HOUSE DOCKET, NO. 2080 FILED ON: 1/20/2011

HOUSE . . . . . No. 2119

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

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 passage of the accompanying:

An Act relative to affordable housing..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bradley H. Jones, Jr.	*20th Middlesex*
Marc T. Lombardo	*22nd Middlesex*
Donald F. Humason, Jr.	*4th Hampden*
Geoff Diehl	*7th Plymouth*
F. Jay Barrows	*1st Bristol*
Susan Williams Gifford	*2nd Plymouth*
Donald H. Wong	*9th Essex*
Todd M. Smola	*1st Hampden*
Sheila C. Harrington	*1st Middlesex*
Steven L. Levy	*4th Middlesex*
Paul K. Frost	*7th Worcester*
George N. Peterson, Jr.	*9th Worcester*
Elizabeth A. Poirier	*14th Bristol*
Viriato Manuel deMacedo	*1st Plymouth*

HOUSE DOCKET, NO. 2080 FILED ON: 1/20/2011

HOUSE . . . . . No. 2119

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 2119) of Bradley H. Jones, Jr. and others relative to affordable housing and group homes in the Commonwealth. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1228* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to 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:

SECTION 1. Section 15 of chapter 19 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding to the end thereof the following subsection:-- (k) to collect and maintain information on the number of group home units in each community and report such information, including the location of such group home units, to the department of housing and community development on an annual basis. Such location shall be held by the department of housing and community development subject to chapter 6 6A.

SECTION 2. Subsection (b) of section 15 of chapter 19B of the General Laws, as most recently amended by chapter 239 of the acts of 2010, is hereby amended by adding to the end thereof the following sentence:-- The department of mental retardation shall report the number of group home units in each city or town on an annual basis to the department of housing and community development. The department of mental retardation shall also report the location of such group homes to the department of housing and community development.

SECTION 3. Section 3 of chapter 23B of the General Laws, as appearing in the 2008 Official Edition , is hereby amended, in line 135, after the word “period.” by inserting following paragraph :— (w) count the number of low or moderate income housing units, as defined by chapter 40B and the accompanying department of housing and community development regulations, in each city or town in the commonwealth on a biennial basis.

18 SECTION 4. Section 20 of chapter 40B of the General Laws, as so appearing, is hereby
19 amended by striking out section 20, in its entirety, and inserting in place thereof the following
20 sections:--

21 Section 20. The following words, wherever used in this section and in sections 20A to
22 23, inclusive, shall, unless a different meaning clearly appears from the context, have the
23 following meanings:

24 "Affordable Housing Threshold", each city or town shall have a minimum affordable
25 housing threshold such that at least 10 percent of year round housing units meet the requirements
26 for inclusion on the subsidized housing inventory in a manner consistent with sections 20
27 through 23 of this chapter.

28 "Committee", the housing appeals committee.

29 "Consistent with local needs", shall have the meaning set forth in section 20A.

30 "Department", the department of housing and community development.

31 "Family", two or more persons who live or will live regularly in a unit as their primary
32 residence whose income and resources are available to meet the family's needs and who are
33 either related by blood, marriage, operation of law or who have otherwise evidenced an inter-
34 dependent relationship.

35 "Group Home Units", community housing units or beds serving clients of the department
36 of mental retardation or the department of mental health which are located in a non-institutional
37 setting. Each such unit shall serve 1 client.

38 "Local Board", any town or city board of survey, board of health, planning board,
39 conservation commission, building inspector or the officer or board having supervision of the
40 construction of buildings or the power of enforcing municipal building laws, or city council or
41 board of selectmen or other boards exercising power specified locally.

42 "Local Program", a housing program established and administered by a city or town
43 which has been authorized and approved by the department.

44 "Low or moderate-income households", individuals or families living in a housing unit
45 with combined incomes not higher than 80 percent of the median income for the metropolitan
46 statistical area, primary metropolitan statistical area, or the county in which the housing unit is
47 located, whichever is lower, as determined by the United States department of housing and urban
48 development or, in the absence of such a determination, by the department.

49 "Low or moderate-income housing", any year round housing subsidized by the federal or
50 state government under any program, to produce housing which serves low or moderate-income
51 households as defined in this chapter.

