HOUSE No. 3672

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act promoting accessible housing for persons with disabilities..

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase accessible affordable housing for people with disabilities, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. To provide for a capital outlay program to support housing production and modification for persons with disabilities, elders, homeless individuals and families, and low and moderate income citizens of the commonwealth, the sums set forth for the several purposes and subject to the conditions specified in this act, are hereby made available

subject to the laws regulating the disbursement of public funds. 7004-0029.. For state financial assistance in the form of loans for the 6 development of community-based housing for individuals with mental illness and intellectual 7 disabilities; provided, that the loan program shall be administered by the department of housing and community development, hereinafter referred to in this item as the department, through 10 contracts with the Massachusetts Development Finance Agency established in chapter 23G of the 11 General Laws, the Community Economic Development Assistance Corporation established in 12 chapter 40H of the General Laws, operating agencies established pursuant to chapter 121B of the 13 General Laws and the Massachusetts Housing Finance Agency established in chapter 708 of the acts of 1966; provided further, that those agencies may develop or finance community-based housing, or may enter into subcontracts with nonprofit organizations established pursuant to chapter 180 of the General Laws or organizations in which such nonprofit corporations have a controlling financial or managerial interest or for-profit organizations; provided, however, that preference for the subcontracts shall be given to nonprofit organizations; provided further, that the department shall consider a balanced geographic plan for such community-based housing when issuing the loans; provided further, that the department shall consider development of a

