SENATE DOCKET, NO. 1563 FILED ON: 1/18/2013

SENATE . . . . . No. 72

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 affordable housing community planning.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	*Middlesex and Worcester*

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SENATE . . . . . No. 72

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 72) of James B. Eldridge for legislation relative to affordable housing community planning. Community Development and Small Businesses.

The Commonwealth of Massachusetts

An Act relative to affordable housing community planning.

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. Section 15 of chapter 19 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following paragraph:-

(k) to collect and maintain information on the number of group home units in each community and report such information, including the location of such group home units, to the department of housing and community development on an annual basis. Such location shall be held by the department of housing and community development subject to chapter 66A.

SECTION 2. Subsection (b) of section 15 of chapter 19B of the General Laws, as so appearing, is hereby amended by adding the following sentence:—

The department of developmental services shall report the number of group home units in each city or town on an annual basis to the department of housing and community development. The department of developmental services shall also report the location of such group homes to the department of housing and community development. Such location shall be held by the department of housing and community development subject to chapter 66A.

SECTION 3. Section 3 of chapter 23B of the General Laws, as so appearing, is hereby amended by adding the following section:-

(w) count the number of low or moderate income housing units, as defined by chapter 40B and the accompanying department of housing and community development regulations, in each city or town in the commonwealth on a biennial basis.

SECTION 4. Said chapter 23B of the General Laws, as so appearing, is hereby amended by striking out section 5A and inserting in place thereof the following section:-

21 Section 5A. There shall be within the department a housing appeals committee,
22 consisting of 3 members to be appointed by the director, 1 of whom shall be an officer or
23 employee of the department; and 4 members to be appointed by the governor for terms of 1 year
24 each, 2 of whom shall be members of a board of selectmen and 2 of whom shall be members of a
25 city council or similar governing body of a city. The members shall serve for terms of 1 year
26 each. The director shall designate the chairman of the housing appeals committee. A member of
27 the committee shall receive no compensation for such member's services, but shall be
28 reimbursed by the commonwealth for all reasonable expenses actually and necessarily incurred
29 in the performance of such member's official duties. Said committee shall hear all petitions for
30 review filed under section 22 of chapter 40B. A quorum shall consist of 4 committee members,
31 at a minimum, with at least 1 selectperson and 1 city council member, and shall preside over
32 hearings. The director shall establish all other rules and regulations for the conduct of said
33 hearings.

34 The department shall provide such space and clerical and other assistance as the
35 committee may require.

36 SECTION 5. Chapter 40B of the General Laws, as so appearing, is hereby
37 amended by striking out section 20 and inserting in place thereof the following 5 sections:—

38 Section 20. As used in this section and in sections 20A to 23, inclusive, the
39 following words shall, unless the context clearly requires otherwise, have the following
40 meanings:—

41 "Affordable housing threshold", each city or town shall have a minimum affordable
42 housing threshold such that at least 10 per cent of year round housing units, as enumerated in the
43 most recent federal decennial census, meet the requirements for inclusion on the subsidized
44 housing inventory or on sites comprising 1.5 per cent or more of total land area zoned for
45 residential, commercial or industrial use in a manner consistent with sections 20 to 23, inclusive.

46 "Committee", the housing appeals committee.

47 "Consistent with local needs", shall have the meaning set forth in section 20A.

48 "Department", the department of housing and community development.

49 "Family", 2 or more persons who live or will live regularly in a unit as their
50 primary residence whose income and resources are available to meet the family's needs and who
51 are either related by blood, marriage, operation of law or who have otherwise evidenced an inter-
52 dependent relationship.

53 "Group home units", community housing units or beds which are located in a
54 non-institutional setting; provided, however, that each group home unit shall serve only 1 client
55 of the department of developmental services and the department of mental health.

56 “Local board”, any town or city board of survey, board of health, planning
57 board, conservation commission, building inspector or the officer or board having supervision of
58 the construction of buildings or the power of enforcing municipal building laws, or city council
59 or board of selectmen or other boards exercising power specified locally.

60 “Local program”, a housing program established and administered by a city,
61 town or county that has been authorized and approved by the department.