52 “Subsidy”, the provision of direct financial assistance; indirect financial assistance
53 including insurance, guarantees, or other means; in kind assistance; technical assistance; or of
54 other supportive services through a federal, state or local housing program to assist the
55 construction of low or moderate-income housing.

56 “Subsidizing Agency”, any agency or entity of state, federal or local government which
57 subsidizes the construction or substantial rehabilitation of low or moderate-income housing and
58 any housing authority acting pursuant to section 26(m) of chapter 121B.

59 “Uneconomic”, any condition brought about by any single factor or combination of
60 factors to the extent that such condition makes it impossible for a public agency or nonprofit
61 organization to proceed in building or operating low or moderate income housing without
62 financial loss, or for a limited dividend organization to proceed and still realize a reasonable
63 return in building or operating such housing within the limitations set by the subsidizing agency
64 on the size or character of the development or on the amount or nature of the subsidy or on the
65 tenants, rentals and income permissible, and without substantially changing the rent levels and
66 units sizes proposed by the public, nonprofit or limited dividend organizations.

67 Section 20A. Decisions and requirements by the zoning board of appeals shall be
68 considered consistent with local needs if they are reasonably in view of the regional need for low
69 or moderate income housing considered with the number of low and moderate income persons in
70 the city or town affected and the need to protect the health or safety of the occupants of the
71 proposed housing or of the residents of the city or town, to promote better site and building
72 design in relation to the surroundings, or to preserve open spaces, and such decisions and
73 requirements are applied as equally as possible to both subsidized and unsubsidized housing.
74 Decisions and requirements shall also be deemed consistent with local needs when imposed by a
75 board of zoning appeals after a comprehensive hearing in a city or town where

76 (1) Low or moderate-income housing exists which is at least ten percent of the housing
77 units reported in the most recent federal decennial census of the city or town;

78 (2) The development is large scale for the city or town in which it is proposed. A
79 proposed development shall be large scale if (A) in a city or town which has a total number of
80 7,500 or more housing units as enumerated in the most recent federal decennial census, the
81 application for a comprehensive permit involves construction of more than 300 housing units or
82 a number of housing units equal to or greater than 2 percent of all housing units in the city or
83 town, whichever number is greater; or (B) in a city or town which has between 5,000 and 7,500
84 housing units exclusive, as so enumerated, the application for a comprehensive permit involves
85 construction of more than 250 housing units; or (C) in a city or town which has between 2,500
86 and 5,000 housing units inclusive, as so enumerated, the application for a comprehensive permit
87 involves construction of more than 200 housing units; or (D) in a city or town which has less

88 than 2,500 housing units, as so enumerated, the application for a comprehensive permit involves
89 construction of more than 150 housing units.

90 (3) The city or town has made recent progress toward attaining its affordable housing
91 threshold. Recent progress toward its affordable housing threshold shall mean that the number of
92 housing units that have been created during the 12 months prior to the date of the comprehensive
93 permit application and that are eligible to be included on the subsidized housing inventory equal
94 to or greater than two percent of the city or town's total housing units as enumerated in the most
95 recent federal decennial census; or

96 (4) 12 months has not elapsed between the date of application for a comprehensive permit
97 and the date of the most recent pendency of a prior application for a variance, special permit,
98 subdivision or other approval related to construction on the same land if that prior application
99 included no provision for low or moderate income housing; provided that any such application
100 shall not be considered a prior application if it concerns only insubstantial changes to an existing
101 use;

102 (5) the city or town has adopted an affordable housing plan approved by the department
103 pursuant to which there is an increase in its number of low or moderate-income housing units
104 eligible for inclusion on the subsidized housing inventory by at least one-half of one percent of
105 total units every calendar year until housing needs are met pursuant to this chapter, subject t o
106 paragraphs (a) and (b) below.

107 (a) The affordable housing plan shall be based upon a comprehensive housing needs
108 assessment, which shall include an analysis of the most recent federal decennial census data of
109 the city or town's demographics and housing stock, development constraints as well as of the
110 city or town's ability to mitigate them, and the city or town's infrastructure.

