

HOUSE No. 00375

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 innovation program

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PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-------------------------------|------------------------|
| <i>Jeffrey Sánchez</i> | <i>15th Suffolk</i> |
| <i>Susan C. Fargo</i> | <i>Third Middlesex</i> |
| <i>Jennifer E. Benson</i> | <i>37th Middlesex</i> |
| <i>Alice K. Wolf</i> | <i>25th Middlesex</i> |
| <i>Cory Atkins</i> | <i>14th Middlesex</i> |
| <i>Jason M. Lewis</i> | <i>31st Middlesex</i> |
| <i>David M. Nangle</i> | <i>17th Middlesex</i> |
| <i>Elizabeth Poirier</i> | <i>14th Bristol</i> |
| <i>Frank I. Smizik</i> | <i>15th Norfolk</i> |
| <i>Timothy J. Toomey, Jr.</i> | <i>26th Middlesex</i> |
| <i>Martha M. Walz</i> | <i>8th Suffolk</i> |
| <i>Denise Andrews</i> | <i>2nd Franklin</i> |
| <i>James Arciero</i> | <i>2nd Middlesex</i> |
| <i>Christine E. Canavan</i> | <i>10th Plymouth</i> |
| <i>Linda Dorcena Forry</i> | <i>12th Suffolk</i> |
| <i>Gloria L. Fox</i> | <i>7th Suffolk</i> |

| | |
|-------------------------------|------------------------------------|
| <i>Thomas A. Golden, Jr.</i> | <i>16th Middlesex</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> |
| <i>James J. O'Day</i> | <i>14th Worcester</i> |
| <i>Anthony W. Petruccelli</i> | <i>First Suffolk and Middlesex</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> |
| <i>Ellen Story</i> | <i>3rd Hampshire</i> |
| <i>Chris Walsh</i> | <i>6th Middlesex</i> |

HOUSE No. 00375

By Mr. Sánchez of Boston, a petition (accompanied by bill, House, No. 375) of Jeffrey Sánchez and others relative to public housing innovation program. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 4544 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to public housing innovation program

□.

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, as appearing in the 2008 Official Edition, are hereby
2 amended by inserting after section 26A of chapter 121B the following section:--

3 Section 26B.

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

6 “Affordable housing”, homeownership or rental housing which is restricted to occupancy by low
7 or moderate income households of 1 or more persons and for which the sale price or rents are

8 affordable as defined by the criteria for inclusion in the department's subsidized housing
9 inventory or consistent with funding sources.

10 "Affordable housing development", a development of new or rehabilitated affordable housing,
11 which may include market-rate housing if such market-rate housing is reasonably necessary for
12 the financial feasibility of construction or operation of the affordable housing.

13 "Extremely low income household", a household with a gross income at or less than 30 per cent
14 of area median household income as most recently determined by the U.S. Department of
15 Housing and Urban Development, adjusted for household size.

16 "Low or moderate income household", a household with gross income at or less than 80 per cent
17 of area median household income as most recently determined by the U.S. Department of
18 Housing and Urban Development, adjusted for household size.

19 "Market-rate housing", homeownership or rental housing which is not restricted to occupancy by
20 low or moderate income households. Market-rate housing may be made available for occupancy
21 by households without regard to income, and it may also include housing subject to maximum
22 income limits to be occupied by households with gross income greater than 80 per cent but not
23 more than 150 per cent of the area median household income as most recently determined by the
24 United States Department of Housing and Urban Development, adjusted for household size.

25 "Program", the public housing innovation program under this section.

26 "Public housing", state-assisted housing developed through funds provided under chapter 200 of
27 the acts of 1948, chapter 667 of the acts of 1956, chapter 705 of the acts of 1966, chapter 689 of
28 the acts of 1974 and chapter 167 of the acts of 1987.

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

32 b.(1) A housing authority or regional housing authority may apply to the department for approval
33 to participate in the program. Participation shall be limited to applicants that have the ability to
34 plan and carry out activities under the program, as evidenced by prior performance in the
35 operation and maintenance of public housing, demonstrate a need to redevelop and repair
36 occupied and vacant public housing units, and other appropriate factors as determined by the
37 director of the department.

38 (2) The department may determine the housing authorities participating in the program,
39 provided that, the total number of authorities may not exceed 10 authorities. In selecting
40 participating authorities, the department shall establish criteria that provides for representation of
41 housing authorities having various characteristics, including both large and small housing
42 authorities, housing authorities serving urban, suburban and rural areas, and housing authorities
43 in various geographical regions throughout the commonwealth.