62 “Low or moderate-income households”, individuals or families living in a
63 housing unit with combined incomes not higher than 80 per cent of the median income for the
64 county in which the housing unit is located or an area as defined by the United States Office of
65 Management and Budget, whichever is lower, as determined by the United States department of
66 housing and urban development or, in the absence of such a determination, by the department.

67 “Low or moderate-income housing”, any year round housing subsidized by the
68 federal or state government under any program, or subsidized by a local government under a
69 local program authorized and approved by the department, to produce housing which serves low
70 or moderate-income households.

71 “Subsidizing agency”, any agency or entity of state, federal or local government
72 which subsidizes the construction or substantial rehabilitation of low or moderate-income
73 housing and any housing authority acting under clause (m) of section 26 of chapter 121B.

74 “Subsidy”, the provision of: direct financial assistance; indirect financial assistance
75 including insurance, guarantees, or other means; in kind assistance; technical assistance; or of
76 other supportive services through a federal, state or local housing program to assist the
77 construction of low or moderate-income housing.

78 “Uneconomic”, any condition brought about by any single factor or combination
79 of factors to the extent that such condition makes it impossible for a public agency or nonprofit
80 organization to proceed in building or operating low or moderate income housing without
81 financial loss, or for a limited dividend organization to proceed and still realize a reasonable
82 return in building or operating such housing within the limitations set by the subsidizing agency
83 on the size or character of the development or on the amount or nature of the subsidy or on the
84 tenants, rentals and income permissible, and without substantially changing the rent levels and
85 units sizes proposed by the public, nonprofit or limited dividend organizations.

86 Section 20A. Decisions and requirements by the planning board shall be
87 considered consistent with local needs if they are reasonable in view of the regional need for low
88 or moderate income housing considered with the number of low and moderate income persons in
89 the city or town affected and the need to protect the health or safety of the occupants of the
90 proposed housing or of the residents of the city or town, to promote better site and building
91 design in relation to the surroundings, or to preserve open spaces and the quality of drinking

92 water supply and water resources; and if such decisions and requirements are applied as equally
93 as possible to both subsidized and unsubsidized housing. Decisions and requirements shall also
94 be deemed consistent with local needs when imposed by a planning board after comprehensive
95 hearing in a city or town where:

96 (1) low or moderate-income housing exists which is at least 10 per cent of the
97 year round housing units reported in the most recent federal decennial census of the city or town;
98 or on sites comprising 1.5 per cent or more of total land area zoned for residential, commercial or
99 industrial use;

100 (2) the development is large scale for the city or town in which it is proposed. A
101 proposed development shall be large scale if the application for a comprehensive permit involves
102 construction of housing units equal to or greater than 2 per cent of all housing units in the city or
103 town, provided further that the permit involves construction of housing units not greater than
104 300; or

105 (3) the city or town has made recent progress toward attaining its affordable
106 housing threshold; provided, that recent progress toward its affordable housing threshold shall
107 mean that the number of housing units that have been created during the 12 months prior to the
108 date of the comprehensive permit application and that are eligible to be included on the
109 subsidized housing inventory are equal to or greater than 2 per cent of the city or town's total
110 year round housing units as enumerated in the most recent federal decennial census; or

111 (4) 12 months has not elapsed between the date of application for a
112 comprehensive permit and the date of the most recent pendency of a prior application for a
113 variance, special permit, subdivision or other approval related to construction on the same land if
114 that prior application included no provision for low or moderate income housing, provided that
115 any such application shall not be considered a prior application if it concerns only insubstantial
116 changes to an existing use;

117 (5) the city or town has adopted an affordable housing plan approved by the
118 department under which there is an increase in its number of low or moderate-income housing
119 units eligible for inclusion on the subsidized housing inventory by at least .5 per cent of total
120 year round housing units every calendar year until housing needs are met under this chapter,
121 subject to paragraphs (a) and (b).

122 (a) The affordable housing plan shall be based upon a comprehensive housing
123 needs assessment, which shall include an analysis of the most recent federal decennial census
124 data of the city or town's demographics and housing stock, development constraints as well as of
125 the city or town's ability to mitigate them, and the city or town's infrastructure.

126 (b) The affordable housing plan shall address the matters set out in regulations
127 promulgated by the department.

