

SENATE No. 853

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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 financing the transition to fossil fuel-free buildings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>Norfolk and Middlesex</i>	
<i>Marc R. Pacheco</i>	<i>Third Bristol and Plymouth</i>	<i>4/12/2023</i>

SENATE No. 853

By Ms. Creem, a petition (accompanied by bill, Senate, No. 853) of Cynthia Stone Creem for legislation to finance the transition to fossil fuel-free buildings. Housing.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act financing the transition to fossil fuel-free buildings.

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 2020 Official
2 Edition, is hereby amended by inserting the following sections:-

3 Section 31. (a) As used in this section, the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:-

5 “Income-eligible household,” an individual or family whose income meets the
6 requirements of the Mortgage Revenue Bond program established pursuant to the Internal
7 Revenue Code of 1986, § 143.

8 “Deferred loan,” a loan secured by a mortgage on real estate or personal property, the
9 repayment of which may be deferred until sale, transfer, or refinancing of the property.

10 (b) There shall be a fossil fuel-free building loan program in the department of housing
11 and community development. Said program shall assist residential property owners and small
12 businesses throughout the commonwealth in financing any renovations, upgrades, or

13 improvements, including the purchase and installation of equipment, that are necessary to ensure
14 that their property does not, in support of its operation after renovation, upgrade, or
15 improvement, utilize coal, oil, natural gas, other fuel hydrocarbons, including synthetic
16 equivalents, or other fossil fuels. The department of housing and community development and
17 the Massachusetts housing finance agency shall administer said program and may distribute
18 funds through community action agencies, redevelopment agencies, local nonprofit community
19 and housing agencies, and other appropriate municipal and non-profit agencies and
20 organizations.

21 Agencies and organizations eligible for loans under this program shall be selected by the
22 department of housing and community development in consultation with the Massachusetts
23 housing finance agency. Not less than one-half of funds allocated for this program shall be
24 distributed to agencies and organizations that predominantly serve communities where the
25 median household income is lower than 80 percent of the commonwealth's median household
26 income. Each agency or organization wishing to receive funding from the program shall submit
27 to for approval by the department of housing and community development a fossil fuel-free
28 building plan that: (1) describes how the agency or organization will promote the program to
29 contractors, residential property owners, and small businesses; (2) identifies strategic
30 intervention points, including but not limited to the building permit application process, when the
31 agency or organization will share information about the program with residential property
32 owners and small businesses; (3) describes the agency or organization's plan to ensure equitable
33 access to and utilization of the program; and (4) describes how the agency or organization will
34 ensure that participating residential property owners and small businesses take full advantage of
35 all available state and federal efficiency and electrification incentives before entering into a fossil

36 fuel-free building loan agreement. The department of housing and community development shall
37 provide grants to assist agencies and organizations in developing fossil fuel-free building plans.

38 The department of housing and community development shall report to the clerks of the
39 house of representatives and the senate not later than October first of each year concerning the
40 distribution of loan funds under this program. The department of housing and community
41 development, in consultation with the Massachusetts housing finance agency, shall promulgate
42 regulations necessary to administer this program and which establish reasonable terms and
43 conditions of loans provided through the program; provided, that such terms and conditions shall
44 comply with the provisions of subsection (c).

45 (c) Loans provided under the program established in subsection (b) shall comply with the
46 following requirements:

47 (1) For owner-occupants that are income-eligible households, deferred loans with 0
48 percent interest shall be available.

49 (2) For owner-occupants that are not income-eligible households, 0 percent fully
50 amortizing loans shall be available.

51 (3) For non-profit organizations, 0 percent fully amortizing loans shall be available.

52 (4) For non-owner occupant landlords and for-profit entities renovating, upgrading, or
53 improving properties that are being rented predominantly to income-eligible households, fully
54 amortizing loans with an interest rate not to exceed 2 percent shall be available.

55 (5) For non-owner occupant landlords and for-profit entities renovating, upgrading, or
56 improving properties that are not being rented predominantly to income-eligible households,
57 fully amortizing loans with an interest rate not to exceed 3 percent shall be available.

