of deeds or the registry district of the  
77 land court of the county in which the affected real property is  
78 located. Each notice of intention, notice of exercise of the pur-

79 chase option or first refusal option and notice that the purchase  
80 option or first refusal option will not be exercised shall contain  
81 the name of the record owner of the land and description of the  
82 premises to be sold or converted adequate for identification  
83 thereof and each such affidavit before a notary public shall have  
84 attached to it a copy of the notice of intention to which it relates.  
85 Such notices of intention shall be duly mailed to the parties above  
86 specified if addressed to them in care of the keeper of records for  
87 the party in question. Upon notifying the owner in writing of its  
88 intention to pursue its purchase option or first refusal option  
89 during this 120-day period, the department or its assignee shall  
90 have an additional 120 days, beginning on the date of the termina-  
91 tion of the purchase option period or first refusal option period, to  
92 purchase the property. Such time periods may be extended by  
93 mutual agreement between the department or its assignee and the  
94 owner of the property. Any such extension agreed upon shall be  
95 recorded in the registry of deeds or the registry district of the land  
96 court of the county in which the affected real property is located.  
97 Within a reasonable time after request, the owner shall make  
98 available to the department or its assignee any information that is  
99 reasonably necessary for the department to exercise its rights.

1 SECTION 8. Notwithstanding any general or special law to the  
2 contrary, not later than July 1, 2008, and annually thereafter the  
3 director of the department of housing and community develop-  
4 ment shall submit to the secretary of the executive office of  
5 administration and finance, the house and senate committees on  
6 ways and means, the joint committee on housing and the joint  
7 committee on bonding, capital expenditures and state assets a cap-  
8 ital plan for fiscal years 2009, 2010, 2011, 2012 and 2013 for cap-  
9 ital funds authorized pursuant to Section 2.

1 SECTION 9. Notwithstanding any general or special law to the  
2 contrary, the unexpended and unencumbered balances of the  
3 bond-funded authorizations in the following accounts shall cease  
4 to be available for expenditure 90 days after the effective date of  
5 this act: 3722-8865, 3722-8871, 3722-8872, 3722-8873, 3722-  
6 8875, 3722-8891, 3722-8892, 3722-8896, 4000-7998, 4000-8200,  
7 4000-8201, 4000-8202, 7004-0021, 7004-0022, 7004-6666, 7004-

8 7011, 7004-7012, 7004-7013, 7004-7014, 7004-7015, 7004-7016,  
9 7004-7018, 7004-8984, 7004-8985.