

HOUSE No. 4541

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 9, 2020.

The committee on Housing, to whom was referred the petition (accompanied by bill, House, No. 3562) of Nika C. Elugardo and others relative to municipal affordable housing incentives and services, reports recommending that the accompanying bill (House, No. 4541) ought to pass {Representative Crocker of Barnstable dissents}.

For the committee,

KEVIN G. HONAN.

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In the One Hundred and Ninety-First General Court
(2019-2020)

An Act enabling public housing authorities to borrow against real estate equity of publicly-owned properties.

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 court hereby finds and declares that:

2 (i) safe and affordable housing, like education and healthcare, is a right, and the tools
3 and assets of the commonwealth may be leveraged or otherwise used to develop programming
4 and cooperative financing agreements consistent with a public policy of equitable housing for
5 all;

6 (ii) land owned by the commonwealth is such an asset and provides municipalities
7 with the choice of developing affordable housing;

8 (iii) municipal control over the reality of affordable housing will provide holistic
9 improvements to the quality of life of the commonwealth’s citizens by reducing high economic
10 costs associated with housing poverty and the corollary negative impacts on public health and
11 safety; and

12 (iv) the assets of the commonwealth enable public housing tenants to organize at the
13 municipal level toward self-sustaining programs and projects that promote housing access and
14 justice.

15 SECTION 2. The General Laws are hereby amended by inserting after chapter 40W the
16 following chapter:–

17 Chapter 40X.

18 MUNICIPAL AFFORDABLE HOUSING INCENTIVES AND SERVICES

19 Section 1. The following terms shall, unless a different meaning clearly appears from the
20 context, have the following meanings:–

21 “Commissioner”, the commissioner of the department of capital asset management and
22 maintenance.

23 “Executive office”, executive office of housing and economic development.

24 “Housing authority”, a housing authority or regional housing authority established
25 pursuant to either sections 3 or 3A of chapter 121B, or a housing authority’s instrumentalities or
26 controlled affiliates.

27 “Publicly owned”, an interest in real property of a housing authority or an interest in real
28 property record title to which is held in the name of a state agency, or the board of a state agency
29 or similar board of a state agency under section 32 of chapter 7C.

30 “Secretary”, secretary of housing and economic development.

31 Section 2. Prior to disposition of publicly owned real property of the commonwealth
32 pursuant to chapter 7C, the commissioner in coordination with the secretary shall determine
33 whether such real property shall be made available for municipal affordable housing incentives
34 and services pursuant to this chapter.

35 In making such determination the commissioner and the secretary shall take into account
36 the following factors:

37 (i) existing zoning that limits the siting of low or moderate income housing in the
38 city or town in which the publicly owned real property is located;

39 (ii) financial or other deterrents to the production of low or moderate income housing
40 in the city or town in which the real property is located; and

41 (iii) ensuring that real property for disposition under this chapter is fairly made
42 available to all regions of the commonwealth, including gateway municipalities, rural areas and
43 suburban areas.

44 Upon making the determination that publicly owned real property shall be made available
45 for disposition under this chapter, the commissioner and the secretary shall, notwithstanding
46 chapter 7C or any other law to the contrary, declare the property available to the city or town in
47 which the property is located for development of low or moderate income housing in accordance
48 with this chapter.

49 Section 3. A housing authority with publicly owned real property may undertake a
50 program for municipal affordable housing development, incentives and services.

51 Section 4. Notwithstanding the provisions of chapter 40A or any other law to the
52 contrary, a housing authority may propose to build low or moderate income housing in
53 partnership with a nonprofit organization or a community development corporation, or alone, in
54 a single application pursuant to section 21 of chapter 40B and this chapter. The provisions of
55 sections 20 to 23, inclusive, of said chapter 40B shall apply to such application.

56 Section 5. A city or town with a housing authority or similar demonstration of capacity to
57 comply with this chapter may participate in a program to borrow funds against real estate equity
58 of publicly owned properties to provide for municipal affordable housing incentives and services
59 as established in this chapter.

60 Section 6. The secretary shall oversee the program, and the executive office shall
61 promulgate regulations, including the definition of capacity as referenced in section 5. In
62 addition to affordable housing development, the program may include the following services in
63 conjunction with the building of low or moderate income housing:

- 64 (i) municipal decision-making processes;
- 65 (ii) education services for tenants;
- 66 (iii) tenant organized projects;
- 67 (iv) community benefits, including for example: community centers, daycare, and
68 education programs;
- 69 (v) provisions for livable safe communities;
- 70 (vi) maintenance of quality and equitable affordable housing; and

71 (vii) ownership interests of tenants.

72 Section 7. A municipality participating in this chapter shall submit an application through
73 its housing authority to the executive office for acquisition of state property declared to be
74 available for municipal affordable housing incentives and services. The executive office shall
75 promulgate the regulations for this process.

76 Upon such application, the municipality may apply for development and financial
77 assistance in the form of grants or loans. Such application shall receive priority for such grants or
78 loans over a non-participating city or town.

79 SECTION 3. Section 34 of chapter 121B of the General Laws is hereby amended by
80 adding the following paragraph:-

81 Notwithstanding any general or special law to the contrary, construction and development
82 activity related to redevelopment of federally or state-aided public housing projects where the
83 land, buildings or structures associated with the housing project will be or have been conveyed or
84 transferred to a private entity for purposes of completing the redevelopment shall not be subject
85 to any general or special law related to the procurement and award of contracts for the planning,
86 design, construction management, construction, reconstruction, installation, demolition,
87 maintenance or repair of buildings by a public agency; provided that, the executive office shall
88 review and approve the procurement processes used to undertake this redevelopment; provided,
89 however, that sections 26 to 27H, inclusive, of chapter 149 shall apply to all construction,
90 reconstruction, installation, demolition, maintenance and repair contracts or projects by a public
91 agency or private entity undertaken pursuant to this section. A project procured prior to a

92 conveyance or transfer to a private entity shall not proceed unless and until the conveyance or
93 transfer to the private entity has occurred.