111 (b) The affordable housing plan shall address the matters set out in guidelines adopted by
112 the department, including:

113 (i) a mix of housing, such as rental and homeownership opportunities for families,
114 individuals, persons with disabilities or special needs, and the elderly that are consistent with
115 local needs and feasible within the housing market in which they will be situated;

116 (ii) the strategy by which the city or town will achieve its housing goals based upon its
117 comprehensive needs assessment;

118 (iii) the characteristics of projects the city or town prefers that are consistent with the
119 guidelines established by the department for smart growth and development including, but not
120 limited to, redevelopment and adaptive reuse, cluster housing, higher-density housing, transit or
121 pedestrian-oriented development which provides access to jobs and services, resource efficient
122 buildings, and development in locations with existing infrastructure;

123 (iv) a description of the use restrictions which shall be imposed on low- or moderate-
124 income housing units to ensure that each unit will remain affordable to and occupied by low or
125 moderate-income households;

126 (v) the identification of zoning districts or geographic areas which permit residential uses
127 which the city or town proposes to modify or has created for the purposes of low or moderate-
128 income housing developments;

129 (vi) the identification of specific sites or characteristics of sites for which the city or town
130 will encourage the filing of comprehensive permit applications pursuant to section 21 of this
131 chapter; and

132 (vii) city or town owned parcels, if any, for which the city or town commits to issue
133 requests for proposals to develop low or moderate-income housing.

134 (c) Upon submission to the department, the plan shall also be submitted to the regional
135 planning district established pursuant to this chapter or the cape cod commission established
136 pursuant to section 18 of chapter 716 of the laws of 1989 as amended, or the Martha's Vineyard
137 commission established pursuant to chapter 831 of the laws of 1977, within such district or
138 commission area such project is located or any other regional planning district hereafter
139 established by the general court, which shall have 30 days to comment to the department on the
140 implications of the plan for housing need, growth and development concerns, and other relevant
141 matters. Within 90 days after its submission to the department by a city or town's chief executive
142 officer, the department shall approve the plan if it meets the requirements specified herein,
143 otherwise, it shall disapprove the plan. The department shall notify the city or town of its
144 decision to either approve or disapprove a plan in writing. If the department disapproves a plan,
145 the notification shall include a statement of reasons for the disapproval. A city or town that
146 originally submitted a plan that had been disapproved may submit a new or revised plan to the
147 department at any time. A city or town may amend its plan from time to time if the department
148 approves the amendment. If the department fail s to mail notice of approval or disapproval of a
149 plan or plan amendment within 90 days after its receipt, the plan or plan amendment s hall be
150 deemed to be approved.

151 (d) The department shall certify annually whether a city or town is in compliance with an
152 approved plan. The department shall determine whether a city or town is in compliance within 30
153 days of receipt of a city or town's request for such a certification. A city or town shall be in
154 compliance if it has reached the benchmarks established in its approved plan and has made all
155 changes necessary to accommodate future planned development. If the department determines
156 the city or town is in compliance with its plan, the certification shall be retroactive to the date the
157 certification was requested. Provided further, if a city or town fails to achieve the goals
158 established in the approved plan and as documented on the subsidized housing inventory the city

159 or town shall not be in compliance with its plan and shall submit a new plan for certification by
160 the department.

161 (e) An approved plan shall take effect for the purpose of the definition of consistent with
162 local needs in this section only when the department certifies that the city or town has approved
163 permits resulting in an initial annual increase in its low-or moderate-income housing units of at
164 least one-half of one percent of total housing units in accordance with its plan. It is the
165 responsibility of the city or town to request such certification from the department. Once the
166 department has made such a certification of initial compliance and subsequent annual
167 certifications of compliance:

168 (i) The board may, at its discretion, deny or approve with conditions any comprehensive
169 permit applications for the period of one year from any certification, and such denial or approval
170 with conditions shall be deemed consistent with local needs; or

171 (ii) The board may, at its discretion, deny or approve with conditions any comprehensive
172 permit applications for the period of two years from any certification, if, in the year it was
173 certified, the city or town has increased its low or moderate-income housing stock by at least 1
174 percent of total housing units in a manner consistent with the plan; or

175 (iii) The board may, at its discretion, deny, or approve with conditions any
176 comprehensive permit applications for the period of three years from any certification, if, in the
177 year it was certified, the city or town has increased its low or moderate-income housing stock by
178 at least one and one-half percent of total housing units in a manner consistent with the plan.