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balanced range of housing models by prioritizing funds for integrated housing as defined by the
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    appropriate housing and service agencies including, but not limited to, the department of housing
    and community development, the Massachusetts rehabilitation commission, the department of
    mental health and the department of developmental services, in consultation with relevant and
    interested clients, their families, advocates and other parties as necessary; provided further, that
    loans issued pursuant to this item shall: (1) not exceed 50 per cent of the financing of the total
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    development costs; (2) be issued only when a contract or agreement for the use of the property
    for such housing provides for repayment to the commonwealth at the time of disposition of the
    property in an amount equal to the commonwealth's proportional contribution from the Facilities
   Consolidation Fund to the cost of the development through payments made by the state agency
    making the contract; (3) only be issued when a contract or agreement for the use of the property
    for the purposes of such housing provides for the recording of a deed restriction in the registry of
    deeds or the registry district of the land court of the county in which the real property is located,
    for the benefit of the departments, running with the land, that the land be used to provide
    community-based housing for eligible individuals as determined by the department of mental
    health and the department of developmental services; provided, that the property shall not be
    released from such restriction until the balance of the principal and interest for the loan has been
   repaid in full or until a mortgage foreclosure deed has been recorded; (4) be issued for a term not
    to exceed 30 years during which time repayment may be deferred by the loan issuing authority
    unless, at the end of any fiscal year, cash collections from all sources in connection with a
    community-based housing project, except for contributions, donations or grant moneys, exceed
42 105 per cent of cash expenditures on behalf of the project, including debt service, operating
    expenses and capital reserves, in which event such excess cash shall be paid to the
    commonwealth within 45 days of the end of the fiscal year, payable first to interest due
    hereunder and thereafter to principal advanced pursuant to the loan; provided further, that if on
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    the date the loans become due and payable to the commonwealth an outstanding balance exists,
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    and if, on such date, the department, in consultation with the executive office of health and
    human services, determines that there still exists a need for such housing and that there is
    continued funding available for the provision of services to such development, the department
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    may, by agreement with the owner of the development, extend the loans for such periods, each
    period not to exceed 10 years, as the department shall determine; provided, however, that the
    project shall remain affordable housing for the duration of the loan term, including any extension
    thereof, as set forth in the contract or agreement entered into by the department; and provided
    further, that in the event the terms of repayment detailed in this item would cause a project
    authorized by this item to become ineligible to receive federal funds which would otherwise
    assist in the development of that project, the department may waive the terms of repayment
    which would cause the project to become ineligible; and (5) have interest rates fixed at a rate, to
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    be determined by the department, in consultation with the state treasurer; provided further, that
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    expenditures from this item shall not be made for the purpose of refinancing outstanding
    mortgage loans for community-based housing in existence prior to the effective date of this act;
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61 provided further, that community-based housing projects developed pursuant to this item shall
62 not be refinanced during the term of any loan issued pursuant to this item unless the balance of
   the principal and interest for such loan has been repaid in full at the time of such refinancing:
64 provided further, that the community-based housing projects may be refinanced if the
   refinancing would result in a reduction of costs paid by the commonwealth; provided further,
66 that a refinanced loan shall be due and payable on a date not later than the date on which the
    original loan was due and payable, except in accordance with clause (4) when necessary to effect
   extraordinary repairs or maintenance which shall be approved by the commissioner of
    developmental services or the commissioner of mental health, as the case may be, and the
    department; provided further, that the loans shall be provided only for projects conforming to the
    provisions of this item; provided further, that the loans shall be issued in accordance with a
72 facilities consolidation plan prepared by the secretary of health and human services, reviewed
    and approved by the department and filed with the secretary for administration and finance and
    the house and senate committees on ways and means and the joint committee on housing;
    provided further, that no expenditure shall be made from this item without the prior approval of
   the secretary for administration and finance; provided further, that the department, the
    department of mental health and the Community Economic Development Assistance Corporation
78 may identify appropriate financing mechanisms and guidelines for grants or loans from this item
    to promote private development to produce housing, to provide for independent integrated living
    opportunities, to write down building and operating costs and to serve households at or below 15
    per cent of area median income for the benefit of department of mental health clients; provided
82 further, that not more than $10,000,000 may be expended from this item for a pilot program of
    community-based housing loans to serve mentally ill homeless individuals in the current or
84 former care of the department of mental health; provided further, that in implementing the pilot
    program, the department shall consider a balanced geographic plan when establishing
86 community-based residences; provided further, that the housing services made available pursuant
    to such loans shall not be construed as a right or an entitlement for any individual or class of
   persons to the benefits of the pilot program; provided further, that eligibility for the pilot
    program shall be established by regulations promulgated by the department; provided further,
90 that the department shall promulgate regulations pursuant to chapter 30A of the General Laws
    for the implementation, administration and enforcement of this item, consistent with the facilities
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    consolidation plan prepared by the secretary of health and human services, and after consultation
    with the secretary and the commissioner of the division of capital asset management and
    maintenance......$60,000,000
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7004-0030. For state financial assistance in the form of loans for the development and redevelopment of community-based housing for persons with disabilities who are institutionalized or at risk of being institutionalized, who are not eligible for housing developed pursuant to item 7004-0029; provided, that the loan program shall be administered by the department of housing and community development, hereinafter referred to in this item as the department, through contracts with the Massachusetts Development Finance Agency established

