

HOUSE No. 1215

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to employer assisted 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 1. Chapter 23B of the General Laws, as appearing in the 2006 Official
2 Edition, is hereby amended by adding the following section:—

3 Section 30. (a) Notwithstanding any general or special law to the contrary, the
4 department of housing and community development shall establish a program to help employers
5 develop an employer assisted housing development program and an employer assisted housing
6 fund.

7 “Employer” means, for the purposes of this act, any individual or type of organization
8 including any partnership, firm, association, trust, trustee, estate, joint stock company, insurance
9 company, corporation, whether domestic or foreign, or his or its legal representative, or the
10 assignee, receiver, trustee in bankruptcy, trustee or successor of any of the foregoing or the legal
11 representative of a deceased person who or which has or subsequent to January first, nineteen
12 hundred and forty-one, had one or more individuals performing services for him or it within this
13 commonwealth, the commonwealth, its instrumentalities, political subdivisions, their
14 instrumentalities, any instrumentality of more than one of the foregoing, and any instrumentality

15 of any of the foregoing and one or more other states or political subdivisions. An instrumentality
16 of a political subdivision may include municipal hospitals, municipal electric companies,
17 municipal water companies, regional school districts and any such other instrumentalities as are
18 financially independent and are created by statute. For the purposes of this act, the
19 commonwealth, including all its branches and departments and its hospitals and institutions of
20 higher education, shall be deemed to be one employer. Each political subdivision shall be
21 deemed to be one employer. Each instrumentality of the commonwealth, or of any political
22 subdivision, or of any combination thereof including any one or more of the foregoing and any
23 one or more states shall be deemed to be a separate employer. In a city or town "employer" shall
24 mean the city manager in a city having a city manager, the mayor in any other city, the town
25 manager in a municipality having a town council form of government and the selectmen in any
26 other town.

27 “Employer assisted housing development program” means a state assisted residential
28 development program for employers to provide real property currently owned or leased by an
29 employer in districts zoned as non-residential for housing located in the state; provided further
30 that the real property sold, leased or donated from the employer for the employer assisted
31 housing development program shall be used in this state to be sold or rented to households who
32 meet the income requirements set forth in this section and meet any further requirements set
33 forth by the department. The department, subject to appropriation, shall contribute to the
34 employer’s assisted housing development program 1 dollar for every 2 dollars of assessed value
35 of real property used for the purposes of the employer assisted housing development program as
36 provided in this subsection. The assistance granted pursuant to this subsection to each employer

shall not exceed 200,000 dollars annually. The total amount of assistance offered to all employers under this program shall not exceed 5,000,000 dollars annually.

“Employer assisted housing fund” means a program to provide grants or loans for employer assisted housing, provided further that grants and loans from the employer’s employer assisted housing fund shall be spent in this state and may be used for (i) the cost to purchase housing that is to be a principal residence, including cooperative housing, and falls within price guidelines established by the department, including costs for down payments, mortgage interest rate buy-downs, closing costs and other costs determined to be eligible by the department, (ii) payments for security deposits and advance payments for rental housing, and (iii) to contribute to the production of housing units that fall within price guidelines and that meet other requirements that may be established by the department. The department, subject to appropriation, shall contribute to the employer’s employer assisted housing fund 1 dollar for every 2 dollars expended by the employer from the employer assisted housing fund as provided in this subsection. The assistance granted pursuant to this act to each business shall not exceed 100,000 dollars annually. The total amount of assistance offered to all businesses under this subsection shall not exceed 5 million dollars annually.

(b) All employees, including seasonal employees, of the employer thereof whose annual household income does not exceed 120 per cent of the area median income as determined by the Federal Department of Housing and Urban Development shall be eligible for the employer assisted housing development program or housing fund; provided however, that not less than 25 per cent of the employer’s assisted housing development program or housing fund shall be for all employees whose annual household income does not exceed 80 per cent of the area median income as determined by the Federal Department of Housing and Urban Development.

Employers offering an employer assisted housing development program or housing funds may establish requirements for employee participation that are not inconsistent with the procedures adopted by the department.

(c) No assistance shall be granted to any bank, bank and trust company, insurance company, trust company, national bank, savings association, or building and loan association or any other corporate entity for activities that are a part of its normal course of business; provided, however, that such businesses may receive assistance pursuant to this act for their own employees.

(d) Participating employers shall comply with all state and federal affirmative marketing laws and regulations. Eligible employees must be given preference to purchase or rent units however, if the number of units exceeds the number of eligible employees willing to occupy said units the units may be rented or sold to non-employees whose household incomes do not exceed the income requirement as set forth in subsection (b) of this act. A unit that is resold or re-rented shall be first offered to eligible employees as set forth in this section.

(e) No more than 30 per cent of an employer's real property zoned as non-residential may be used for this program. Real property used in accordance with this act that lay in districts zoned for commercial use will be considered as residential property for local property tax purposes.

(f) Employers participating in the employer assisted housing development program shall designate through the sale, lease, donation or other agreement of real property a private for profit or not for profit developer that is not an affiliate, subsidiary, or other entity of said employer that

shall be responsible for the sale, rental, day to day management and operation of the units in accordance with this section.