179 (6) the board has approved three or more comprehensive permits, at least three of which
180 contain 20 or more housing units each within 12 months preceding the filing of an application for
181 a comprehensive permit and those permits have become final.

182 Section 20B. Comprehensive permit requirements shall include the following provisions:

183 (1) To submit an application for a comprehensive permit or to file or maintain an appeal
184 before the committee, the applicant and the project shall fulfill the following jurisdictional
185 requirements; provided however, notwithstanding the requirements outlined in paragraphs (a)
186 through (d), inclusive, the inclusion of commercial, recreational or other land uses which are in
187 conjunction with the housing development shall not preclude eligibility.

188 (a) The applicant shall be a public agency, a non-profit organization, or a limited
189 dividend organization. An applicant shall satisfy the limited dividend organization requirement if
190 the comprehensive permit contains a condition that the owner of the project shall execute a
191 regulatory agreement with a subsidizing agency which limits the owner's return on building or
192 operating the project to the amounts set by the subsidizing agency or program. Such regulatory
193 agreement shall be recorded or filed prior to the beginning of construction of the land records

194 with the registry of deeds or land court in the registry district or district office of the land court in
195 which the project is located.

196 (b) The project shall be fundable by a subsidizing agency under a low and moderate-
197 income housing subsidy program.

198 (c) The applicant shall control the site.

199 (d) The proposed development shall contain no less than 25 percent of its total housing
200 units as un its affordable to low or moderate income households, or in the alternative a proposed
201 development may contain no less than 20 percent of its total housing units as affordable to
202 households whose income does not exceed 50 percent of the area median income.

203 (2) Fundability shall be established by submission of a written determination of project
204 eligibility by a subsidizing agency as follows:

205 (a) a determination of project eligibility shall include:

206 (i) the name and address of the applicant;

207 (ii) the address of the site and site description;

208 (iii) the number and type (homeownership or rental) of housing units proposed;

209 (iv) the name of the housing program or programs under which project eligibility
210 is sought; and

211 (v) relevant details of the particular project if not mandated by the housing
212 program, including the percentage of units for low or moderate income households, income
213 eligibility standards, the duration of use restrictions requiring occupancy by low or moderate
214 income households, and the limited dividend status of the developer;

215 (b) a determination of project eligibility shall make the following findings:

216 (i) that the proposed project appears generally eligible under the requirements of the
217 housing program or programs, subject to final review of eligibility and to final approval;

218 (ii) that the subsidizing agency has performed an on-site inspection of the site and has
219 reviewed pertinent information submitted by the applicant;

220 (iii) that the proposed housing design and density are generally appropriate for the site on
221 which it is located, taking into account surrounding land uses, proximity to transportation,
222 services and public utilities, and design to minimize land use impacts;

223 (iv) that the proposed project appears financially feasible within the housing market in
224 which it will be situated, based on comparable rentals or sales figures;

225 (v) that an initial pro forma has been reviewed and the project appears financially feasible
226 on the basis of estimated development costs; and

227 (vi) that the developer of the proposed project meets the general eligibility standards of t
228 he housing program or programs.

229 (c) In addition to the foregoing, a subsidizing agency shall consider the following in
230 making a determination of project eligibility: overall density and size; environmental impact,
231 including watersheds and existing land uses; consistency with principles of smart growth; impact
232 on historical resources; the impact of other pending applications for housing development; and
233 other local concerns of the city or town where the project is located.

234 (d) Within 10 days of filing of its application for a determination of project eligibility
235 with a subsidizing agency for preliminary approval of a project, the applicant shall serve written
236 notice upon the director of the department.