128 (c) Upon submission to the department, the plan shall also be submitted to the
129 regional planning district, commission or council of governments within such project is located.
130 The district, commission, or council of governments shall be as established under this chapter or
131 the Martha's Vineyard Commission, as described in chapter 831 of the acts of 1977, the
132 Nantucket Planning and Economic Development Commission, as described in chapter 561 of the
133 acts of 1973, the Cape Cod Commission, as described in chapter 716 of the acts of 1989, the
134 Franklin Regional Council of Governments, as described in chapter 151 of the acts of 1996, or
135 the Northern Middlesex Council of Governments, as described in chapter 420 of the acts of
136 1989, or any other regional planning district hereafter established by the general court. The
137 regional planning district shall have 30 days to comment to the department on the implications of
138 the plan for housing need, growth and development concerns and other relevant matters. Within
139 90 days after its submission to the department by a city or town's chief executive officer, the
140 department shall approve the plan if it meets the requirements in this section, otherwise, it shall
141 disapprove the plan. The department shall notify the city or town of its decision to either approve
142 or disapprove a plan in writing. If the department disapproves a plan, the notification shall
143 include a statement of reasons for the disapproval. A city or town that originally submitted a plan
144 that had been disapproved may submit a new or revised plan to the department at any time. A
145 city or town may amend its plan if the department approves the amendment. If the department
146 fails to mail notice of approval or disapproval of a plan or plan amendment within 90 days after
147 its receipt, the plan or plan amendment shall be deemed to be approved.

148 (d) The department shall certify annually whether a city or town is in compliance
149 with an approved plan. The department shall determine whether a city or town is in compliance
150 within 30 days of receipt of a city or town's request for such a certification. A city or town shall
151 be in compliance if it has reached the benchmarks established in its approved plan and has made
152 all changes necessary to accommodate future planned development. If the department determines
153 the city or town is in compliance with its plan, the certification shall be retroactive to the date the
154 certification was requested. Provided further, if a city or town fails to make a good faith effort to
155 achieve the goals established in the approved plan and as documented on the subsidized housing
156 inventory the city or town shall not be in compliance with its plan and shall submit a new plan
157 for certification by the department.

158 (e) Units which were created and which became eligible to be counted toward a
159 city or town's affordable housing threshold between August 1, 2002 and December 31, 2002
160 shall be credited toward the city or town's affordable housing threshold for the first year of
161 planned production under an approved affordable housing plan, regardless of the date the plan is
162 submitted to or certified by the department. An approved plan shall take effect for the purpose of
163 the definition of consistent with local needs in this section only when the department certifies
164 that the city or town has approved permits resulting in an initial annual increase in its low-or
165 moderate-income housing units of at least .5 per cent of total year round housing units in
166 accordance with its plan. It shall be the responsibility of the city or town to request such

167 certification from the department. Once the department has made such a certification of initial
168 compliance and subsequent annual certifications of compliance:—

169 (1) the board may, in its discretion, deny, or approve with conditions, any
170 comprehensive permit applications for the period of 1 year from any certification, and such
171 denial or approval with conditions shall be deemed consistent with local needs;

172 (2) the board may deny or approve with conditions any comprehensive permit
173 applications for the period of 2 years from any certification, if, in the year it was certified, the
174 city or town has increased its low or moderate-income housing stock by at least .5 per cent of
175 total year round housing units in a manner consistent with the plan;

176 (3) the board may, in its discretion, deny, or approve with conditions, any
177 comprehensive permit applications for the period of 3 years from any certification, if, in the year
178 it was certified, the city or town has increased its low or moderate-income housing stock by at
179 least 1 per cent of total year round housing units in a manner consistent with the plan; or

180 (4) the board has approved 3 or more comprehensive permits, at least 3 of which
181 contain 20 or more housing units each within 12 months preceding the filing of an application for
182 a comprehensive permit and those permits have become final. The board may choose among
183 multiple applicants which comprehensive permits will be accepted.

184 A developer that has requested a zoning change and that request has been
185 accepted by the town meeting or the city council may not seek a 40B approval for 1 year
186 following the zoning change.

187 (f) The board may deny a comprehensive permit application that is inconsistent with the
188 city or town's approved plan where the city or town offers a comparable site location for which
189 the board will grant a comprehensive permit.

