

SENATE No. 859

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting fair housing by preventing discrimination against affordable housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Julian Cyr</i>	<i>Cape and Islands</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/7/2023</i>

SENATE No. 859

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 859) of Julian Cyr and Sal N. DiDomenico for legislation to promote fair housing by preventing discrimination against affordable housing. Housing.

The Commonwealth of Massachusetts

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

An Act promoting fair housing by preventing discrimination against affordable housing.

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

1 Section 4 of chapter 151B of the General Laws, as so appearing, is hereby amended by
2 adding the following new paragraph:-

3 20. For a local or state administrative, legislative or regulatory body or instrumentality to
4 engage in a discriminatory land use practice. For the purposes of this paragraph, a
5 “discriminatory land use practice” shall mean: (i) enacting or enforcing any land use regulation,
6 policy or ordinance; (ii) making a permitting or funding decision with respect to housing or
7 proposed housing; or (iii) taking any other action the purpose or effect of which would limit or
8 exclude: (a) housing accommodations for families or individuals with incomes at or below 80 per
9 cent of the area median income as defined by the United States Department of Housing and
10 Urban Development; (b) housing accommodations with sufficient bedrooms for families with
11 children including those with more than two bedrooms; or (c) families or individuals based on
12 race, color, religious creed, national origin, sex, gender identity, sexual orientation, which shall

13 not include persons whose sexual orientation involves minor children as the sex object, age,
14 genetic information, ancestry, marital status, veteran status or membership in the armed forces,
15 familial status, disability condition, blindness, hearing impairment or because a person possesses
16 a trained dog guide as a consequence of blindness, hearing impairment or other handicap.

17 It shall not be a violation of this chapter if a local or state government entity whose action
18 or inaction has an unintended discriminatory effect proves that the action or inaction was
19 motivated and justified by a substantial, legitimate, nondiscriminatory, bona fide governmental
20 interest and that the government entity is unable to prove that those interests cannot be served by
21 any other policy or practice that has a less discriminatory effect; or (ii) demonstrates that it has
22 consistently supported housing described in (iii) above and that the entity's action or inaction
23 was motivated and justified by a substantial, legitimate nondiscriminatory bona fide
24 governmental interest.

25 Any person or class of persons claiming to be aggrieved by a violation of this Section
26 may institute and prosecute a civil action in the District, Superior, Housing, Probate or Land
27 Court Department for injunctive and other appropriate equitable relief including an award of
28 actual damages, including, where the violation includes intentional discrimination, an award of
29 punitive damages. This civil action must be filed not later than three years after a violation of this
30 section. Any aggrieved person who prevails in an action authorized by this Section shall be
31 entitled to an award of the costs of the litigation including expert witness fees, reasonable
32 attorneys' fees in an amount to be fixed by the court, and prejudgment and post judgment
33 interest. The attorney general may, in like manner, also commence a civil action to seek relief for
34 a violation of this Section. Nothing in this Section is intended to require a person seeking to
35 enforce the protections afforded herein to exhaust any administrative remedies applicable to

36 discrimination claims under this Section or other laws, or to prevent or limit a person from filing
37 a complaint at the Massachusetts Commission Against Discrimination.