237 (e) Within 10 days of filing the application for a determination of project eligibility the
238 applicant shall provide written notice and a copy of such application to the chief executive
239 officer of the involved city or town and to the members of the general court representing such
240 city or town. The applicant shall also provide written notice of the application to the planning
241 board, board of health, conservation commission, water and sewer district, fire and police.
242 Within 30 days after such notice, the chief executive officer or designee of the chief executive
243 officer may schedule and hold a meeting at a location within the involved city or town. The
244 meeting shall be chaired by the city or town's chief executive officer or designee and shall be
245 attended by the applicant or its representative. Representatives from local boards are encouraged
246 to attend the meeting and provide written comment. The purpose of the meeting is to allow the
247 applicant and the city or town representatives to informally discuss the preliminary proposal so
248 that the parties involved can develop an understanding of the proposal and to respond to
249 concerns raised in an effort to achieve an outcome that meets the needs of the involved city or
250 town as well as the applicant. In addition, a representative from a public or quasi-public housing
251 agency, or a regional planning agency within the regional planning district or its designee
252 knowledgeable with respect to chapter 40B may provide technical assistance on topics including,
253 but not limited to, site de sign and density, open space, marketing, use restrictions, allowable
254 costs and profit limitations. Following the close of the meeting, the chief executive officer of the
255 city or town, local boards, and the regional planning district may issue written comments within
256 14 days to the subsidizing agency.

257 (f) Within 10 days of receipt of a written determination of project eligibility from the
258 subsidizing agency, the applicant shall serve a copy of that determination upon the director of the
259 department.

260 (g) An applicant which has obtained a determination of project eligibility shall be
261 presumed to be eligible to submit an application for comprehensive permit or to file or maintain

262 an appeal before the committee. Nothing set forth in this section shall be deemed to confer upon
263 any city or town, or any of its boards, committees, commissions or officials, or upon any other
264 person the right to appeal or judicial review in any form the determination of project eligibility
265 by the subsidizing agency, it being intended t hat the rights of appeal conferred by sections 21
266 and 22 of this chapter shall be the exclusive remedy for any party aggrieved by the issuance or
267 denial of any comprehensive permit hereunder.

268 (h) If project funding is provided through a non-governmental entity, a public or quasi-
269 public entity authorized by the department shall make the determination of project eligibility.
270 The designated entity that issued the project eligibility determination shall administer the project
271 thereafter as specified in program guide lines issued by the department.

272 (3) A showing that the applicant, or any entity 50 percent or more of which is owned by
273 the applicant, owns a 50 percent or greater interest, legal or equitable, in the proposed site, or
274 holds any option or contract t o purchase the proposed site, shall be considered by the board or
275 the housing appeals committee to be conclusive evidence of the applicant's interest in the site.

276 (4) No determination of project eligibility shall be issued for a project sooner than 45
277 days after the filing of its application with the subsidizing agency for preliminary approval of the
278 project. A determination of project eligibility shall be for a particular financing program or
279 programs. An applicant may proceed under alternative financing programs if the application to
280 the board or appeal to the committee so indicates and if full information concerning the project
281 under the alternative financing arrangements is provided.

282 (5) Failure of the applicant to fulfill any of the requirements in this section may be raised
283 by the housing appeals committee, the board, or a party at any time, and shall be cause for
284 dismissal of the application or appeal. No application or appeal shall be dismissed, however,
285 unless the applicant has had at least 60 days to remedy the failure.

286 (6) In order to appeal to the committee, an applicant shall have applied to the board for a
287 comprehensive permit in accordance with section 21 of this chapter and shall have been denied
288 such permit or shall have been granted such permit with conditions which it alleges make the
289 building or operation of such housing uneconomic.

290 (7) A city or town may record progress towards its affordable housing threshold as
291 documented in the subsidized housing inventory in the following manner:

292 (a) If at least 25 percent of housing units within a development are restricted to serve low
293 or moderate-income households, 100 percent of housing units within the development shall be
294 eligible to be included toward the city or town's affordable housing threshold. If fewer than 25
295 percent of housing units within a development are restricted to serve low or moderate-income
296 households, only those units which serve low or moderate-income households shall be eligible to
297 be included toward the city or town's affordable housing threshold; or

298 (b) if at least 20 percent of housing units within a development are restricted to serve
299 households with household income at or below 50 percent of area median income, 100 percent of
300 housing units within the development shall be eligible to be included toward the city or town's
301 affordable housing threshold. If fewer than 25 percent of housing units within a development are
302 restricted to serve low or moderate-income households, only such restricted units shall be
303 eligible to be included toward the city or town's affordable housing threshold.

