

HOUSE No. 1237

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to public 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. The General Laws are hereby amended by inserting after section 26A of
2 chapter 121B the following new section:--

3 Section 26B. Public Housing Innovation Program Powers.

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

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

15 “Affordable Housing”, homeownership or rental housing which is restricted to occupancy
16 by low or moderate income households of one or more persons and for which the sales prices or
17 rents are affordable as defined by the criteria for inclusion in the department’s subsidized
18 housing inventory or consistent with funding sources.

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

22 “Extremely low income household”, a household with a gross income at or less than 30
23 per cent of area median household income as most recently determined by the U.S. Department
24 of Housing and Urban Development, adjusted for household size.

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

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

35 “Public housing”, state-assisted housing developed through funds provided under chapter
36 167 of the acts of 1987, chapter 200 of the acts of 1948, chapter 667 of the acts of 1956, chapter
37 689 of the acts of 1974, and chapter 705 of the acts of 1966.

38 “Very low income household”, a household with a gross income at or less than 50 per
39 cent but greater than 30 per cent of area median household income as most recently determined
40 by the U.S. Department of Housing and Urban Development, adjusted for household size.

41 c. A housing authority or regional housing authority may apply to the department for
42 approval to participate in the public housing innovation program. Participation shall be limited
43 to applicants that have the ability to plan and carry out activities under this program, as
44 evidenced by prior performance in the operation and maintenance of public housing, need to
45 redevelop and repair occupied and vacant public housing units, and other appropriate factors as
46 determined by the director of the department; provided, that the department may determine the
47 total number of authorities, not to exceed ten, participating in this demonstration program. The
48 department shall require applicants to describe how residents will be provided with independent
49 technical assistance and shall encourage applications that demonstrate, create, or seek to achieve:
50 innovative models for the redevelopment and repair of public housing including for the elderly
51 and frail elderly, development of affordable housing, improved management, coordination
52 among several housing authorities, economic efficiencies, and expansion of economic
53 opportunities for residents and for the Commonwealth. Applications may include less than the
54 applicant’s entire portfolio at the applicant’s choosing. The department shall act on said
55 application within 90 days of submission thereof and shall approve applications that meet the
56 criteria established by the director, up to the number established by the department. The
57 department and the participating housing authority shall enter into an agreement summarizing the

58 terms of participation, voluntary withdrawal, and termination for material default and a timetable
59 for achieving objectives of the program. The initial term of participation shall be seven years,
60 unless the applicant requests a shorter time, which shall be extended in whole or in part by the
61 department so long as the housing authority has made satisfactory progress toward its goals, the
62 extension will meet the original objectives of the program, and the housing authority has not
63 received a negative evaluation pursuant to paragraph 1 of this section. Upon expiration or earlier
64 termination of an agreement the department shall work cooperatively with the housing authority
65 in a transition process, which may provide for retention of elements of the program implemented
66 during participation including but not limited to contractual agreements with third parties that
67 contain terms that extend beyond the term of participation that were referenced in the
68 demonstration program participation agreement or approved annual report.

69 d. The department shall disburse all funding for a participating housing authority or
70 regional housing authority on a predictable schedule to permit and encourage planning and
71 efficiency by the housing authority.

72 e. To the extent necessary, and except for the provisions in paragraph g of this section,
73 the sections of this chapter which conflict with the powers granted under this section or
74 substantially restrict a housing authority's ability to achieve the goals specified in its application
75 or plan shall not apply to a housing authority or regional housing authority approved by the
76 department to participate in the public housing initiative program.

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

80 i. To combine all forms of assistance received from the Commonwealth and other
81 sources, including, but not limited to, operating subsidy, modernization funds, and other funds or
82 grants, such funds to be utilized for the operation, redevelopment, and repair of public housing,
83 affordable housing, and other purposes as authorized by this section, provided that a housing
84 authority shall not receive diminished assistance by virtue of participation in the program under
85 this chapter.

86 ii. To establish a reasonable rent policy, which shall be included in the annual plan
87 required by paragraph h, that shall (a) be designed to provide incentives to improved
88 employment and training and self-sufficiency by participating families, (b) include transition and
89 hardship provisions, (c) include in the transition period a limit on rent increases in any one year
90 related solely to the change in the rent policy to no more than 10 per cent for the duration of the
91 transition period, (d) provide a rent cap for tenant households at or below 50 per cent of area
92 median income, adjusted for family size, of not more than the maximum tenant rental payments
93 including, if applicable, minimum rents permitted by section 32, and (e) provide a rent cap for
94 elderly and handicapped persons of low income of not more than the maximum tenant rental
95 payments including, if applicable, minimum rents permitted by section 32 and section 40(e).

96 iii. To establish, and include as part of the annual plan required by paragraph h, local
97 methods of tenant or homeowner selection, provided that the method is fair, objective, public,
98 and does not discriminate against any applicant based on any protected category in chapter 151B
99 or any other fair housing laws and provides admissions preferences for homeless households,
100 veterans, and victims of domestic violence.