58 Section 32. (a) As used in this section, the following words shall, unless the context
59 clearly requires otherwise, have the following meanings:-

60 "Income-eligible household," an individual or family whose income meets the
61 requirements of the Mortgage Revenue Bond program established pursuant to the Internal
62 Revenue Code of 1986, § 143.

63 (b) There shall be a fossil fuel-free housing betterment program administered jointly by
64 the department of housing and community development and participating municipalities. Not
65 less than one-half of funds allocated for this program shall be distributed to municipalities where
66 the median household income is lower than 80 percent of the commonwealth's median
67 household income. In order to participate in the fossil fuel-free housing betterment program, a
68 municipality must submit for approval by the department of housing and community
69 development a local fossil fuel-free housing betterment plan that: (1) describes how the
70 municipality will promote the program to contractors and residential property owners; (2)
71 identifies strategic intervention points, including but not limited to the building permit
72 application process, when the municipality will share information about the program with
73 residential property owners; (3) describes the municipality's plan to ensure equitable access to
74 and utilization of the program; and (4) describes how the municipality will ensure that
75 participating residential property owners take full advantage of all available state and federal
76 efficiency and electrification incentives before entering into a fossil fuel-free building loan

77 agreement. The department of housing and community development shall provide grants to assist
78 municipalities in developing local fossil fuel-free housing betterment plans. The department of
79 housing and community development shall provide participating municipalities with zero-
80 interest loans to finance the betterment agreements described in subsection (c). A municipality
81 may use up to 2.5 percent of the loan funds it receives through the fossil fuel-free housing
82 betterment program to administer its local fossil fuel-free housing betterment plan and the
83 betterment agreements it enters into pursuant to subsection (c) and may obtain consultant
84 services to administer said plan and agreements.

85 (c) The owner of a residential structure with 4 or fewer units may enter an agreement
86 with the municipality in which the structure is located to finance its renovation, upgrade, or
87 improvement, including through the purchase and installation of equipment, at the owners
88 expense, so that it does not, in support of its operation after renovation, upgrade, or
89 improvement, utilize coal, oil, natural gas, other fuel hydrocarbons, including synthetic
90 equivalents, or other fossil fuels. An owner who enters into such an agreement shall be
91 responsible for all expenses incurred by the municipality, directly or indirectly, or required by
92 the municipality and incurred by the owner for such renovation, upgrade, or improvement. A
93 notice of such agreement shall be recorded as a betterment and be subject to the provisions of
94 chapter eighty relative to the apportionment, division, reassessment and collection of assessment,
95 abatement and collections of assessments, and to interest; provided, however, that for purposes
96 of this section, such lien shall take effect by operation of law on the day immediately following
97 the due date of such assessment or apportioned part of such assessment and such assessment may
98 bear interest at a rate determined by the city or town treasurer by agreement with the owner at the
99 time such agreement is entered into between the municipality and the property owner. In addition

100 to remedies available under chapter eighty, the property owner shall be personally liable for the
101 repayment of the total costs incurred by the municipality this section; provided, however, that
102 upon assumption of such personal obligation to a purchaser or other transferee of all of the
103 original owners interest in the property at the time of conveyance and the recording of such
104 assumption, the owner shall be relieved of such personal liability.

105 Any costs incurred under the provisions of this section may be funded by an
106 appropriation or issuance of debt, provided that any debt incurred shall be subject to the
107 provisions of chapter forty-four and shall not exceed twenty years.

108 Any appropriation or borrowing by the municipality for purposes contained within this
109 section shall not be included for the purpose of computation of the levy or borrowing limits
110 otherwise imposed upon such municipality by the general laws.

111 An agreement between an owner and a municipality pursuant to this section shall not be
112 considered a breach of limitation or prohibition contained in a note, mortgage or contract on the
113 transfer of an interest in property.

114 A municipality town acting pursuant to the provisions of this section shall have the same
115 authority as set forth in section one hundred and twenty-seven B to institute an action for
116 eviction. Any such action by the municipality shall not otherwise impair the rights or obligations
117 of the occupants or owner with respect to each other.