304 (8) A city or town may record progress towards its homeownership threshold as
305 documented in the subsidized housing inventory in the following manner:

306 (a) if at least 25 percent of housing units within a development are restricted to serve low
307 or moderate-income households, 2 times the actual number of such restricted units, not to exceed
308 the total number of homeownership units authorized by the permit, shall be eligible to be
309 included toward the city or town's affordable housing threshold; or

310 (b) if at least 20 percent of housing units within a development serve households earning
311 at or below 50 percent of area median income, 2 times the actual number of units serving such
312 households, not to exceed the total number of homeownership units authorized by the permit
313 shall be included toward the city or town's affordable housing threshold. If fewer than 25 percent
314 of housing units within a development are restricted to serve low or moderate-income
315 households, only such units which are restricted to serve low or moderate-income households
316 shall be eligible to be included toward the city or town's affordable housing threshold;

317 (9) Community preservation act housing units shall mean any community housing, as
318 defined in chapter 44B which is restricted to occupancy by persons of low or moderate income
319 households; provided further, that such housing payment exclusive of utilities shall not exceed
320 30 percent of monthly income of a household at or below 80 percent of area median income,
321 adjusted for household size, shall be eligible to be included toward the city or town' s affordable
322 housing threshold.

323 (10) Accessory apartment units shall mean any accessory apartment which is approved
324 pursuant to a city or town's ordinance or bylaw and is occupied by persons of low or moderate
325 income, shall be eligible to be included toward the city or town's affordable housing threshold;
326 provided further, that such rental payment exclusive of utilities shall not exceed 30 percent of
327 monthly income of a household earning at or below 80 percent of area median income, adjusted
328 for household size. Each such accessory apartment unit shall be subject to a use restriction,
329 which may be revocable upon the sale of the principal residence. Each city or town shall certify
330 annually the number of such accessory apartments within its borders.

331 (11) Group home units shall mean all group home units in each city or town as reported
332 annually by the department of mental health and the department of mental retardation to the
333 department shall be eligible to be included toward the city or town's affordable housing
334 threshold.

335 (12) Local housing units shall mean housing units created under a local program or
336 subsidy or which qualify as local initiative units pursuant to regulations promulgated by the
337 department and restricted to serve low or moderate income households as defined in this chapter
338 shall be eligible to be included toward the city or town's affordable housing threshold as
339 documented on the subsidized housing inventory.

340 (13) Urban center housing tax increment financing units shall mean low or moderate
341 income housing created pursuant to section 60 of chapter 40; provided further, that such housing
342 payment exclusive of utilities shall not exceed 30 percent of monthly household income of a
343 household earning at or below 80 percent of area median income shall be eligible to be included
344 toward the city or town' s affordable housing threshold.

345 (14) In instances where housing units were developed to serve low or moderate income
346 households and the use restriction has expired as a result of refinancing or operation of law or
347 otherwise, the department shall have the discretion to count such units pursuant to guidelines
348 promulgated by the department toward a city or town's affordable housing threshold as recorded
349 in the subsidized housing inventory.

350 (15) One hundred percent of year round units of manufactured housing, as defined by
351 section 32Q of chapter 140, shall be eligible to be included toward a city's or town's affordable
352 housing threshold.

353 (16) Any accessory apartment which is approved pursuant to a city or town's ordinance
354 or by law which is occupied by a family member pursuant to department of housing and
355 community development regulations shall be eligible to be included toward the city or town's
356 affordable housing threshold. Each in-law apartment unit shall be subject to a use restriction,
357 which may be revocable upon sale of the principal residence. Each city or town shall certify
358 annually the number of such accessory apartments within its borders.

359 (17) The department shall maintain an inventory of low or moderate income housing
360 units. Such inventory shall be published biennially; provided that such inventory shall be updated
361 for a specific city or town upon request by such city or town. Housing units authorized by a
362 comprehensive permit or special permit shall be eligible to be included toward a city or town's
363 affordable housing threshold as recorded on the subsidized housing inventory when the
364 comprehensive permit or special permit becomes final; provided that housing units for which
365 building permits have not been issued within 1 year of the date when the comprehensive permit
366 or special permit became final shall no longer be eligible to be counted toward the city or town's
367 affordable housing threshold until the building permits have been issued. The department may
368 for good cause waive such time requirement. Low or moderate income housing units not
369 authorized pursuant to a comprehensive permit or special permit shall be eligible to be counted
370 toward the city or town's affordable housing threshold when a building or occupancy permit is
371 issued.

