HOUSE DOCKET, NO. 873 FILED ON: 1/19/2011

HOUSE . . . . . No. 366

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*
Cheryl A. Coakley-Rivera	*10th Hampden*

HOUSE DOCKET, NO. 873 FILED ON: 1/19/2011

HOUSE . . . . . No. 366

By Mr. Honan of Boston, a petition (accompanied by bill, House, No. 366) of Kevin G. Honan and Cheryl A. Coakley-Rivera relative to employer assisted housing. Housing.

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

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 2006 Official Edition, is hereby amended by adding the following section:–

Section 30. (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 first, nineteen hundred and forty-one, 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

20 higher education, shall be deemed to be one employer. Each political subdivision shall be
21 deemed to be one employer. Each instrumentality of the commonwealth, or of any political
22 subdivision, or of any combination thereof including any one or more of the foregoing and any
23 one or more states shall be deemed to be a separate employer. In a city or town "employer" shall
24 mean the city manager in a city having a city manager, the mayor in any other city, the town
25 manager in a municipality having a town council form of government and the selectmen in any
26 other town.

27 "Employer assisted housing development program" means a state assisted residential
28 development program for employers to provide real property currently owned or leased by an
29 employer in districts zoned as non-residential for housing located in the state; provided further
30 that the real property sold, leased or donated from the employer for the employer assisted
31 housing development program shall be used in this state to be sold or rented to households who
32 meet the income requirements set forth in this section and meet any further requirements set
33 forth by the department. The department, subject to appropriation, shall contribute to the
34 employer's assisted housing development program 1 dollar for every 2 dollars of assessed value
35 of real property used for the purposes of the employer assisted housing development program as
36 provided in this subsection. The assistance granted pursuant to this subsection to each employer
37 shall not exceed 200,000 dollars annually. The total amount of assistance offered to all
38 employers under this program shall not exceed 5,000,000 dollars annually.

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

53 (b) All employees, including seasonal employees, of the employer thereof whose annual
54 household income does not exceed 120 per cent of the area median income as determined by the
55 Federal Department of Housing and Urban Development shall be eligible for the employer
56 assisted housing development program or housing fund; provided however, that not less than 25
57 per cent of the employer's assisted housing development program or housing fund shall be for all
58 employees whose annual household income does not exceed 80 per cent of the area median

59 income as determined by the Federal Department of Housing and Urban Development.
60 Employers offering an employer assisted housing development program or housing funds may
61 establish requirements for employee participation that are not inconsistent with the procedures
62 adopted by the department.

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

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

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

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

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

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

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

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

98 31M(a) As used in this section, the following words shall have the following meanings:--

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

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

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

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

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

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

127 (f) Any taxpayer which applies for the credit allowed by this section shall submit the
128 documentation required under subsection (d) of this section to the department on or before
129 November 1 of each year. The department shall review applications in the order received and
130 award credits to those taxpayers whose employer assisted housing funds comply with the written
131 procedures established under subsection (c) of this section. The credit shall be claimed on the
132 tax return for the tax year during which the selected taxpayer made payment into the employer
133 assisted housing fund. The sum of all tax credits granted pursuant to the provisions of this
134 subsection shall not exceed 100,000 dollars annually per taxpayer. In no event shall the total
135 amount of all tax credits allowed to all taxpayers pursuant to the provisions of this section exceed
136 2 million dollars in any 1 fiscal year.

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

142 (h) Any tax credit not used in the tax year during which the investment was made may be
143 carried forward for the five immediately succeeding tax years until the full credit has been
144 allowed. For tax years commencing on or after January 1, 2007, if the department determines
145 that 60 per cent or more of an employer assisted housing fund has not been spent as provided in
146 this section by a taxpayer on or before the date that is 3 years after the date that an employer
147 assisted housing fund is established pursuant to this section by such taxpayer, the department
148 shall notify such taxpayer and the commissioner that the department has determined that 60 per
149 cent or more of the fund has not been loaned as provided in this section, and such taxpayer shall
150 be required to recapture the credits previously granted under this section, to the extent provided
151 for in written procedures of the department, on the first tax return required to be filed on or after
152 the date of such notice for a tax imposed by this chapter. If any amount of such recaptured credit
153 has not been paid to the commissioner on or before the due date of such return, such amount
154 shall bear interest at the rate of one per cent per month or fraction thereof from such due date to
155 the date of payment.

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

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

160 SECTION 4. For the purposes of funding the employer assisted housing program and the
161 employer assisted housing fund established pursuant to section 1 of this act
162 .....$10,000,000.