

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Jeffrey Sánchez**

*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 passage of the accompanying bill:

An Act relative to public housing.

PETITION OF:

NAME:

Jeffrey Sánchez

DISTRICT/ADDRESS:

15th Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1280 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
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### AN ACT RELATIVE TO PUBLIC 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. The General Laws are hereby amended by inserting after section 26A of chapter  
2 121B the following new section:--

3 Section 26B. Public Housing Innovation Program Powers.

4 a. It is the purpose of this section to authorize, on a demonstration basis, the creative and  
5 efficient use of all forms of financial assistance from the Commonwealth to public housing  
6 authorities that operate state-assisted public housing developments to enable redevelopment and  
7 repair of existing state-assisted public housing developments, the redeveloped and repaired  
8 developments intended to serve primarily extremely low-income households, expansion and  
9 development of housing opportunities for elderly persons of low income, families of low income,  
10 and handicapped persons of low income, enhance opportunities for training, work, and education  
11 of public housing residents, and enhance the ability of elderly persons of low income and  
12 handicapped persons of low income to live independently.

13 b. The following words, whenever used in this section, shall, unless a different meaning  
14 clearly appears from the context, have the following meanings:--

15 “Affordable Housing”, homeownership or rental housing which is restricted to occupancy by low  
16 or moderate income households of one or more persons and for which the sales prices or rents  
17 are affordable as defined by the criteria for inclusion in the department’s subsidized housing  
18 inventory or consistent with funding sources.

19 “Affordable Housing Development”, a development of new or rehabilitated affordable housing,  
20 which may include market-rate housing if such market-rate housing is reasonably necessary for  
21 the financial feasibility of construction or operation of the affordable housing.

22 “Extremely low income household”, a household with a gross income at or less than 30 per cent  
23 of area median household income as most recently determined by the U.S. Department of  
24 Housing and Urban Development, adjusted for household size.

25 “Low or Moderate Income Household”, a household with gross income at or less than 80 per  
26 cent of area median household income as most recently determined by the U.S. Department of  
27 Housing and Urban Development, adjusted for household size.

28 “Market Rate Housing”, homeownership or rental housing which is not restricted to occupancy  
29 by low or moderate income households. Market-rate housing may be made available for  
30 occupancy by households without regard to income, and it may also include housing subject to  
31 maximum income limits to be occupied by households with gross income greater than 80 per  
32 cent but not more than 150 per cent of the area median household income as most recently  
33 determined by the United States Department of Housing and Urban Development, adjusted for  
34 household size.

35 “Public housing”, state-assisted housing developed through funds provided under chapter 167 of  
36 the acts of 1987, chapter 200 of the acts of 1948, chapter 667 of the acts of 1956, chapter 689 of  
37 the acts of 1974, and chapter 705 of the acts of 1966.

38 “Very low income household”, a household with a gross income at or less than 50 per cent but  
39 greater than 30 per cent of area median household income as most recently determined by the  
40 U.S. Department of Housing and Urban Development, adjusted for household size.

41 c. A housing authority or regional housing authority may apply to the department for  
42 approval to participate in the public housing innovation program. Participation shall be limited  
43 to applicants that have the ability to plan and carry out activities under this program, as  
44 evidenced by prior performance in the operation and maintenance of public housing, need to  
45 redevelop and repair occupied and vacant public housing units, and other appropriate factors as  
46 determined by the director of the department; provided, that the department may determine the  
47 total number of authorities, not to exceed ten, participating in this demonstration program. The  
48 department shall require applicants to describe how residents will be provided with independent  
49 technical assistance and shall encourage applications that demonstrate, create, or seek to achieve:  
50 innovative models for the redevelopment and repair of public housing including for the elderly  
51 and frail elderly, development of affordable housing, improved management, coordination  
52 among several housing authorities, economic efficiencies, and expansion of economic  
53 opportunities for residents and for the Commonwealth. Applications may include less than the  
54 applicant’s entire portfolio at the applicant’s choosing. The department shall act on said  
55 application within 90 days of submission thereof and shall approve applications that meet the  
56 criteria established by the director, up to the number established by the department. The  
57 department and the participating housing authority shall enter into an agreement summarizing the  
58 terms of participation, voluntary withdrawal, and termination for material default and a timetable  
59 for achieving objectives of the program. The initial term of participation shall be seven years,  
60 unless the applicant requests a shorter time, which shall be extended in whole or in part by the

