



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lieutenant Governor ♦ Chrystal Komegay, Undersecretary

Public Housing Notice 2016-27

To: Local Housing Authorities & Officials of Massachusetts Cities and Towns
From: Sarah Glassman, Associate Director, Division of Public Housing & Rental Assistance
Date: September 27, 2016
Re: **Changes Pertaining to State Appointed Board Members**

On August 9, 2016, Section 216 of Chapter 218, “An Act Modernizing Municipal Finance and Government” was signed into law. This Act makes a change to Chapter 121B, §5 regarding state appointed board members by adding the following two sentences to the 4th paragraph: “If the department does not fill a vacancy in the position of that member within 120 days from the date that the vacancy is created, the board of selectmen shall appoint, in writing, a person by a majority vote to fill such vacancy for the unexpired term. In a city, the mayor shall appoint a person subject to confirmation by the city council for the unexpired term.”

Briefly, the law, which becomes effective in November, will allow Boards of Selectmen in towns and Mayors in cities to appoint a member to a Local Housing Authority Board if the Department of Housing & Community Development has not filled a vacancy in the state-appointee seat within 120 days. In order that this provision may be implemented consistently, DHCD is issuing this guidance interpreting and explaining the process for filling these vacancies.

What Constitutes a Vacancy?

A vacancy in the state-appointee seat will be considered to have occurred in the following situations:

- a. the state-appointed Board member has died
- b. the state-appointed Board member has submitted a written letter of resignation
- c. the state-appointed Board member has ceased to be a resident of the city/town
- d. the state-appointed Board member was formally removed from his or her position by the Department
- e. the state-appointed Board member’s term has expired and the member has ceased to serve

Note that a seat that is being occupied by a Board member who was previously appointed by the Department and who is serving until the qualification of his successor (known as a “holdover”) is not to be considered a “vacancy” and may not be filled by the City/Town.

When Does the 120 Day Vacancy Period Begin?

The Department has 120 days to fill a vacancy. For all vacancies except where the state-appointee has been removed by the Department, the Department must receive notice from the LHA in order to be made aware that the vacancy has occurred and to begin the process of appointing a Board member to fill the vacant seat. The City or Town Clerk must also be notified of the vacancy by the LHA (or by DHCD in the event of a removal) so that the Clerk can provide the notice to the Secretary of State and the Department as required by c. 121B, §5.

Accordingly, the 120 period starts upon the later of:

- a. the actual date on which the vacancy occurred, or
- b. the date on which DHCD receives notice from the LHA that a vacancy in the state-appointee seat will occur or has occurred.

LHAs should notify DHCD and the City or Town Clerk of a vacancy by using the form attached to this Public Housing Notice.

How Long Does the City or Town Have to Fill the Vacancy After the 120 Day Period?

After the 120 day vacancy period has expired, the City or Town may fill the position at any time before the Department issues a notice of appointment to the designated state appointee. Copies of the Department’s notice of appointment shall be sent to the LHA and the City or Town Clerk at the same time as it is sent to the designated state appointee.

How Long is the Term of a Member appointed by the City/Town to fill the State-appointee seat?

An LHA Board member who is appointed in writing by the Board of Selectman or the Mayor to fill a vacancy in the state-appointee seat on the LHA Board shall sit until the expiration of the term remaining for that seat. In other words, the member filling the vacancy can be appointed to serve for no more than 4 years and 8 months (if immediately appointed 120 days after the vacancy occurred.) After the expiration of the term, the Board member appointed by the City/Town as a vacancy appointee may sit as a “holdover” until such time as a Board member has been appointed by the Department to fill the seat.

Please call Laura Taylor, Director, Bureau of Housing Management at 617-573-1289 with any questions about this guidance.

