

HOUSE No. 00366

The Commonwealth of Massachusetts

PRESENTED BY:

Kevin G. Honan

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 employer assisted housing.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Kevin G. Honan

17th Suffolk

Cheryl A. Coakley-Rivera

10th Hampden

HOUSE No. 00366

By Mr. Kevin G. Honan of Boston, petition (accompanied by bill, House, No. 00366) of Cheryl A. Coakley-Rivera and Kevin G. Honan relative to employer assisted housing. Joint Committee on Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 1215 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to employer assisted 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 appearing in the 2006 Official
2 Edition, is hereby amended by adding the following section:—
3 Section 30. (a) Notwithstanding any general or special law to the contrary, the department of
4 housing and community development shall establish a program to help employers develop an
5 employer assisted housing development program and an employer assisted housing fund.
6 “Employer” means, for the purposes of this act, any individual or type of organization including
7 any partnership, firm, association, trust, trustee, estate, joint stock company, insurance company,
8 corporation, whether domestic or foreign, or his or its legal representative, or the assignee,

9 receiver, trustee in bankruptcy, trustee or successor of any of the foregoing or the legal
10 representative of a deceased person who or which has or subsequent to January first, nineteen
11 hundred and forty-one, had one or more individuals performing services for him or it within this
12 commonwealth, the commonwealth, its instrumentalities, political subdivisions, their
13 instrumentalities, any instrumentality of more than one of the foregoing, and any instrumentality
14 of any of the foregoing and one or more other states or political subdivisions. An instrumentality
15 of a political subdivision may include municipal hospitals, municipal electric companies,
16 municipal water companies, regional school districts and any such other instrumentalities as are
17 financially independent and are created by statute. For the purposes of this act, the
18 commonwealth, including all its branches and departments and its hospitals and institutions of
19 higher education, shall be deemed to be one employer. Each political subdivision shall be
20 deemed to be one employer. Each instrumentality of the commonwealth, or of any political
21 subdivision, or of any combination thereof including any one or more of the foregoing and any
22 one or more states shall be deemed to be a separate employer. In a city or town "employer" shall
23 mean the city manager in a city having a city manager, the mayor in any other city, the town
24 manager in a municipality having a town council form of government and the selectmen in any
25 other town.

26 "Employer assisted housing development program" means a state assisted residential
27 development program for employers to provide real property currently owned or leased by an
28 employer in districts zoned as non-residential for housing located in the state; provided further
29 that the real property sold, leased or donated from the employer for the employer assisted
30 housing development program shall be used in this state to be sold or rented to households who
31 meet the income requirements set forth in this section and meet any further requirements set

32 forth by the department. The department, subject to appropriation, shall contribute to the
33 employer's assisted housing development program 1 dollar for every 2 dollars of assessed value
34 of real property used for the purposes of the employer assisted housing development program as
35 provided in this subsection. The assistance granted pursuant to this subsection to each employer
36 shall not exceed 200,000 dollars annually. The total amount of assistance offered to all
37 employers under this program shall not exceed 5,000,000 dollars annually.

38 "Employer assisted housing fund" means a program to provide grants or loans for employer
39 assisted housing, provided further that grants and loans from the employer's employer assisted
40 housing fund shall be spent in this state and may be used for (i) the cost to purchase housing that
41 is to be a principal residence, including cooperative housing, and falls within price guidelines
42 established by the department, including costs for down payments, mortgage interest rate buy-
43 downs, closing costs and other costs determined to be eligible by the department, (ii) payments
44 for security deposits and advance payments for rental housing, and (iii) to contribute to the
45 production of housing units that fall within price guidelines and that meet other requirements that
46 may be established by the department. The department, subject to appropriation, shall contribute
47 to the employer's employer assisted housing fund 1 dollar for every 2 dollars expended by the
48 employer from the employer assisted housing fund as provided in this subsection. The assistance
49 granted pursuant to this act to each business shall not exceed 100,000 dollars annually. The total
50 amount of assistance offered to all businesses under this subsection shall not exceed 5 million
51 dollars annually.

52 (b) All employees, including seasonal employees, of the employer thereof whose annual
53 household income does not exceed 120 per cent of the area median income as determined by the
54 Federal Department of Housing and Urban Development shall be eligible for the employer

55 assisted housing development program or housing fund; provided however, that not less than 25
56 per cent of the employer's assisted housing development program or housing fund shall be for all
57 employees whose annual household income does not exceed 80 per cent of the area median
58 income as determined by the Federal Department of Housing and Urban Development.
59 Employers offering an employer assisted housing development program or housing funds may
60 establish requirements for employee participation that are not inconsistent with the procedures
61 adopted by the department.

62 (c) No assistance shall be granted to any bank, bank and trust company, insurance company, trust
63 company, national bank, savings association, or building and loan association or any other
64 corporate entity for activities that are a part of its normal course of business; provided, however,
65 that such businesses may receive assistance pursuant to this act for their own employees.

66 (d) Participating employers shall comply with all state and federal affirmative marketing laws
67 and regulations. Eligible employees must be given preference to purchase or rent units however,
68 if the number of units exceeds the number of eligible employees willing to occupy said units the
69 units may be rented or sold to non-employees whose household incomes do not exceed the
70 income requirement as set forth in subsection (b) of this act. A unit that is resold or re-rented
71 shall be first offered to eligible employees as set forth in this section.

72 (e) No more than 30 per cent of an employer's real property zoned as non-residential may be
73 used for this program. Real property used in accordance with this act that lay in districts zoned
74 for commercial use will be considered as residential property for local property tax purposes.

