

SENATE NO. 753

AN ACT RELATIVE TO PUBLIC HOUSING REFORM

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. The General Laws are hereby amended by inserting after section 26A of chapter 121B
2 the following new section:--

3 Section 26B. Public Housing Innovation Program Powers.

4 a. It is the purpose of this section to authorize the creative and efficient use of all forms of financial
5 assistance from the Commonwealth to public housing authorities that operate state-assisted public
6 housing developments to enable redevelopment and repair of existing state-assisted public housing
7 developments, expansion and development of housing opportunities for elderly persons of low income,
8 families of low income, and handicapped persons of low income, enhance opportunities for training,
9 work, and education of public housing residents, and enhance the ability of elderly persons of low
10 income and handicapped persons of low income to live independently.

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

13 “Affordable Housing”, homeownership or rental housing which is restricted to occupancy by low or
14 moderate income households of one or more persons and for which the sales prices or rents are
15 affordable to such households.

16 “Affordable Housing Development”, a development of new or rehabilitated affordable housing, which
17 may include market-rate housing if such market-rate housing is reasonably necessary for the financial
18 feasibility of construction or operation of the affordable housing.

19 “Extremely low income household”, a household with a gross income at or less than 30% of area
20 median household income as most recently determined by the U.S. Department of Housing and Urban
21 Development, adjusted for household size.

22 “Low or Moderate Income Household”, a household with gross income at or less than 80% of area
23 median household income as most recently determined by the U.S. Department of Housing and Urban
24 Development, adjusted for household size.

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

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

34 “Very low income household”, a household with a gross income at or less than 50% of area median
35 household income as most recently determined by the U.S. Department of Housing and Urban
36 Development, adjusted for household size.

37 c. A housing authority or regional housing authority may apply to the department for approval
38 to participate in the public housing innovation program. Participation shall be limited to applicants
39 that have the ability to plan and carry out activities under this program, as evidenced by prior
40 performance in the operation and maintenance of public housing, need to redevelop and repair
41 occupied and vacant public housing units, and other appropriate factors as determined by the director
42 of the department. The department shall encourage applications that demonstrate, create, or seek to
43 achieve: innovative models for the redevelopment and repair of public housing including for the
44 elderly and frail elderly, development of affordable housing, improved management, coordination
45 among several housing authorities, economic efficiencies, and expansion of economic opportunities
46 for residents. The department shall act on said application within 90 days of submission thereof and
47 shall approve all applications that meet the criteria established by the director. The department and the
48 participating housing authority shall enter into an agreement summarizing the terms of participation,
49 voluntary withdrawal, and termination for material default and a timetable for achieving objectives of
50 the program. The initial term of participation shall be seven years, unless the applicant requests a
51 shorter time, which shall be extended in whole or in part by the department so long as the housing
52 authority has made satisfactory progress toward its goals, the extension will meet the original
53 objectives of the program, and the housing authority has not received a negative evaluation pursuant to
54 paragraph l of this section. Upon expiration or earlier termination of an agreement the department shall
55 work cooperatively with the housing authority in a transition process, which may provide for retention
56 of elements of the program implemented during participation.

57 d. The department shall disburse all funding for a participating housing authority or regional
58 housing authority on a predictable schedule. Operating subsidy shall be disbursed monthly to permit
59 and encourage planning and efficiency by the housing authority.

60 e. To the extent necessary, and except for the provisions in paragraph g of this section, the
61 sections of this chapter and any other law which conflicts with the powers granted under this section or
62 substantially restricts a housing authority's ability to achieve the goals specified in its application or
63 plan shall not apply to a housing authority or regional housing authority approved by the department to
64 participate in the public housing initiative program.

65 f. Housing authorities and regional housing authorities participating in the public housing
66 innovation program, in addition to those powers conferred in chapter 121B, shall have the following
67 powers:

68 i. To combine all forms of assistance received from the Commonwealth and other sources,
69 including, but not limited to, operating subsidy, modernization funds, and other funds or grants,
70 such funds to be utilized for the operation, redevelopment, and repair of public housing,
71 affordable housing, and other purposes as authorized by this section, provided that a housing
72 authority shall not receive diminished assistance by virtue of participation in the program under
73 this chapter, including reimbursement for utility consumption at levels existing at the inception
74 of participation in the program.