44 (3) The department shall require program applicants to describe how tenants may be
45 provided with independent technical assistance sufficient to allow them meaningful and
46 informed input and shall encourage applications that demonstrate, create, or seek to achieve, with
47 respect to public housing: (i) innovative models for the redevelopment and repair of public
48 housing including for the elderly and frail elderly; (ii) innovative models for improved
49 management; (iii) coordination among several housing authorities; (iv) economic efficiencies;

50 and (v) expansion of economic opportunities for tenants and the commonwealth. Additionally,
51 the department shall encourage applications that achieve the development of affordable housing.

52 (4) Applications may include less than the applicant's entire portfolio of housing at the
53 applicant's choosing. The department shall act on the application within 90 days of its
54 submission and shall approve applications that meet the criteria established by the director, up to
55 the number established by the department. The department and the participating housing
56 authority shall enter into a program participation agreement summarizing the terms of
57 participation, voluntary withdrawal, and termination for material default and a timetable for
58 achieving objectives of the program. The initial term of participation shall be 7 years, unless the
59 applicant requests a shorter time, which shall be extended in whole or in part by the department
60 so long as: (i) the housing authority has made satisfactory progress toward its goals; (ii) the
61 extension will meet the original objectives of the program; and (iii) the housing authority has not
62 received a negative evaluation pursuant to subsection (n) of this section.

63 (5) Upon expiration, withdrawal or termination of an agreement, the department shall work
64 cooperatively with the housing authority in a transition process. The transition process may
65 provide for retention of elements of the program implemented during participation including, but
66 not limited to, contractual agreements with third parties that contain terms that extend beyond the
67 term of participation that were referenced in the program participation agreement, approved
68 annual plan or approved annual report.

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

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

78 e. Housing authorities and regional housing authorities participating in the program shall, in
79 addition to those powers conferred in this chapter, have the following powers:

80 (1) to combine all forms of assistance received from the commonwealth and other sources,
81 including, but not limited to public housing operating subsidies appropriated by the
82 commonwealth through a general appropriations act and public housing modernization funds
83 authorized by the commonwealth to be funded through the sale of general obligation bonds,
84 other funds or grants; provided that, a housing authority shall not receive diminished assistance
85 by virtue of participation in the program under this chapter;

86 (2) to establish a reasonable rent policy, which shall be included in the annual plan required by
87 subsection (h), that shall: (A) provide for rents that are affordable to tenants throughout the term
88 of the program; (B) be designed to provide incentives to improved employment and training and
89 self-sufficiency by participating families; (C) include transition and hardship provisions; (D)
90 include in the transition period a limit on rent increases in any 1 year related solely to the change
91 in the rent policy to no more than 10 per cent for the duration of the transition period;
92 (E) provide a rent cap for tenant households at or below 50 per cent of area median income,

93 adjusted for family size, of not more than the maximum tenant rental payments including, if
94 applicable, minimum rents permitted by section 32; and (F) provide a rent cap for elderly and
95 handicapped persons of low income of not more than the maximum tenant rental payments
96 including, if applicable, minimum rents permitted by section 32 and subsection (e) of section 40;

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

102 (4) 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 annual
104 plan required by subsection (h);

105 (5) To participate in a mixed public/private affordable housing development or create any
106 legal entities or instrumentalities necessary to participate in mixed public private
107 affordable housing development designed to rehabilitate, repair, replace, or develop,
108 affordable housing, including public housing developments and projects developed
109 pursuant to sections 26, 34, and 40 of chapter 121B.

110 (6) to create partnerships or consortia with other public or private entities for the operation,
111 financing, or development of any program otherwise authorized by law;

112 (7) to acquire any property to carry out its purposes, and to dispose of any property of the local
113 housing authority without repayment of bonds to the commonwealth notwithstanding any
114 provision of this chapter to the contrary, unless otherwise required by law or contract, provided
115 that the proceeds of any such disposition must be applied to acquisition, operation, development,
116 rehabilitation, or repair of public or affordable housing consistent with the limitations on use of
117 proceeds in clause (E) of subsection (g); and

118 (8) to enter into energy services contracts in accordance with section 11C of chapter 25 for a
119 period of up to 20 years.