190 Section 20B. (a)(1) To be eligible to submit an application for a comprehensive
191 permit or to file or maintain an appeal before the committee, the applicant and the project shall
192 fulfill the following jurisdictional requirements:–

193 (i) The applicant shall be a public agency, a nonprofit organization, or be, or
194 agree to become, limited dividend organization. An applicant shall satisfy the limited dividend
195 organization requirement if the owner of the project stipulates in writing to execute a regulatory
196 agreement with a subsidizing agency which limits the owner's return on building or operating the
197 project to the amounts set by the subsidizing agency or program if a comprehensive permit is
198 issued. Such regulatory agreement shall be recorded or filed prior to the beginning of
199 construction of the land records with the registry of deeds or land court in the registry district or
200 district office of the land court in which the project is located;

201 (ii) the project shall be fundable by a subsidizing agency under a low and
202 moderate-income housing subsidy program;

203 (iii) the applicant shall control the site; and

204 (iv) the proposed development shall contain not less than 25 per cent of its total
205 housing units as units affordable to low or moderate-income households, or in the alternative a
206 proposed development may contain not less than 20 per cent of its total housing units as
207 affordable to households whose income does not exceed 50 per cent of the area median income;
208 provided, further, that the inclusion of commercial, recreational or other land uses which are in
209 conjunction with the housing development shall not preclude eligibility.

210 (2) Fundability shall be established by submission of a written determination of
211 project eligibility by a subsidizing agency:

212 (i) A determination of project eligibility shall include: (A) the name and address
213 of the applicant; (B) the address of the site and site description; (C) the number and type, either
214 homeownership or rental, of housing units proposed; (D) the name of the housing program or
215 programs under which project eligibility is sought; and (E) relevant details of the particular
216 project if not mandated by the housing program, including the percentage of units for low or
217 moderate-income households, income eligibility standards, the duration of use restrictions
218 requiring occupancy by low or moderate-income households, and the limited dividend status of
219 the developer;

220 (ii) a determination of project eligibility shall make the following findings: (A)
221 that the proposed project appears generally eligible under the requirements of the housing
222 programs, subject to final review of eligibility and to final approval; (B) that the subsidizing
223 agency has performed an on-site inspection of the site and has reviewed pertinent information
224 submitted by the applicant; (C) that the proposed housing design and density are generally
225 appropriate for the site on which it is located, taking into account surrounding land uses,
226 proximity to transportation, services and public utilities, and design to minimize land use
227 impacts; (D) that the proposed project appears financially feasible within the housing market in
228 which it will be situated, based on comparable rentals or sales figures; (E) that an initial pro
229 forma has been reviewed and the project appears financially feasible on the basis of estimated
230 development costs; and (F) that the developer of the proposed project meets the general
231 eligibility standards of the housing program or programs.

232 (iii) In addition to the foregoing, a subsidizing agency shall consider the
233 following in making a determination of project eligibility; overall density and size;
234 environmental impact, including impacts on watersheds, rivers, and water bodies, wildlife habitat
235 and existing land uses; consistency with principles of smart growth, including without limitation
236 land use protections set forth in the open space and recreation plans adopted by the planning
237 board of the municipalities, or by the town meeting or city council and approved by the

238 executive office of energy and environmental affairs; impact on historical resources; the impact
239 of other pending applications for housing development; and other local concerns of the city or
240 town where the project is located.

241 (iv) Within 10 days of filing of its application for a determination of project
242 eligibility with a subsidizing agency for preliminary approval of a project, the applicant shall
243 serve written notice upon the director of the department.

244 (v) Within 10 days of filing the application for a determination of project
245 eligibility the applicant shall provide written notice and a copy of such application to the chief
246 executive officer of the city or town where the project is located and to the members of the
247 general court representing such city or town. The applicant shall also provide written notice of
248 the application to the board of zoning appeals, board of health, conservation commission, water
249 and sewer district, fire and police. Within 30 days after such notice, the chief executive officer or
250 designee of the chief executive officer may schedule and hold a meeting at a location within the
251 city or town where the project is located. The meeting shall be chaired by the city or town's chief
252 executive officer or designee and shall be attended by the applicant or its representative.
253 Representatives from local boards may attend the meeting and provide written comment. The
254 applicant and the city or town representatives shall informally discuss the preliminary proposal
255 to develop an understanding of the proposal and to respond to concerns raised in an effort to
256 achieve an outcome that meets the needs of the city or town as well as the applicant, if necessary.
257 In addition, a representative from a public or quasi-public housing agency, or a regional planning
258 agency within the regional planning district or its designee knowledgeable with respect to
259 chapter 40B may provide technical assistance on topics including, but not limited to, site design
260 and density, open space, marketing, use restrictions, allowable costs and profit limitations.
261 Following the close of the meeting, the chief executive officer of the city or town, local boards,
262 and the regional planning district may issue written comments within 14 days to the subsidizing
263 agency.