61 department so long as the housing authority has made satisfactory progress toward its goals, the  
62 extension will meet the original objectives of the program, and the housing authority has not  
63 received a negative evaluation pursuant to paragraph l of this section. Upon expiration or earlier  
64 termination of an agreement the department shall work cooperatively with the housing authority  
65 in a transition process, which may provide for retention of elements of the program implemented  
66 during participation including but not limited to contractual agreements with third parties that  
67 contain terms that extend beyond the term of participation that were referenced in the  
68 demonstration program participation agreement or approved annual report.

69 d. The department shall disburse all funding for a participating housing authority or  
70 regional housing authority on a predictable schedule to permit and encourage planning and  
71 efficiency by the housing authority.

72 e. To the extent necessary, and except for the provisions in paragraph g of this section,  
73 the sections of this chapter which conflict with the powers granted under this section or  
74 substantially restrict a housing authority's ability to achieve the goals specified in its application  
75 or plan shall not apply to a housing authority or regional housing authority approved by the  
76 department to participate in the public housing initiative program.

77 f. Housing authorities and regional housing authorities participating in the public housing  
78 innovation program, in addition to those powers conferred in chapter 121B, shall have the  
79 following powers:

80 i. To combine all forms of assistance received from the Commonwealth and other  
81 sources, including, but not limited to, operating subsidy, modernization funds, and other  
82 funds or grants, such funds to be utilized for the operation, redevelopment, and repair of  
83 public housing, affordable housing, and other purposes as authorized by this section,  
84 provided that a housing authority shall not receive diminished assistance by virtue of  
85 participation in the program under this chapter.

86 ii. To establish a reasonable rent policy, which shall be included in the annual plan  
87 required by paragraph h, that shall (a) be designed to provide incentives to improved  
88 employment and training and self-sufficiency by participating families, (b) include  
89 transition and hardship provisions, (c) include in the transition period a limit on rent  
90 increases in any one year related solely to the change in the rent policy to no more than  
91 10 per cent for the duration of the transition period, (d) provide a rent cap for tenant  
92 households at or below 50 per cent of area median income, adjusted for family size, of  
93 not more than the maximum tenant rental payments including, if applicable, minimum  
94 rents permitted by section 32, and (e) provide a rent cap for elderly and handicapped  
95 persons of low income of not more than the maximum tenant rental payments including,  
96 if applicable, minimum rents permitted by section 32 and section 40(e).

97 iii. To establish, and include as part of the annual plan required by paragraph h, local  
98 methods of tenant or homeowner selection, provided that the method is fair, objective,  
99 public, and does not discriminate against any applicant based on any protected category  
100 in chapter 151B or any other fair housing laws and provides admissions preferences for  
101 homeless households, veterans, and victims of domestic violence.

102 iv. To create efficient, fair and open procurement policies for supplies, services, and real  
103 property, designed to reduce costs and to meet local need, which shall be included in the  
104 annual plan required by paragraph h.

105 v. To participate in mixed public/private affordable housing developments designed to  
106 rehabilitate, repair, replace, or develop, affordable housing, including public housing  
107 developments and projects developed pursuant to sections 26, 34, and 40 of chapter  
108 121B, and to create any legal entities or instrumentalities necessary to accomplish these  
109 purposes. Projects pursuant to this section may include a mix of extremely low, low,  
110 moderate, and market rate units, and may utilize any available source of rental subsidy or  
111 financial assistance.