75 (f) Employers participating in the employer assisted housing development program shall
76 designate through the sale, lease, donation or other agreement of real property a private for profit

77 or not for profit developer that is not an affiliate, subsidiary, or other entity of said employer that
78 shall be responsible for the sale, rental, day to day management and operation of the units in
79 accordance with this section.

80 (g) Employers participating in the employer assisted housing development program shall receive
81 a 1 dollar credit towards any corporate tax liability to the state for the current or following fiscal
82 year for every 1 dollar of the assessed value of real property used in accordance with this act.
83 The total amount of tax credit available to all businesses under this act will not exceed 5 million
84 dollars annually.

85 (h) The department shall promulgate written regulations for the establishment and operation of
86 employer assisted housing development programs and employer assisted housing funds eligible
87 for the assistance provided in this act. Such regulations shall include provisions for employee
88 eligibility, specify the development activities and assistance that may take place and the
89 documentation and procedures necessary for businesses to qualify for the assistance.

90 SECTION 2. Section 9 of Chapter 40A, of the General Law, as so appearing, is hereby amended
91 by inserting after the words “low or moderate income,” in line 12 of paragraph two the
92 following:- provide for employer assisted housing as set forth in section 30 of chapter 23B,

93 SECTION 3. Section 31 of Chapter 63 of the General Laws, as so appearing, is hereby amended
94 by adding the following new section:--

95 31M(a) As used in this section, the following words shall have the following meanings:--

96 “Department”, the Department of Housing and Community Development.

97 “Director”, the director of the Department of Housing and Community Development.

98 (b) There is hereby established a credit for businesses offering an employer assisted housing fund
99 to provide grants and loans for housing located in the state for all employees, including seasonal
100 employees, of the business or any subsidiary thereof whose annual household income does not
101 exceed 120 per cent of the area-wide median income as determined by the United States
102 Department of Housing and Urban Development. Businesses offering an employer assisted
103 housing program may establish requirements for employee participation that are not inconsistent
104 with the procedures adopted by the department under subsection (c) of this subsection. The
105 amount of the credit shall be 75 per cent of the amount paid during such tax year by a business
106 into said fund. Grants and loans from any such fund shall be spent in this state and may be used
107 for (i) the cost of housing that is to be a principal residence and falls within price guidelines
108 established by the department, including costs for down payments, mortgage interest rate buy-
109 downs, closing costs and other costs determined to be eligible by the department, (ii) payments
110 for security deposits, advance payments for rental housing, moving costs, rental payments and
111 (iii) to contribute to the production of housing units that fall within price guidelines and that meet
112 other requirements that may be established by the department.

113 (c) The department shall adopt written procedures for the establishment and operation of
114 employer assisted housing funds eligible for the credit provided in this section. Such procedures
115 shall include provisions for employee eligibility and shall specify expenses for which grants and
116 loans may be made and provide the documentation and procedures necessary for taxpayers to
117 qualify for the tax credit.

118 (d) Any taxpayer claiming the credit allowed by this section shall submit documentation to the
119 commissioner that the fund complies with written procedures for employer assisted housing
120 funds established by the department under subsection (c) of this section.

121 (e) Nothing in this section shall be construed to prevent 2 or more taxpayers from participating
122 jointly in 1 or more programs under the provisions of this section. Such joint programs shall be
123 submitted, and acted upon, as a single program by the taxpayers involved.

124 (f) Any taxpayer which applies for the credit allowed by this section shall submit the
125 documentation required under subsection (d) of this section to the department on or before
126 November 1 of each year. The department shall review applications in the order received and
127 award credits to those taxpayers whose employer assisted housing funds comply with the written
128 procedures established under subsection (c) of this section. The credit shall be claimed on the
129 tax return for the tax year during which the selected taxpayer made payment into the employer
130 assisted housing fund. The sum of all tax credits granted pursuant to the provisions of this
131 subsection shall not exceed 100,000 dollars annually per taxpayer. In no event shall the total
132 amount of all tax credits allowed to all taxpayers pursuant to the provisions of this section exceed
133 2 million dollars in any 1 fiscal year.

134 (g) No tax credit shall be granted to any bank, bank and trust company, insurance company, trust
135 company, national bank, savings association, or building and loan association or any other
136 business entity for activities that are a part of its normal course of business; provided, however,
137 that such businesses may receive tax credits pursuant to this section for employer assisted
138 housing programs for their own employees.

139 (h) Any tax credit not used in the tax year during which the investment was made may be carried
140 forward for the five immediately succeeding tax years until the full credit has been allowed. For
141 tax years commencing on or after January 1, 2007, if the department determines that 60 per cent
142 or more of an employer assisted housing fund has not been spent as provided in this section by a

143 taxpayer on or before the date that is 3 years after the date that an employer assisted housing
144 fund is established pursuant to this section by such taxpayer, the department shall notify such
145 taxpayer and the commissioner that the department has determined that 60 per cent or more of
146 the fund has not been loaned as provided in this section, and such taxpayer shall be required to
147 recapture the credits previously granted under this section, to the extent provided for in written
148 procedures of the department, on the first tax return required to be filed on or after the date of
149 such notice for a tax imposed by this chapter. If any amount of such recaptured credit has not
150 been paid to the commissioner on or before the due date of such return, such amount shall bear
151 interest at the rate of one per cent per month or fraction thereof from such due date to the date of
152 payment.

153 (i) The director and commissioner shall promulgate regulations necessary to implement the
154 provisions of this section.

155 (j) Credits pursuant to this section shall be available in tax years beginning on or after January 1,
156 2007.

157 SECTION 4. For the purposes of funding the employer assisted housing program and the
158 employer assisted housing fund established pursuant to section 1 of this act

159\$10,000,000.