264 (vi) Within 10 days of receipt of a written determination of project eligibility
265 from the subsidizing agency, the applicant shall send by certified mail a copy of that
266 determination upon the director of the department.

267 (vii) An applicant that has obtained a determination of project eligibility shall be
268 presumed to be eligible to submit an application for comprehensive permit or to file or maintain
269 an appeal before the committee. Nothing in this section shall be deemed to confer upon any city
270 or town, or any of its boards, committees, commissions or officials, or upon any other person the
271 right to appeal or judicial review in any form the determination of project eligibility by the
272 subsidizing agency, it being intended that the rights of appeal conferred by sections 21 and 22
273 shall be the exclusive remedy for any party aggrieved by the issuance or denial of any
274 comprehensive permit under this section.

275 (viii) If project funding is provided through a non-governmental entity, a public
276 or quasi-public entity authorized by the department shall make the determination of project
277 eligibility. The designated entity that issued the project eligibility determination shall administer
278 the project thereafter as specified in program guidelines issued by the department.

279 (3) A showing that the applicant, or any entity 50 per cent or more of which is
280 owned by the applicant, owns a 50 per cent or greater interest, legal or equitable, in the proposed
281 site, or holds any option or contract to purchase the proposed site, shall be considered by the
282 board or the housing appeals committee to be conclusive evidence of the applicant's interest in
283 the site.

284 (4) No determination of project eligibility shall be issued for a project, if a
285 meeting has occurred, before the close of the subsequent comment period, or sooner than 45 days
286 after the filing of its application with the subsidizing agency for preliminary approval of the
287 project. A determination of project eligibility shall be for a particular financing program or
288 programs. An applicant may proceed under alternative financing programs if the application to
289 the board or appeal to the committee so indicates and if full information concerning the project
290 under the alternative financing arrangements is provided.

291 (5) Failure of the applicant to fulfill any of the requirements in this section may
292 be raised by the housing appeals committee, the board, or a party at any time, and shall be cause
293 for dismissal of the application or appeal. No application or appeal shall be dismissed until at
294 least 60 days after the applicant received notice of the application's failure.

295 (b) In order to appeal to the committee, an applicant shall have applied to the
296 board for a comprehensive permit under section 21 and shall have been denied such permit or
297 shall have been granted such permit with conditions which it alleges make the building or
298 operation of such housing uneconomic.

299 (c) (1) A city or town may record progress towards its affordable housing
300 threshold as documented in the subsidized housing inventory in the following manner:

301 (i) (a) if at least 25 per cent of housing units within a development are restricted
302 to serve low or moderate-income households, 100 per cent of housing units within the
303 development shall be eligible to be included toward the city or town's affordable housing
304 threshold, but if fewer than 25 per cent of housing units within a development are restricted to
305 serve low or moderate-income households, only those units which serve low or moderate-income
306 households shall be eligible to be included toward the city or town's affordable housing
307 threshold; or (b) if at least 20 per cent of housing units within a development are restricted to
308 serve households with household income at or below 50 per cent of area median income, 100 per
309 cent of housing units within the development shall be eligible to be included toward the city or
310 town's affordable housing threshold but, fewer than 25 per cent of housing units within a

311 development are restricted to serve low or moderate-income households, only such restricted
312 units shall be eligible to be included toward the city or town's affordable housing threshold;