112 vi. To create partnerships or consortia with other public or private entities for the  
113 operation, financing, or development of any program otherwise authorized by law.

114 vii. To acquire any property to carry out its purposes, and to dispose of any property of  
115 the local housing authority without repayment of bonds to the commonwealth  
116 notwithstanding any provision of chapter 121B to the contrary, unless otherwise required  
117 by law or contract, provided that the proceeds of any such disposition must be applied to  
118 acquisition, operation, development, rehabilitation, or repair of public or affordable  
119 housing.

120 viii. To enter into energy services contracts in accordance with chapter 25 section 11C for  
121 a period of up to 20 years.

122 g. Notwithstanding the provisions of paragraph f of this section, the local housing  
123 authority shall:

124 i. comply with the provisions of section 12 of chapter 121B, related to wages, labor  
125 requirements, and Social Security;

126 ii. comply with the provisions of section 29 of chapter 121B, related to wage rates and  
127 collective bargaining;

128 iii. to the extent possible, retain the same number of public housing units as existed  
129 before participation in this program;

130 iv. provide for full tenant participation, including public hearing, on adoption or material  
131 amendment of its annual plan as required under paragraph h;

132 v. provide for a tenant lease and grievance procedure substantially similar to that in effect  
133 prior to entry into the program under this section;

134 vi. provide that evictions shall be only for good cause;

135 vii. assure that housing assisted under the program in this chapter is decent, safe and  
136 sanitary, and that, excepting any market-rate housing, the housing is deed restricted to  
137 occupancy by extremely-low, very low, or low and moderate-income households at  
138 affordable rents or sales prices, in perpetuity or for such other term as may be approved  
139 by the department, consistent with funding sources;

140 viii. assure that proceeds from the disposition of public housing and funds generated from  
141 new affordable housing created to replace public housing, unless restricted to a particular  
142 use, shall be allocated to the reconstruction, rehabilitation, or repair of public housing  
143 developments;

144 ix.. assure that if a participating housing authority redevelops its public housing units, all  
145 households residing in the units at the time of planned redevelopment shall receive  
146 relocation assistance, if eligible, under this chapter or other applicable statutes, and shall  
147 have the right to return to the redeveloped public housing, subject to remaining in good  
148 standing and subject to units of the appropriate size and requirements being available.  
149 Such households shall have priority for placement over new applicants; and

150 x. comply with chapter 334 of the acts of 2006.

151 h. Each housing authority participating in the program under this section shall prepare an  
152 annual plan, after providing residents assisted by the housing authority and the wider community  
153 with adequate notice and opportunities to participate in the development of the plan, and an  
154 opportunity to comment and make recommendations on the plan which shall include not less  
155 than one public hearing held at a time and location that the participating housing authority  
156 reasonably believes will facilitate attendance by and input from residents. The annual plan shall:

157 i. state the housing authority's goals and objectives under the program for its fiscal year;

158 ii. describe the housing authority's proposed use of assistance for activities under the  
159 program for the fiscal year;

160 iii. describe how the housing authority will achieve the repair or redevelopment or both  
161 of public housing;

162 iv. state the housing authority's proposed income mix, extremely low, very low, low,  
163 moderate, and market, for its portfolio;

164 v. explain how the housing authority's proposed activities will meet its goals and  
165 objectives;

166 vi. include appropriate budgets and financial statements; and

167 vii. describe the resident participation procedure and what independent technical  
168 assistance will be made available to residents.

169 Any plan submitted pursuant to paragraph h shall be deemed approved unless the  
170 department, within 45 days of submission, issues a written disapproval. The department shall  
171 disapprove the plan if the department reasonably determines, based on information contained in  
172 the plan or other reliable information available to the department, that the plan does not comply  
173 with the provisions of this section or other applicable law.

