

SENATE No. 861

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph A. Boncore

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 relative to affirmatively furthering fair housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/25/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/26/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>4/1/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>4/7/2021</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>4/29/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>6/16/2021</i>

SENATE No. 861

By Mr. Boncore, a petition (accompanied by bill, Senate, No. 861) of Joseph A. Boncore, Jack Patrick Lewis, Jason M. Lewis, James B. Eldridge and others for legislation relative to affirmatively furthering fair housing. Housing.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to affirmatively furthering fair 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 so appearing, is hereby amended by
2 adding the following section:-

3 Section 31. As used in sections 31 to 32, inclusive, the following words shall have the
4 following meanings:

5 “Affirmatively further fair housing” means taking meaningful actions, in addition to
6 combating discrimination, that overcome patterns of segregation and foster inclusive
7 communities free from barriers that restrict access to opportunity based on protected
8 characteristics. Specifically, to affirmatively further fair housing means to take meaningful
9 actions that, taken together, address significant disparities in housing needs and in access to
10 opportunity, replacing segregated living patterns with truly integrated and balanced living
11 patterns, transforming racially and ethnically concentrated areas of poverty into areas of
12 opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

“Meaningful actions” means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity.

“Public entity” means (i) any department or office of a state or municipal government and any council, division, board, bureau, commission, institution, tribunal or other instrumentality thereof or thereunder; and (ii) any other political subdivision of the state that is a grantee or sub-grantee receiving funds provided by the United States Department of Housing and Urban Development under the Community Development Block Grant program, the Emergency Solutions Grants program, the HOME Investment Partnerships program, or the Housing Opportunities for Persons With AIDS program or the successors to these programs.

“Protected characteristics” means any characteristic enumerated in chapter 151B of the Massachusetts General Laws.

SECTION 2. Chapter 23B of the General Laws, as so appearing, is hereby amended by adding the following section:-

Section 32. (a) A public entity affecting housing and community development shall administer its programs and activities in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.

(b) There shall be a commission to determine how a public entity shall fulfill its obligation to affirmatively further fair housing as created by this section. The commission shall establish different categories of public entities based on criteria identified by the commission. The categories shall include, but not be limited to exclusionary municipal governments, local governments where there is a high risk of displacement, and local housing authorities. The

commission shall establish lists of meaningful actions that a public entity may take to fulfill the obligation to affirmatively further fair housing created by this section, with such lists being specific to the types of public entities and specific protected characteristics. The commission shall establish the minimum number of actions a public entity must take in order to fulfill its obligation to affirmatively further fair housing as created by this section.

The commission shall be chaired by the secretary of housing and economic development, or a designee. The commission shall consist of, but not be limited to, the following members or their designees: the house and senate chairs of the joint committee on housing; one member of the house of representatives who shall be appointed by the minority leader and one member of the senate who shall be appointed by the minority leader; the undersecretary of housing and community development; the Massachusetts Attorney General; a member from each of the Massachusetts regional planning agencies; the executive director of the Massachusetts Housing Partnership; one member from Citizens' Housing and Planning Association; one member from the Massachusetts Municipal Association; one member from the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials; one member from the Massachusetts Union of Public Housing Tenants; at least six members representing those with protected characteristics; and at least two experienced civil rights practitioners.

The commission shall submit its report and findings to the joint committee on housing and the clerks of the house of representatives and senate no later than one year following the passage of this act.

(c) Compliance by a public entity with its obligation to affirmatively further fair housing as created by this section shall be evaluated every three years.

(d) Any person, as defined by Chapter 151B, may institute and prosecute a civil action for injunctive and other appropriate equitable relief for a public entity's failure to affirmatively further fair housing as described in this section and regulations promulgated by the department of housing and community development. A prevailing plaintiff shall be entitled to an award of the costs of the litigation and reasonable attorneys' fees in an amount fixed by the court or by agreement of the parties.

(e) The compliance of a public entity with the duty to affirmatively further fair housing as created in this section shall not relieve a public entity from any obligation to affirmatively further fair housing under federal law.

(f) The compliance of a public entity with any obligation to affirmatively further fair housing created under federal law shall not relieve a public entity from the obligation to affirmatively further fair housing as created in this section. The provisions of this section shall be construed liberally for the accomplishment of the remedial purposes thereof, regardless of whether federal laws, including those laws with provisions comparably worded to the provisions of this section, have been so construed.

(g) The department of housing and community development shall promulgate guidelines to implement this section and to incorporate the report and findings of the commission created by this section.