120 f. Projects pursuant to this section may include a mix of extremely low income households, low
121 or moderate income households, and market-rate housing, and may utilize any available source
122 of rental subsidy or financial assistance; . provided that operating subsidies appropriated by the
123 legislature and bond funds authorized by the legislature for the benefit of low rent housing
124 projects operated pursuant to sections 32 and 40 of chapter 121B shall not be used to fund capital
125 or operating costs other than those for the redevelopment, repair and operation, including
126 services benefitting the tenants, of such housing.

127 g. Notwithstanding the provisions of subsection (e), the local housing authority shall:

128 (1) comply with the provisions of section 12, related to wages, labor requirements, and Social
129 Security;

130 (2) comply with the provisions of section 29, related to wage rates and collective bargaining;

131 (3) to retain the same number of public housing units as existed before participation in this
132 program to the greatest extent possible shall; (A) provide for full tenant participation, including

133 public hearing, on adoption or material amendment of its annual plan as required under
134 subsection (h); (B) provide for a tenant lease and grievance procedure substantially similar to
135 that in effect prior to entry into the program under this section; (C) provide that evictions shall be
136 only for good cause; (D) assure that housing assisted under the program in this chapter is decent,
137 safe and sanitary, and that, excepting any market-rate housing, the housing is deed restricted to
138 occupancy by extremely-low, very low, or low and moderate-income households at affordable
139 rents or sales prices, in perpetuity or for such other term as may be approved by the department,
140 consistent with funding sources; and (E) assure that proceeds from the disposition of public
141 housing and funds generated from new affordable and market housing created to replace public
142 housing, unless restricted to a particular use, shall be allocated to the reconstruction,
143 rehabilitation, or repair of public housing developments;

144 (4) 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. Said
147 households shall have the right to return to the redeveloped public housing, unless such
148 household is determined to be in unlawful occupancy prior to the approval of the housing
149 authority's application, has materially breached the lease agreement or has been evicted
150 for cause, under applicable law subject to units of the appropriate size and requirements
151 being available. Such households shall have priority for placement over new applicants;
152 and

153 (5) comply with chapter 334 of the acts of 2006.

154 h. Each housing authority participating in the program under this section shall prepare an annual
155 plan. Tenants assisted by the housing authority and the wider community shall be provided with
156 adequate notice and opportunities to participate in the development and preparation of the plan.
157 Said tenants shall be provided an opportunity to comment and make recommendations on the
158 plan which shall include not less than 1 public hearing held at a time and location that the
159 participating housing authority reasonably believes will facilitate attendance by, and input from,
160 tenants.

161 The annual plan shall:

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

163 (2) describe the housing authority's proposed use of assistance for activities under the program
164 for the fiscal year;

165 (3) describe how the housing authority will achieve the repair and redevelopment of public
166 housing;

167 (4) state the housing authority's proposed income mix for its housing portfolio of: (A) extremely
168 low income households; (B) very low income households; (C) low or moderate income
169 households; and (D) market rate housing;

170 (5) explain how the housing authority's proposed activities will meet its goals and objectives;

171 (6) include appropriate budgets and financial statements; and

172 (7) describe the tenant participation procedure and what independent technical assistance will
173 be made available to tenants.

174 Any plan submitted pursuant to subsection (h) shall be deemed approved unless the department,
175 within 60 days of submission, issues a written disapproval. The department shall disapprove the
176 plan if the department reasonably determines, based on information contained in the plan or
177 other reliable information available to the department, that the plan does not comply with the
178 provisions of this section or other applicable law or cannot reasonably be expected to achieve the
179 purposes set out in this section. The housing authority shall notify tenants of such approval or
180 disapproval.

181 i. In place of all other planning and reporting requirements of the department, each housing
182 authority participating in the program under this chapter shall submit to the department annually
183 a single annual report, in a form and at a time specified by the department. The annual report
184 shall be the primary means by which the housing authority shall be required to provide
185 information to the department, to tenants and the public on the activities assisted under this
186 section during a fiscal year, unless the department has reason to believe that the housing
187 authority has violated the terms of the program.