174 i. In place of all other planning and reporting requirements, each housing authority  
175 participating in the program under this chapter shall submit to the department annually a single  
176 annual report, in a form and at a time specified by the department. The annual report shall be  
177 the primary means by which the housing authority shall be required to provide information to the  
178 department on the activities assisted under this section during a fiscal year, unless the department  
179 has reason to believe that the housing authority has violated the terms of the program. Each  
180 annual report shall:

181 i. document the housing authority's use of assistance under the program, including  
182 appropriate financial statements;

183 ii. describe and analyze the effect of assisted activities in addressing the objectives of this  
184 section, including the effect of rent and tenant selection policies;

185 iii. state the previous year's income mix of residents in the housing authority's public  
186 housing and affordable housing developments under this program;

187 iv. include a certification by the housing authority that it has prepared an annual plan that  
188 was prepared in accordance with paragraph h;

189 v. describe and document how the housing authority has provided residents assisted  
190 under the program and the wider community with opportunities to participate in the  
191 development of the annual plan, and an opportunity to comment on the annual plan which  
192 shall include not less than one public hearing;

193 vi. include a report on the annual incomes of persons served in the previous year; and

194 vii. include other information as may be required by the department pursuant to  
195 paragraph k to determine the effectiveness of the program.

196 j. Any report submitted pursuant to paragraph i shall be deemed approved unless the  
197 department, within 45 days of submission, issues a written disapproval because the department  
198 reasonably determines, based on information contained in the report or other reliable information  
199 available to the department that the housing authority is not in compliance with the provisions of  
200 this section or other applicable law.

201 k. Each housing authority shall keep such records as the department may prescribe as  
202 reasonably necessary to document the amounts and the disposition of amounts under this  
203 program, to ensure compliance with the requirements of this section, and to measure  
204 performance.

205 ii. The department shall have access for the purpose of audit and examination to any  
206 books, documents, papers, and records that are pertinent to assistance in connection with,  
207 and the requirements of, this section; provided, however, that such access shall be  
208 obtained solely through the annual report, unless the department has reason to believe  
209 that the housing authority is not in compliance with its program.

210 iii. The Auditor of the Commonwealth, or any of the duly authorized representatives of  
211 the Inspector General, shall have access for the purpose of audit and examination to any  
212 books, documents, papers, and records that are pertinent to assistance in connection with,  
213 and the requirements of, this section.

214 l. Each authority shall be evaluated by an independent evaluator twice during the initial  
215 term of participation and periodically thereafter, in accordance with standards adopted by the  
216 department, to determine the success of initiatives undertaken under this program in achieving  
217 the purposes set forth in this section and the housing authority's plan.

218 SECTION 2. The department of housing and community development shall establish a nine  
219 member advisory committee whose members shall include the director of the department or his  
220 designee, one representative selected by Citizens' Housing and Planning Association, one  
221 representative selected by the Massachusetts Chapter of the National Association of Housing and  
222 Redevelopment Officials, one representative selected by the Massachusetts Union of Public  
223 Housing Tenants, one representative selected by the Massachusetts Coalition for the Homeless,  
224 and four additional members chosen by the director to provide advice and recommendations to  
225 the department regarding regulations to implement the provisions of this act and to provide  
226 ongoing assistance in determining the effectiveness of the public housing innovation program,  
227 and the department shall adopt regulations implementing the provisions of this act within ninety

228 days of the effective date of the act, and the department shall annually report to the house and  
229 senate committees on ways and means and the joint committee on housing on the participation of  
230 housing authorities in the public housing innovation program. Participation in the advisory  
231 committee, or actions taken on behalf of the committee, or actions in relation to transactions  
232 between the committee, or actions in relation to transactions between the committee and other  
233 public or private entities represented on the committee, by any individual otherwise subject to  
234 chapter 268A of the General Laws, shall not be deemed to violate the provisions of chapter  
235 268A.