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

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

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

112 vii. To acquire any property to carry out its purposes, and to dispose of any property of
113 the local housing authority without repayment of bonds to the commonwealth notwithstanding
114 any provision of chapter 121B to the contrary, unless otherwise required by law or contract,
115 provided that the proceeds of any such disposition must be applied to acquisition, operation,
116 development, rehabilitation, or repair of public or affordable housing.

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

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

- 121 i. comply with the provisions of section 12 of chapter 121B, related to wages, labor
122 requirements, and Social Security;
- 123 ii. comply with the provisions of section 29 of chapter 121B, related to wage rates and
124 collective bargaining;
- 125 iii. to the extent possible, retain the same number of public housing units as existed
126 before participation in this program;
- 127 iv. provide for full tenant participation, including public hearing, on adoption or material
128 amendment of its annual plan as required under paragraph h;
- 129 v. provide for a tenant lease and grievance procedure substantially similar to that in effect
130 prior to entry into the program under this section;
- 131 vi. provide that evictions shall be only for good cause;
- 132 vii. assure that housing assisted under the program in this chapter is decent, safe and
133 sanitary, and that, excepting any market-rate housing, the housing is deed restricted to occupancy
134 by extremely-low, very low, or low and moderate-income households at affordable rents or sales
135 prices, in perpetuity or for such other term as may be approved by the department, consistent
136 with funding sources;
- 137 viii. assure that proceeds from the disposition of public housing and funds generated from
138 new affordable housing created to replace public housing, unless restricted to a particular use,
139 shall be allocated to the reconstruction, rehabilitation, or repair of public housing developments;
- 140 ix.. assure that if a participating housing authority redevelops its public housing units, all
141 households residing in the units at the time of planned redevelopment shall receive relocation

142 assistance, if eligible, under this chapter or other applicable statutes, and shall have the right to
143 return to the redeveloped public housing, subject to remaining in good standing and subject to
144 units of the appropriate size and requirements being available. Such households shall have
145 priority for placement over new applicants; and

146 x. comply with chapter 334 of the acts of 2006.

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

153 i. state the housing authority's goals and objectives under the program for its fiscal year;

154 ii. describe the housing authority's proposed use of assistance for activities under the
155 program for the fiscal year;

156 iii. describe how the housing authority will achieve the repair or redevelopment or both
157 of public housing;

158 iv. state the housing authority's proposed income mix, extremely low, very low, low,
159 moderate, and market, for its portfolio;

160 v. explain how the housing authority's proposed activities will meet its goals and
161 objectives;

162 vi. include appropriate budgets and financial statements; and

163 vii. describe the resident participation procedure and what independent technical
164 assistance will be made available to residents.

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

170 i. In place of all other planning and reporting requirements, each housing authority
171 participating in the program under this chapter shall submit to the department annually a single
172 annual report, in a form and at a time specified by the department. The annual report shall be
173 the primary means by which the housing authority shall be required to provide information to the
174 department on the activities assisted under this section during a fiscal year, unless the department
175 has reason to believe that the housing authority has violated the terms of the program. Each
176 annual report shall:

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

179 ii. describe and analyze the effect of assisted activities in addressing the objectives of this
180 section, including the effect of rent and tenant selection policies;

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

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

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

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

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

192 j. Any report submitted pursuant to paragraph i shall be deemed approved unless the
193 department, within 45 days of submission, issues a written disapproval because the department
194 reasonably determines, based on information contained in the report or other reliable information
195 available to the department that the housing authority is not in compliance with the provisions of
196 this section or other applicable law.

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

201 ii. The department shall have access for the purpose of audit and examination to any
202 books, documents, papers, and records that are pertinent to assistance in connection with, and the
203 requirements of, this section; provided, however, that such access shall be obtained solely

204 through the annual report, unless the department has reason to believe that the housing authority
205 is not in compliance with its program.

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

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

214 SECTION 2. The department of housing and community development shall establish a
215 nine member advisory committee whose members shall include the director of the department or
216 his designee, one representative selected by Citizens' Housing and Planning Association, one
217 representative selected by the Massachusetts Chapter of the National Association of Housing and
218 Redevelopment Officials, one representative selected by the Massachusetts Union of Public
219 Housing Tenants, one representative selected by the Massachusetts Coalition for the Homeless,
220 and four additional members chosen by the director to provide advice and recommendations to
221 the department regarding regulations to implement the provisions of this act and to provide
222 ongoing assistance in determining the effectiveness of the public housing innovation program,
223 and the department shall adopt regulations implementing the provisions of this act within ninety
224 days of the effective date of the act, and the department shall annually report to the house and
225 senate committees on ways and means and the joint committee on housing on the participation of

226 housing authorities in the public housing innovation program. Participation in the advisory
227 committee, or actions taken on behalf of the committee, or actions in relation to transactions
228 between the committee, or actions in relation to transactions between the committee and other
229 public or private entities represented on the committee, by any individual otherwise subject to
230 chapter 268A of the General Laws, shall not be deemed to violate the provisions of chapter
231 268A.