372 Section 20C. The Massachusetts housing partnership fund board, as established by
373 section 35 of chapter 405 of the acts of 1985, or its designee, shall make technical assistance
374 available to local zoning board s of appeal to assist in their review of applications for
375 comprehensive permits. No subsidizing agency shall issue a determination of project eligibility
376 or site approval unless a fee to defray the costs of such technical assistance program has been
377 collected from the applicant and remitted to the Massachusetts housing partnership fund board in
378 accordance with a fee schedule adopted by the department.

379 Section 20D. The department shall promulgate regulations and establish programs,
380 policies, guidelines and necessary fee schedules to implement sections 20 to 23, inclusive, of this
381 chapter. The department shall make available planning and housing development information
382 and technical assistance to assist cities and towns in reaching their affordable housing threshold
383 as defined in this chapter.

384 Section 20E. A city or town, pursuant to sections 20 through 23 inclusive of chapter
385 40B, with a pending comprehensive permit for an application of development of housing, that
386 shares a contiguous border to an adjacent city or town may propose to enter into an agreement
387 with such city or town to share infrastructure and service costs associated with such
388 development. Pursuant to such agreement, if such infrastructure and service costs are shared by a
389 city or town, both cities and towns may share in counting such units towards their affordable
390 housing threshold pursuant to sections 20 through 23 inclusive of chapter 40B; provided further,
391 that no such unit shall be counted more than once. Any such proposed agreement shall be subject
392 to approval by the department of housing and community development, which shall set forth
393 guidelines for such agreements. Provided further, such cities and towns may provide for a joint
394 application to each city or town for a comprehensive permit application and provide for a joint
395 hearing process for consideration of such joint application by such local zoning boards.

396 SECTION 5. Section 23 of said chapter 40B, as so appearing, is hereby amended, in line
397 8, by inserting after the word "needs." the following sentence:— "The committee shall receive
398 evidence of and shall consider the following matters: (1) a city or town's master plan,
399 comprehensive plan or community development plan, and (2) the results of the city or town's
400 efforts to implement such plans."

401 SECTION 6. Notwithstanding any general or special law to the contrary, the department
402 of housing and community development in consultation with the commonwealth development
403 coordinating council shall create a pilot program under which 3 housing regions may be
404 established to address regional housing needs of cities and towns within a region. Such cities or
405 towns in a region may agree to meet affordable housing thresholds established under sections 20
406 through 23 inclusive of chapter 40B in one region. The department and the commonwealth
407 development coordinating council shall establish criteria for such housing region to include but
408 not be limited to the following:

409 (1) only contiguous communities that have not exceeded 10 percent toward their
410 affordable housing thresholds on the subsidized housing inventory maintained by the department
411 pursuant to sections 20 through 23 inclusive of chapter 40B shall be eligible to participate in
412 such region;

413 (2) contiguous communities shall enter into an inter-municipal agreement and develop a
414 joint housing plan for the region consistent with development goals established by the
415 department. Such plan shall:

416 (a) address how the communities will share the infrastructure or service costs and
417 benefits of low- and moderate-income housing development, and how credit for such affordable
418 housing development will be reflected on the subsidized housing inventory for each city or town
419 within the region.

420 (b) address how contiguous cities or towns will achieve their housing goals. The total
421 housing goals in the region shall be at a minimum, the sum of the goals established by section 20
422 of chapter 40B of each city or town participating in the plan.

423 The authority granted by this section shall cease on June 30, 2007, and the department
424 shall report the results of said pilot program to the joint committee on housing and the clerks of
425 the house of representatives and senate.

426 SECTION 7. Notwithstanding any general or special law to the contrary, no application
427 for a comprehensive permit filed pursuant to sections 20 through 23 of chapter 40B before the
428 effective date of this act shall be denied as a result of changes to the General Laws pursuant to
429 this act.