

SENATE No. 708

The Commonwealth of Massachusetts

PRESENTED BY:

Barbara L'Italien

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 relative to the development and preservation of affordable housing for persons with disabilities and the elderly.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|--------------------------|--|
| <i>Barbara L'Italien</i> | <i>Second Essex and Middlesex</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> |
| <i>Timothy R. Madden</i> | <i>Barnstable, Dukes and Nantucket</i> |
| <i>Marcos A. Devers</i> | <i>16th Essex</i> |

SENATE No. 708

By Mrs. L'Italien, a petition (accompanied by bill, Senate, No. 708) of Barbara L'Italien, Jason M. Lewis, Timothy R. Madden and Marcos A. Devers for legislation relative to the development and preservation of affordable housing for persons with disabilities and the elderly. Housing.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to the development and preservation of affordable housing for persons with disabilities and the elderly.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 It being in the interest of the Commonwealth that families have the means to provide safe
2 and sustainable housing for their family members who have disabilities or are elderly, that it be
3 in the interest of the Commonwealth that other interested property owners have the means to
4 provide safe and sustainable housing for persons with disabilities and the elderly, and that it be in
5 the interest of the Commonwealth that such housing be preserved as long term housing stock for
6 the use of persons with disabilities and the elderly, be it enacted by the Senate and House of
7 Representatives in General Court assembled, and by the authority of the same, as follows:

8 Chapter 23B of the General Laws is hereby amended by inserting the following section:

9 Section 31: (a) As used in this section, the following words shall have the following
10 meanings unless the context clearly requires otherwise:

11 “Dwelling unit”, a housing unit that includes self-contained cooking, sleeping and
12 bathroom facilities, and is located in the structure.

13 “Department”, the department of housing and community development

14 “Elderly”, an individual who has attained the age of 62.

15 “Individual with a disability”, an individual who, regardless of age, has a medically
16 determinable physical or mental impairment, which results in marked and severe functional
17 limitations, and which can be expected to result in death or which has lasted or can be expected
18 to last for a continuous period of not less than 12 months, or is blind.

19 “Owner-occupied”, a natural person owns the structure and occupies a dwelling unit in
20 the structure, or that a dwelling unit in the structure is occupied by a natural person who is the
21 beneficiary of a special needs trust that owns the structure.

22 “Structure”, a building that was originally built as a single-family residence.

23 (b) There shall be created a Disabled and Elderly Accessory Apartment Loan Program.

24 The department of housing and community development may enter into contracts for state
25 financial assistance in the form of grants or loans by the Commonwealth acting by and through
26 the department provided that:

27 (1) grants made according to the provisions of this section may be made only to public or
28 quasi-public agencies;

29 (2) the department shall administer the Disabled and Elderly Accessory Apartment Loan
30 Program created by this section for the purpose of facilitating the creation and retention of
31 alternative forms of rental and ownership housing;

32 (3) at least one-half of the beneficiaries of such housing shall be persons whose income is
33 less than 80 per cent of the area-wide median income as determined from time to time by the
34 United States Department of Housing and Urban Development.

35 Any such loan program shall be administered by the department through contracts with
36 authorities which shall include housing authorities and redevelopment authorities duly organized
37 and existing in accordance with chapter 121B of the General Laws, and may also include
38 community development corporations duly organized and existing in accordance with chapter
39 40F of the General Laws, the Massachusetts Housing Finance Agency, a body politic and
40 corporate entity established by chapter 708 of the acts of 1966, the Community Economic
41 Development Assistance Corporation, a body politic and corporate entity established by chapter
42 40H of the General Laws, and the government land bank, a body politic and corporate entity
43 established by chapter 212 of the acts of 1975. These organizations may, pursuant to the terms
44 and conditions of their contracts with the department, directly issue loans for the purposes of this
45 program, or may enter into subcontracts with nonprofit organizations established pursuant to
46 chapter 180 of the General Laws for such purposes. Loans issued directly or indirectly by such
47 organizations shall be subject to the review and approval of the department.

48 (c) Loans issued pursuant to this section shall be subject to the following provisions:

49 (1) proceeds of loans shall be used to construct an additional dwelling unit of up to two
50 bedrooms within a structure, or to improve, renovate, or rehabilitate not more than one dwelling
51 unit of up to two bedrooms located in a structure that, at the time of the loan application, contains
52 a total of not more than two dwelling units; each dwelling unit may not be less than 450 square
53 feet of gross living area.

54 (2) at least one dwelling unit within the structure shall be owner-occupied, and, following
55 completion of the project, at least one dwelling unit within the structure shall be occupied by a
56 household that includes one individual with a disability or one elderly individual. The elderly
57 individual or individual with a disability may be related to the borrower.

58 (3) loans shall be limited to the lesser of 50 per cent of the financing of the total
59 development costs or \$50,000;

60 (4) loans shall not be issued unless a contract or agreement for the use of the property for
61 the purposes of such housing provides for the recording of a restriction in the registry of deeds or
62 the registry district of the land court in the county in which the affected real property is located,
63 for the benefit of said department, running with the land, that the land be used for the purpose of
64 providing alternative forms of rental and ownership housing. Such property shall not be released
65 from such restriction until the balance of the principal and interest for any such loan shall be
66 repaid in full or until a mortgage foreclosure deed shall be recorded;

67 (5) loans shall be issued for a term of up to 30 years during which time repayment may be
68 deferred by the loan issuing authority. At maturity, the Director of DHCD may extend a loan for
69 an additional period of up to 10 years. Thereafter, as long as the housing continues to comply
70 with the requirements set forth in the loan documents, additional 10-year extensions may be
71 approved;

72 (6) interest rates for loans shall be fixed at a rate to be determined by the director of
73 housing and community development, in consultation with the state treasurer;

74 (7) expenditures from this section shall not be made for the purpose of refinancing
75 outstanding mortgage loans for housing in existence prior to the effective date of this act; and

76 (8) the department shall take due consideration of a balanced geographic plan for such
77 alternative forms of housing when issuing such loans.

78 (d) The department shall promulgate regulations for the implementation of the accessory
79 apartment loan program created by this section.