HOUSE DOCKET, NO. 1129 FILED ON: 1/16/2013

# HOUSE . . . . . No. 1121

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:

An Act relative to employer assisted housing.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Kevin G. Honan* | *17th Suffolk* |

HOUSE DOCKET, NO. 1129 FILED ON: 1/16/2013

# HOUSE . . . . . No. 1121

By Mr. Honan of Boston, a petition (accompanied by bill, House, No. 1121) of Kevin G. Honan relative to employer assisted housing. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *366* OF 2011-2012.]

## The Commonwealth of Massachusetts

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:*

SECTION 1. Chapter 23B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following section:–

Section 31. (a) Notwithstanding any general or special law to the contrary, the department of housing and community development shall establish a program to help employers develop an employer assisted housing development program and an employer assisted housing fund.

"Employer" means, for the purposes of this act, any individual or type of organization including any partnership, firm, association, trust, trustee, estate, joint stock company, insurance company, corporation, whether domestic or foreign, or his or its legal representative, or the assignee, receiver, trustee in bankruptcy, trustee or successor of any of the foregoing or the legal representative of a deceased person who or which has or subsequent to January 1, 1941, had one or more individuals performing services for him or it within this commonwealth, the commonwealth, its instrumentalities, political subdivisions, their instrumentalities, any instrumentality of more than one of the foregoing, and any instrumentality of any of the foregoing and one or more other states or political subdivisions. An instrumentality of a political subdivision may include municipal hospitals, municipal electric companies, municipal water companies, regional school districts and any such other instrumentalities as are financially independent and are created by statute. For the purposes of this act, the commonwealth, including all its branches and departments and its hospitals and institutions of higher education,

20 shall be deemed to be one employer. Each political subdivision shall be deemed to be one
21 employer. Each instrumentality of the commonwealth, or of any political subdivision, or of any
22 combination thereof including any one or more of the foregoing and any one or more states shall
23 be deemed to be a separate employer. In a city or town "employer" shall mean the city manager
24 in a city having a city manager, the mayor in any other city, the town manager in a municipality
25 having a town council form of government and the selectmen in any 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
39 employer assisted housing, provided further that grants and loans from the employer's employer
40 assisted housing fund shall be spent in this state and may be used for (i) the cost to purchase
41 housing that is to be a principal residence, including cooperative housing, and falls within price
42 guidelines established by the department, including costs for down payments, mortgage interest
43 rate buy-downs, closing costs and other costs determined to be eligible by the department, (ii)
44 payments for security deposits and advance payments for rental housing, and (iii) to contribute to
45 the production of housing units that fall within price guidelines and that meet other requirements
46 that may be established by the department. The department, subject to appropriation, shall
47 contribute to the employer's employer assisted housing fund 1 dollar for every 2 dollars
48 expended by the employer from the employer assisted housing fund as provided in this
49 subsection. The assistance granted pursuant to this act to each business shall not exceed 100,000
50 dollars annually. The total amount of assistance offered to all businesses under this subsection
51 shall not exceed 5 million 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
63 company, trust company, national bank, savings association, or building and loan association or
64 any other corporate entity for activities that are a part of its normal course of business; provided,
65 however, that such businesses may receive assistance pursuant to this act for their own
66 employees.

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

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

77 (f) Employers participating in the employer assisted housing development program shall
78 designate through the sale, lease, donation or other agreement of real property a private for profit
79 or not for profit developer that is not an affiliate, subsidiary, or other entity of said employer that
80 shall be responsible for the sale, rental, day to day management and operation of the units in
81 accordance with this section.

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

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

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

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

97 31O(a) As used in this section, the following words shall have the following meanings:--

98 "Department", the Department of Housing and Community Development.

99 "Director", the director of the Department of Housing and Community Development.

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

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

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

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

126 (f) Any taxpayer which applies for the credit allowed by this section shall submit the
127 documentation required under subsection (d) of this section to the department on or before
128 November 1 of each year. The department shall review applications in the order received and
129 award credits to those taxpayers whose employer assisted housing funds comply with the written

130 procedures established under subsection (c) of this section. The credit shall be claimed on the
131 tax return for the tax year during which the selected taxpayer made payment into the employer
132 assisted housing fund. The sum of all tax credits granted pursuant to the provisions of this
133 subsection shall not exceed 100,000 dollars annually per taxpayer. In no event shall the total
134 amount of all tax credits allowed to all taxpayers pursuant to the provisions of this section exceed
135 2 million dollars in any 1 fiscal year.

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

141 (h) Any tax credit not used in the tax year during which the investment was made may be
142 carried forward for the five immediately succeeding tax years until the full credit has been
143 allowed. For tax years commencing on or after January 1, 2015, if the department determines
144 that 60 per cent or more of an employer assisted housing fund has not been spent as provided in
145 this section by a taxpayer on or before the date that is 3 years after the date that an employer
146 assisted housing fund is established pursuant to this section by such taxpayer, the department
147 shall notify such taxpayer and the commissioner that the department has determined that 60 per
148 cent or more of the fund has not been loaned as provided in this section, and such taxpayer shall
149 be required to recapture the credits previously granted under this section, to the extent provided
150 for in written procedures of the department, on the first tax return required to be filed on or after
151 the date of such notice for a tax imposed by this chapter. If any amount of such recaptured credit
152 has not been paid to the commissioner on or before the due date of such return, such amount
153 shall bear interest at the rate of one per cent per month or fraction thereof from such due date to
154 the date of payment.

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

157 (j) Credits pursuant to this section shall be available in tax years beginning on or after
158 January 1, 2015.

159 SECTION 4. For the purposes of funding the employer assisted housing program and the
160 employer assisted housing fund established pursuant to section 1 of this act
161 .....$10,000,000.