118 Notwithstanding any provision of chapter 183A to the contrary, the organization of unit
119 owners of a condominium may petition the municipality to enter into a betterment agreement
120 pursuant to this section to finance a renovation, upgrade, or improvement, necessary to ensure
121 that specified condominium units do not, in support of their operation after renovation, upgrade,

122 or improvement, utilize coal, oil, natural gas, other fuel hydrocarbons, including synthetic
123 equivalents, or other fossil fuels; provided that such renovation, upgrade, or improvement
124 comprises part of the common areas and facilities. Such agreement shall: (i) be approved by a
125 majority of the unit owners benefited by the renovation; (ii) include an identification of the units
126 and unit owners subject to the agreement and the percentages, as set forth in the master deed, of
127 the undivided interests of the respective units in the common area and facilities; and (iii) include
128 a statement by an officer or trustee of the organization of unit owners certifying that the required
129 number of unit owners have approved the agreement. As between the affected unit owners and
130 the city or town, such certification shall be conclusive evidence of the authority of the
131 organization of unit owners to enter into the agreement. A notice of such agreement shall be
132 recorded as a betterment in the registry of deeds or registry district of the land court where the
133 master deed is recorded and shall be otherwise subject to the provisions of chapter 80 as
134 provided for in this section. The assessment under such agreement may be charged or assessed to
135 the organization of units owners but shall not constitute an assessment of common expenses.
136 Instead, the allocable share of the assessment, prorated on the basis of the percentage interests of
137 the benefited units in the common areas and facilities, shall attach as a lien only to the units
138 identified in the recorded notice and benefited by the renovation and the owners of such units
139 shall also be personally liable for their allocable share of the assessment as provided for in this
140 section. Words defined in section 1 of said chapter 183A and used in this paragraph have the
141 same meanings as appearing in said chapter 183A.

142 (d) Betterment loans provided under the program established in subsections (b) and (c)
143 shall comply with the following requirements:

144 (1) For owner-occupants and non-profit organizations, 0 percent fully amortizing loans
145 shall be available.

146 (4) For non-owner occupant landlords and for-profit entities renovating, upgrading, or
147 improving properties that are being rented predominantly to income-eligible households, fully
148 amortizing loans with an interest rate not to exceed 2 percent shall be available.

149 (3) For non-owner occupant landlords and for-profit entities renovating, upgrading, or
150 improving properties that are not being rented predominantly to income-eligible households,
151 fully amortizing loans with an interest rate not to exceed 3 percent shall be available.

152 (e) The department of housing and community development shall promulgate regulations
153 necessary to administer this program.

154 SECTION 2. Chapter 29 of the General Laws, as appearing in the 2020 Official Edition,
155 is hereby amended by inserting after section 2QQQQQ the following section:-

156 Section 2RRRRR. There shall be established and set up on the books of the
157 commonwealth a separate revolving fund, to be known as the Massachusetts Fossil fuel-free
158 Building Revolving Fund, to be expended, without further appropriation, by the department of
159 housing and community development for the fossil fuel-free building loan program established in
160 section 31 of chapter 23B and the fossil fuel-free housing betterment program established in
161 section 32 of said chapter 23B. The revolving fund shall be credited with: (i) any appropriations,
162 bond proceeds or other monies authorized by the general court and specifically designated to be
163 credited thereto; (ii) funds from public and private sources and other gifts, grants and donations;
164 (iii) any income derived from the investment of amounts credited to the revolving fund; and (iv)
165 the monies from the repayment of loans from the fund. All amounts credited to the revolving

166 fund shall be held in trust and used solely for activities and expenditures consistent with the
167 public purpose of the revolving fund and the ordinary and necessary expenses of administration
168 and operation associated with the revolving fund. All available monies in the revolving fund that
169 are unexpended at the end of each fiscal year shall not revert to the General Fund and shall be
170 available for expenditure in the subsequent fiscal year.