(g) Employers participating in the employer assisted housing development program shall receive a 1 dollar credit towards any corporate tax liability to the state for the current or following fiscal year for every 1 dollar of the assessed value of real property used in accordance with this act. The total amount of tax credit available to all businesses under this act will not exceed 5 million dollars annually.

(h) The department shall promulgate written regulations for the establishment and operation of employer assisted housing development programs and employer assisted housing funds eligible for the assistance provided in this act. Such regulations shall include provisions for employee eligibility, specify the development activities and assistance that may take place and the documentation and procedures necessary for businesses to qualify for the assistance.

SECTION 2. Section 9 of Chapter 40A, of the General Law, as so appearing, is hereby amended by inserting after the words “low or moderate income,” in line 12 of paragraph two the following:- provide for employer assisted housing as set forth in section 30 of chapter 23B,

SECTION 3. Section 31 of Chapter 63 of the General Laws, as so appearing, is hereby amended by adding the following new section:--

31M(a) As used in this section, the following words shall have the following meanings:--

“Department”, the Department of Housing and Community Development.

“Director”, the director of the Department of Housing and Community Development.

(b) There is hereby established a credit for businesses offering an employer assisted housing fund to provide grants and loans for housing located in the state for all employees, including seasonal employees, of the business or any subsidiary thereof whose annual household income does not exceed 120 per cent of the area-wide median income as determined by the United States Department of Housing and Urban Development. Businesses offering an employer assisted housing program may establish requirements for employee participation that are not inconsistent with the procedures adopted by the department under subsection (c) of this subsection. The amount of the credit shall be 75 per cent of the amount paid during such tax year by a business into said fund. Grants and loans from any such fund shall be spent in this state and may be used for (i) the cost of housing that is to be a principal residence and falls within price guidelines established by the department, including costs for down payments, mortgage interest rate buy-downs, closing costs and other costs determined to be eligible by the department, (ii) payments for security deposits, advance payments for rental housing, moving costs, rental payments and (iii) to contribute to the production of housing units that fall within price guidelines and that meet other requirements that may be established by the department.

(c) The department shall adopt written procedures for the establishment and operation of employer assisted housing funds eligible for the credit provided in this section. Such procedures shall include provisions for employee eligibility and shall specify expenses for which grants and loans may be made and provide the documentation and procedures necessary for taxpayers to qualify for the tax credit.

(d) Any taxpayer claiming the credit allowed by this section shall submit documentation to the commissioner that the fund complies with written procedures for employer assisted housing funds established by the department under subsection (c) of this section.

(e) Nothing in this section shall be construed to prevent 2 or more taxpayers from participating jointly in 1 or more programs under the provisions of this section. Such joint programs shall be submitted, and acted upon, as a single program by the taxpayers involved.

(f) Any taxpayer which applies for the credit allowed by this section shall submit the documentation required under subsection (d) of this section to the department on or before November 1 of each year. The department shall review applications in the order received and award credits to those taxpayers whose employer assisted housing funds comply with the written procedures established under subsection (c) of this section. The credit shall be claimed on the tax return for the tax year during which the selected taxpayer made payment into the employer assisted housing fund. The sum of all tax credits granted pursuant to the provisions of this subsection shall not exceed 100,000 dollars annually per taxpayer. In no event shall the total amount of all tax credits allowed to all taxpayers pursuant to the provisions of this section exceed 2 million dollars in any 1 fiscal year.

(g) No tax credit shall be granted to any bank, bank and trust company, insurance company, trust company, national bank, savings association, or building and loan association or any other business entity for activities that are a part of its normal course of business; provided, however, that such businesses may receive tax credits pursuant to this section for employer assisted housing programs for their own employees.

(h) Any tax credit not used in the tax year during which the investment was made may be carried forward for the five immediately succeeding tax years until the full credit has been allowed. For tax years commencing on or after January 1, 2007, if the department determines that 60 per cent or more of an employer assisted housing fund has not been spent as provided in

146 this section by a taxpayer on or before the date that is 3 years after the date that an employer
147 assisted housing fund is established pursuant to this section by such taxpayer, the department
148 shall notify such taxpayer and the commissioner that the department has determined that 60 per
149 cent or more of the fund has not been loaned as provided in this section, and such taxpayer shall
150 be required to recapture the credits previously granted under this section, to the extent provided
151 for in written procedures of the department, on the first tax return required to be filed on or after
152 the date of such notice for a tax imposed by this chapter. If any amount of such recaptured credit
153 has not been paid to the commissioner on or before the due date of such return, such amount
154 shall bear interest at the rate of one per cent per month or fraction thereof from such due date to
155 the date of payment.

156 (i) The director and commissioner shall promulgate regulations necessary to implement
157 the provisions of this section.

158 (j) Credits pursuant to this section shall be available in tax years beginning on or after
159 January 1, 2007.

160 SECTION 4. For the purposes of funding the employer assisted housing program and the
161 employer assisted housing fund established pursuant to section 1 of this act
162\$10,000,000.