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101 in chapter 23G of the General Laws, the Community Economic Development Assistance
102 Corporation established in chapter 40H of the General Laws, operating agencies established
103 pursuant to chapter 121B of the General Laws and the Massachusetts Housing Finance Agency
104 established in chapter 708 of the acts of 1966; provided further, that the agencies may develop or
105 finance the community-based housing, or may enter into subcontracts with nonprofit
106 organizations established pursuant to chapter 180 of the General Laws or organizations in which
    such nonprofit corporations have a controlling financial or managerial interest or for-profit
     organizations; provided, however, that preference for such subcontracts shall be given to
     nonprofit organizations; provided further, that the department shall consider a balanced
     geographic plan for such community-based housing when issuing the loans; provided further,
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     that all housing developed with these funds shall be integrated housing as defined by the
     appropriate state housing and service agencies including the Massachusetts Rehabilitation
     Commission in consultation with relevant and interested clients, their families, advocates, and
     other parties as necessary; provided further, that loans issued pursuant to this item shall: (1) not
     exceed 50 per cent of the financing of the total development costs; (2) be issued only when a
     contract or agreement for the use of the property for the purposes of such housing provides for
     repayment to the commonwealth at the time of disposition of the property in an amount equal to
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     the commonwealth's proportional contribution from community based housing to the cost of the
     development through payments made by the state agency making the contract; (3) only be issued
     when a contract or agreement for the use of the property for the purposes of such community-
     based housing provides for the recording of a deed restriction in the registry of deeds or the
     registry district of the land court of the county in which the real property is located, for the
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     benefit of the departments, running with the land, that the land be used to provide community-
     based housing for eligible individuals as determined by the Massachusetts rehabilitation
     commission or other agency of the executive office of health and human services; provided
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     further, that the property shall not be released from such restrictions until the balance of the
     principal and interest for the loan has been repaid in full or until a mortgage foreclosure deed has
     been recorded; (4) be issued for a term not to exceed 30 years during which time repayment may
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     be deferred by the loan issuing authority unless, at the end of any fiscal year, cash collections
     from all sources in connection with a community-based housing project, except for contributions,
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     donations or grant moneys, exceed 105 per cent of cash expenditures on behalf of the project,
     including debt service, operating expenses, and capital reserves, in which event such excess cash
     shall be paid to the commonwealth within 45 days of the end of the fiscal year, payable first to
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     interest due hereunder and thereafter to principal advanced pursuant to the loan; provided further,
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     that if on the date the loans become due and payable to the commonwealth an outstanding
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     balance exists, and if on that date, the department, in consultation with the executive office of
     health and human services, determines that there still exists a need for such housing, the
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     department may, by agreement with the owner of the development, extend the loans for such
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     periods, each period not exceed 10 years, as the department shall determine; provided, however,
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     that the project shall continue to remain affordable housing for the duration of the loan term,
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141 including any extensions thereof, as set forth in the contract or agreement entered into by the 142 department; and provided further, that in the event the terms of repayment detailed in this item 143 would cause a project authorized by this item to become ineligible to receive federal funds which 144 would otherwise assist in the development of that project, that commissioner may waive the 145 terms of repayment which would cause the project to become ineligible; and (5) have interest 146 rates fixed at a rate, to be determined by the department, in consultation with the state treasurer; provided further, that expenditures from this item shall not be made for the purpose of 148 refinancing outstanding mortgage loans for community-based housing in existence before the effective date of this act; provided further, that community-based housing projects developed pursuant to this item shall not be refinanced during the term of any loan issued pursuant to this item unless the balance of the principal and interest for such loan is repaid in full at the time of 151 152 such refinancing; provided further, that the community-based housing projects may be refinanced if the refinancing would result in a reduction of costs paid by the commonwealth; provided further, that a refinanced loan shall be due and payable not later than the date on which 155 the original loan was due and payable, except in accordance with clause (4) of this item or when 156 necessary to effect extraordinary repairs or maintenance which shall be approved by the 157 commissioner of the Massachusetts rehabilitation commission or other agency of the executive 158 office of health and human services, as appropriate, and the department; provided further, the loans shall be provided only for projects conforming to this item; provided further, that the loans shall be issued in accordance with an enhancing community-based services plan prepared by the secretary of health and human services, in consultation with the department and filed with the 162 secretary for administration and finance and the house and senate committees on ways and 163 means and the joint committee on housing; provided further, that no expenditure shall be made from this item without the prior approval of the secretary for administration and finance; provided further, that the department shall promulgate regulations pursuant to chapter 30A of the General Laws for the implementation, administration and enforcement of this item, consistent with the enhancing community-based services plan prepared by the secretary of health and human services after consultation with the secretary and the commissioner of capital asset 169 management and maintenance.....\$30,000,000

SECTION 2. Section 13A of chapter 22 of the General Laws is hereby amended by striking out the words "physically handicapped," "physically handicapped person," and "handicapped person" wherever they appear and replacing said words with the following:-"person with disabilities". SECTION 3. The Architectural Access Board shall promulgate regulations pursuant to section 13A of chapter 22 of the general laws no later than January 1, 2012 that shall be substantially equivalent or greater than the Federal Fair Housing Amendments Act of 1988, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, to make applicable dwelling units readily accessible, usable, and/or adaptable for persons with disabilities.