75 ii. To establish a reasonable rent policy, which shall be included in the annual plan required by
76 paragraph h, that shall (a) be designed to provide incentives to improved employment and
77 training and self-sufficiency by participating families, (b) include transition and hardship
78 provisions, (c) include in the transition period a limit on rent increases in any one year related
79 solely to the change in the rent policy to no more than 10% for the duration of the transition

80 period, and (d) provide for a rent cap of not more than 32% of gross household income for
81 families at or below 30% of area median income, adjusted for family size.

82 iii. To establish, and include as part of the annual plan required by paragraph h, local methods
83 of tenant or homeowner selection, provided that the method is fair, objective, public, and does
84 not discriminate against any applicant based on any protected category in chapter 151B or any
85 other fair housing laws.

86 iv. To create efficient, fair and open procurement policies for supplies, services, and real
87 property, designed to reduce costs and to meet local need, which shall be included in the annual
88 plan required by paragraph h.

89 v. To participate in mixed public/private affordable housing developments designed to
90 rehabilitate, repair, replace, or develop, affordable housing, including public housing
91 developments and projects developed pursuant to sections 26, 34, and 40 of chapter 121B, and
92 to create any legal entities or instrumentalities necessary to accomplish these purposes. Projects
93 pursuant to this section may include a mix of extremely low, low, moderate, and market rate
94 units, and may utilize any available source of rental subsidy or financial assistance.

95 vi. To create partnerships or consortia with other public or private entities for the operation,
96 financing, or development of any program otherwise authorized by law.

97 vii. To acquire any property to carry out its purposes, and to dispose of any property of the
98 local housing authority without repayment of bonds to the commonwealth under any provision
99 of chapter 121B, provided that the proceeds of any such disposition must be applied to
100 acquisition, operation, development, rehabilitation, or repair of public or affordable housing.

101 viii. To enter into energy services contracts in accordance with chapter 25 section 11C for a
102 period of up to 20 years.

103 g. Notwithstanding the provisions of paragraph f of this section, the local housing authority
104 shall:

- 105 i. comply with the provisions of section 12 of chapter 121B, related to wages, labor
106 requirements, and Social Security;
- 107 ii. comply with the provisions of section 29 of chapter 121B, related to wage rates and
108 collective bargaining;
- 109 iii. continue to assist not less than substantially the same, as defined by the department, total
110 number of extremely low, very low, low or moderate income households as would have been
111 served had the housing authority not participated in the program under this section, and, to the
112 extent possible, retain the same number of public housing units as existed before participation
113 in this program;
- 114 iv. provide for full tenant participation, including public hearing, on adoption or material
115 amendment of its annual plan as required under paragraph h;
- 116 v. provide for a tenant lease and grievance procedure substantially similar to that in effect prior
117 to entry into the program under this section;
- 118 vi. provide that evictions shall be only for good cause;
- 119 vii. assure that housing assisted under the program in this chapter is decent, safe and sanitary;
- 120 viii. assure that if a participating housing authority redevelops its public housing units, all
121 households residing in the units at the time of planned redevelopment shall have the right to
122 return to the redeveloped public housing, subject to remaining in good standing and subject to
123 units of the appropriate size and requirements being available. Such households shall have
124 priority for placement over new applicants; and
- 125 ix. comply with chapter 334 of the acts of 2006.

126 h. Each housing authority participating in the program under this section shall prepare an
127 annual plan, after providing residents assisted by the housing authority and the wider community with
128 adequate notice and opportunities to participate in the development of the plan, and an opportunity to
129 comment and make recommendations on the plan which shall include not less than one public hearing
130 held at a time and location that the participating housing authority reasonably believes will facilitate
131 attendance by and input from residents. The annual plan shall:

- 132 i. state the housing authority's goals and objectives under the program for its fiscal year;
- 133 ii. describe the housing authority's proposed use of assistance for activities under the program
134 for the fiscal year;
- 135 iii. describe how the housing authority will achieve the repair or redevelopment or both of
136 public housing;
- 137 iv. state the housing authority's proposed income mix, extremely low, very low, low, moderate,
138 and market, for its portfolio;
- 139 v. explain how the housing authority's proposed activities will meet its goals and objectives;
- 140 and
- 141 vi. include appropriate budgets and financial statements.