188 Each annual report shall:

189 (1) document the housing authority's use of assistance under the program, including appropriate
190 financial statements;

191 (2) describe and analyze the effect of assisted activities in addressing the objectives of this
192 section, including the effect of rent and tenant selection policies;

193 (3) state the previous year's income mix of residents in the housing authority's public housing
194 and affordable housing developments under this program;

195 (4) include a certification by the housing authority that it has prepared an annual plan that was
196 prepared in accordance with subsection (h);

197 (5) describe and document how the housing authority has provided tenants assisted under the
198 program and the wider community with opportunities to participate in the development or
199 material modification of the annual plan, and an opportunity to comment on the annual plan
200 which shall include not less than 1 public hearing;

201 (6) include a report on the annual incomes of persons served in the previous year; and

202 (7) include other information as may be required by the department pursuant to subsection (k) to
203 determine the effectiveness of the program.

204 j. Any report submitted pursuant to subsection (i) shall be deemed approved unless the
205 department, within 60 days of submission, issues a written disapproval because the department
206 reasonably determines, based on information contained in the report or other reliable information
207 available to the department, that the housing authority is not in compliance with the provisions of
208 this section or other applicable law.

209 k. Each housing authority shall keep such records as the department may prescribe as reasonably
210 necessary to document the amount of funds and the disposition of funds under this program, to
211 ensure compliance with the requirements of this section, and to measure performance.

212 l. The department shall have access, for the purpose of audit and examination to any: books;
213 documents; papers; and records that are pertinent to assistance in connection with, and the

214 requirements of, this section; provided however, that reporting shall be conducted solely through
215 the annual report unless the department has reason to believe that the housing authority is not in
216 compliance with its program.

217 m. The auditor of the commonwealth shall have access for the purpose of audit and examination
218 to any books, documents, papers, and records that are pertinent to assistance in connection with,
219 and the requirements of, this section.

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

224 o The department shall establish a manner in which to post the housing innovations plan, annual
225 report, independent evaluation and other public records pertaining to each housing authority's
226 public housing innovations program established pursuant to this act so that the progress of each
227 public housing innovations program is publicly available and free to access.

228 p. The department shall establish a 9 member advisory committee whose members shall include
229 the director of the department or the director's designee, 1 representative selected by Citizens'
230 Housing and Planning Association, 1 representative selected by the Massachusetts Chapter of the
231 National Association of Housing and Redevelopment Officials, 1 representative selected by the
232 Massachusetts Union of Public Housing Tenants, 1 representative selected by the Massachusetts
233 Coalition for the Homeless, and 4 additional members chosen by the director of the department
234 to provide advice and recommendations to the department regarding regulations to implement

235 the provisions of this section and to provide ongoing assistance in determining the effectiveness
236 of the program.

237 SECTION 2. The department of housing and community development shall adopt regulations
238 implementing the provisions of this act within 90 days of the effective date of the act. Except for
239 emergency regulations adopted pursuant to section 2 of chapter 30A of the general laws, any
240 such regulation, or any amendment or repeal thereof, shall, after compliance with all applicable
241 provisions of chapter 30A except section 5, be submitted to the general court. The director of the
242 department shall file any proposed regulation, amendment or repeal with the clerk of the house
243 of representatives, together with a statement that the pertinent provisions of said chapter 30A
244 have been complied with and a summary of the regulations in layperson's terms. The clerk shall
245 refer such filing to the joint committee on housing within 5 days of the filing thereof. No such
246 regulation shall take effect until 90 days after it has been so filed; provided, however, that such
247 90 day period shall not include days when the general court is prohibited by law or rule from
248 meeting in formal session.

249 The department shall annually report to the house and senate committees on ways and means and
250 the joint committee on housing on the participation of housing authorities in the public housing
251 innovation program.

252 SECTION 3. No more than 5 housing authorities shall participate in the public housing
253 innovation program created pursuant to section 26(b) of chapter 121B within the first 2 years of
254 enactment of this section.

255 SECTION 4. At least 180 days prior to approving the participation of more than five housing
256 authorities in the public housing innovation program authorized pursuant to section 26B of

257 chapter 121B, the department, with input by the advisory committee, shall submit to the Joint
258 Committee on Housing and the clerks of the House of Representatives and the Senate a report
259 containing a thorough evaluation of the effectiveness of the program as implemented by the
260 previously approved participants over at least a two year period. Such report shall evaluate the
261 success of the previously approved participants in fulfilling the requirements of subsections f
262 and g of said section 26B, the terms of their annual plans as required by subsection h of said
263 section 26B, and in preserving or expanding the number of public housing units as compared
264 to the number that existed prior to participation in the program.