HOUSE DOCKET, NO. 312 FILED ON: 1/13/2015

HOUSE . . . . . No. 1596

The Commonwealth of Massachusetts

PRESENTED BY:

Alan Silvia

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 maintaining parity in legal services for small property owners.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Alan Silvia	*7th Bristol*
Carole A. Fiola	*6th Bristol*
Paul A. Schmid, III	*8th Bristol*
Josh S. Cutler	*6th Plymouth*
Joseph W. McGonagle, Jr.	*28th Middlesex*
Michael O. Moore	*Second Worcester*

HOUSE DOCKET, NO. 312 FILED ON: 1/13/2015

HOUSE . . . . . No. 1596

By Mr. Silvia of Fall River, a petition (accompanied by bill, House, No. 1596) of Alan Silvia and others for legislation to provide legal services to small business property owners. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1615* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act maintaining parity in legal services for small property owners.

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. Chapter 221A of the General Laws is hereby amended by striking out section 1, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 1. As used in this chapter, the following words and terms shall have the following meanings:—

"Board", the board of directors of the Massachusetts Legal Assistance Corporation.

"Corporation", the Massachusetts Legal Assistance Corporation.

"Eligible client", any indigent person or qualified small business land owner ("QSBLO") who is a resident of the commonwealth.

10 “Fee generating case”, any matter which, if undertaken on behalf of an eligible client by
11 an attorney in private practice, may reasonably be expected to result in payment of the fee of
12 such attorney from an award to the client or by the opposing party.

13 “Fiscal year”, the twelve-month period beginning on July first and ending on June
14 thirtieth.

15 “Fund”, the Legal Assistance Fund.

16 “Indigent person”, a person who receives public assistance under the Massachusetts Aid
17 to Families with Dependent Children, general relief or veterans’ benefits programs or receives
18 assistance under Title XVI of the Social Security Act, or the Medicaid

19 Program, 42 USC 1396 to 1396(n), inclusive, or a person whose income, after taxes, is
20 one hundred and twenty-five per cent or less of the current poverty threshold annually
21 established by the United States Office of Management and Budget, or a person who is otherwise
22 considered indigent due to hardship circumstances under standards established by the board.

23 “Local program”, a qualified legal services program serving clients in an area limited to
24 certain counties, cities, or towns of the commonwealth.

25 “Qualified legal services program”, a nonprofit program which provides legal services in
26 civil cases without charge to indigent persons and has a board of directors composed of both
27 attorneys and consumers of legal services. Legal services programs which have been or are
28 funded in whole or in part by the Legal Services Corporation established pursuant to 42 USC
29 2996 to 2996(l), inclusive, shall be presumed to be qualified legal services programs.

30 “Qualified small business land owner” (“QSBLO”), a landowner owning, personally or
31 through a business entity, three or fewer properties whose annual income falls below guidelines
32 set by the Board or who property(ies) fall with the Loan to Value guideline ratios established by
33 the Board.

34 “Recipient”, a qualified legal services program receiving financial assistance under this
35 chapter.

36 “Statewide program”, a qualified legal services program serving eligible clients, or
37 providing support services to local programs throughout the commonwealth.

38

39 SECTION 2. Chapter 221A of the General Laws is hereby amended by striking out
40 section 9, as appearing in the 201008 Official Edition, and inserting in place thereof the
41 following section:-

42 Section 9. The corporation shall, subject to appropriation or to the amount of monies
43 available from the fund, or from funds made available from any other public or private source,
44 provide financial assistance to both local and statewide programs. In each fiscal year at least
45 80eighty per cent of such financial assistance shall be distributed to local programs on a basis
46 proportionate to the number of eligible clients within the service areas of such local programs.
47 Up to 20twenty per cent of such assistance may be distributed to statewide programs.

48 Eligible client calculations shall also consider parity amongst participants in landlord
49 tenant disputes to determine if the landlord of an eligible client tenant is also an eligible client as
50 a qualified small business land owner” (“QSBLO”). If a tenant pursuing legal action against his

51 or her landlord or a tenant involved in a sSummary pProcess aAction described in chapter 239 is
52 deemed eligible, before they may receive service the tenant's landlord shall be notified and
53 evaluated for need. If the landlord is deemed eligible as a QSBLO then no legal service may be
54 provided to the eligible client tenant unless legal services are also provided to the eligible
55 landlord.

56 In the distribution of such assistance the corporation shall insure the maintenance of the
57 highest quality of service and professional standards, the preservation of attorney-client
58 relationships, and the protection of the integrity of the adversary process from any impairment,
59 and that recipients, consistent with goals established by the corporation, shall adopt procedures
60 for determining and implementing priorities for the provision of such assistance, taking into
61 account the relative needs of eligible clients for such assistance, including such outreach,
62 training, and support services as may be necessary, including, particularly, the needs for service
63 on the part of significant segments of the population of eligible clients with special difficulties of
64 access to legal services or special legal problems, including elderly and handicapped individuals,
65 and appropriate training and support services; and, in order to provide such assistance to such
66 significant segments of the population of eligible clients; that attorneys employed full time in
67 legal assistance activities supported in major part by the corporation refrain from any
68 compensated outside practice of law, and any uncompensated outside practice of law except as
69 authorized in guidelines promulgated by the corporation; and that no financial assistance
70 distributed pursuant to this chapter shall be used to provide legal assistance with respect to any
71 fee generating case, or to provide legal assistance with respect to any criminal proceeding or civil
72 action arising out of or brought for the purpose of challenging the validity of a criminal
73 conviction, or to provide services to persons who are not eligible clients; and that a substantial

74 amount of financial assistance distributed pursuant to this chapter shall be provided, under
75 standards established by the board, for compensation for legal services to indigent persons which
76 are provided by attorneys who engage in the private practice of law.

77

78 SECTION 3. The board of directors of the Massachusetts Legal Assistance Corporation
79 shall establish guidelines for determining qualified small business land owners through income
80 or through the loan to value ratio of the property or properties(ies).