142 Any plan submitted pursuant to paragraph h shall be deemed approved unless the department,
143 within 45 days of submission, issues a written disapproval. The department shall disapprove the plan
144 if the department reasonably determines, based on information contained in the plan or other reliable
145 information available to the department, that the plan does not comply with the provisions of this
146 section or other applicable law.

147 i. In place of all other planning and reporting requirements, each housing authority
148 participating in the program under this chapter shall submit to the department annually a single annual

149 report, in a form and at a time specified by the department. The annual report shall be the primary
150 means by which the housing authority shall be required to provide information to the department on
151 the activities assisted under this section during a fiscal year, unless the department has reason to
152 believe that the housing authority has violated the terms of the program. Each annual report shall:

153 i. document the housing authority's use of assistance under the program, including appropriate
154 financial statements;

155 ii. describe and analyze the effect of assisted activities in addressing the objectives of this
156 section;

157 iii. state the previous year's income mix of residents in the housing authority's public housing
158 and affordable housing developments under this program;

159 iv. include a certification by the housing authority that it has prepared an annual plan that was
160 prepared in accordance with paragraph h;

161 v. describe and document how the housing authority has provided residents assisted under the
162 program and the wider community with opportunities to participate in the development of the
163 annual plan, and an opportunity to comment on the annual plan which shall include not less
164 than one public hearing;

165 vi. include a report on the annual incomes of persons served in the previous year; and

166 vii. include other information as may be required by the department pursuant to paragraph k to
167 determine the effectiveness of the program.

168 j. Any report submitted pursuant to paragraph i shall be deemed approved unless the

169 department, within 45 days of submission, issues a written disapproval because the department

170 reasonably determines, based on information contained in the report or other reliable information

171 available to the department that the housing authority is not in compliance with the provisions of this
172 section or other applicable law.

173 k. Each housing authority shall keep such records as the department may prescribe as
174 reasonably necessary to document the amounts and the disposition of amounts under this program, to
175 ensure compliance with the requirements of this section, and to measure performance.

176 ii. The department shall have access for the purpose of audit and examination to any books,
177 documents, papers, and records that are pertinent to assistance in connection with, and the
178 requirements of, this section; provided, however, that such access shall be obtained solely
179 through the annual report, unless the department has reason to believe that the housing
180 authority is not in compliance with its program.

181 iii. The Auditor of the Commonwealth, or any of the duly authorized representatives of the
182 Inspector General, shall have access for the purpose of audit and examination to any books,
183 documents, papers, and records that are pertinent to assistance in connection with, and the
184 requirements of, this section.

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

189 SECTION 2. The department of housing and community development shall establish a seven member
190 advisory committee whose members shall include the director of the department or his designee, one
191 representative selected by Citizens' Housing and Planning Association, one representative selected by
192 the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials, one
193 representative selected by the Massachusetts Union of Public Housing Tenants, and three additional

194 members chosen by the director to provide advice and recommendations to the department regarding
195 regulations to implement the provisions of this act, and the department shall adopt regulations
196 implementing the provisions of this act within ninety days of the effective date of the act, and the
197 department shall annually report to the house and senate committees on ways and means and the joint
198 committee on housing on the participation of housing authorities in the public housing innovation
199 program. Participation in the advisory committee, or actions taken on behalf of the committee, or
200 actions in relation to transactions between the committee, or actions in relation to transactions between
201 the committee and other public or private entities represented on the committee, by any individual
202 otherwise subject to chapter 268A of the General Laws, shall not be deemed to violate the provisions
203 of chapter 268A.

204 To the Honorable Senate and House of Representatives of the Commonwealth of
205 Massachusetts in the General Court assembled.