313 (ii) (a) if at least 25 per cent of housing units within a development are restricted
314 to serve low or moderate-income households, 2 times the actual number of such restricted units,
315 not to exceed the total number of homeownership units authorized by the permit shall be
316 included toward the city or town's affordable housing threshold or (b) if at least 20 per cent of
317 housing units within a development serve households earning at or below 50 per cent of area
318 median income, 2 times the actual number of units serving such households, not to exceed the
319 total number of homeownership units authorized by the permit shall be included toward the city
320 or town's affordable housing threshold, but if fewer than 25 per cent of housing units within a
321 development are restricted to serve low or moderate-income households, only such units which
322 are restricted to serve low or moderate-income households shall be eligible to be included toward
323 the city or town's affordable housing threshold;

324 (iii) any community housing, as defined in chapter 44B, which is subject to a use
325 restriction requiring occupancy by low or moderate income households, provided further, that
326 such housing payment exclusive of utilities shall not exceed 30 per cent of monthly income of a
327 household at or below 80 per cent of area median income, adjusted for household size, shall be
328 eligible to be included toward the city or town's affordable housing threshold;

329 (iv) any accessory apartment which is approved under a city or town's ordinance
330 or by-law and is occupied by persons of low or moderate income; provided further, that such
331 rental payment exclusive of utilities shall not exceed 30 percent of monthly income of a
332 household earning at or below 80 percent of area median income, adjusted for household size,
333 shall be eligible to be included toward the city or town's affordable housing threshold. Each such
334 accessory apartment unit shall be subject to a use restriction, which may be revocable upon the
335 sale of the principal residence. Each city or town shall certify annually the number of such
336 accessory apartments within its borders;

337 (v) all group home units in each city or town as reported annually by the
338 department of mental health and the department of developmental services to the department
339 shall be eligible to be included toward the city or town's affordable housing threshold;

340 (vi) housing units created under a local program or subsidy or which qualify as
341 local initiative units pursuant to regulations promulgated by the department and restricted to
342 serve low or moderate income households as defined in this chapter shall be eligible to be
343 included toward the city or town's affordable housing threshold as documented on the subsidized
344 housing inventory;

345 (vii) low or moderate income housing created under section 60 of chapter 40 and
346 subject to a use restriction provided; further, that such housing payment exclusive of utilities
347 shall not exceed 30 per cent of monthly household income of a household earning at or below 80

348 per cent of area median income shall be eligible to be included toward the city or town's
349 affordable housing threshold;

350 (viii) if housing units were developed to serve low or moderate income
351 households and the use restriction has expired as a result of refinancing or operation of law or
352 otherwise, only those housing units that continue to serve low or moderate-income households;
353 provided further, that if such units were constructed under a comprehensive permit under chapter
354 40B they shall be eligible to be included toward the city or town's affordable housing threshold;

355 (ix) 50 per cent of the homes in a community, as defined by section 32Q of
356 chapter 140, shall be eligible to be included toward the city or town's affordable housing
357 threshold as documented on the subsidized housing inventory; and

358 (x) 75 per cent of assisted living units as defined under the General Laws,
359 requiring an entrance deposit and a monthly fee shall be considered as rental housing units.

360 (d) The department shall maintain an inventory of low or moderate income
361 housing units. Such inventory shall be published biennially; provided further, that such inventory
362 shall be updated for a specific city or town upon request by such city or town supported by the
363 evidence of such inventory. Housing units authorized by a comprehensive permit or special
364 permit which authorizes the creation of low or moderate income housing subject to a use
365 restriction shall be eligible to be included toward a city or town's affordable housing threshold as
366 recorded on the subsidized housing inventory when such comprehensive permit or special permit
367 becomes final, provided that housing units for which building permits have not been issued
368 within 1 year of the date when such comprehensive permit or special permit became final shall
369 no longer be eligible to be counted toward the city or town's affordable housing threshold until
370 the building permits have been issued. The department may for good cause waive such time
371 requirement. Low or moderate income housing units not authorized under such comprehensive
372 permit or special permit shall be eligible to be counted toward the city or town's affordable
373 housing threshold when a building or occupancy permit is issued.

374 Section 20C. The Massachusetts Housing Partnership Fund board, as established
375 by section 35 of chapter 405 of the acts of 1985, or its designee, shall make technical assistance
376 available to local zoning boards of appeal to assist in their review of applications for
377 comprehensive permits. No subsidizing agency shall issue a determination of project eligibility
378 or site approval unless a fee to defray the costs of such technical assistance program has been
379 collected from the applicant and remitted to the Massachusetts Housing Partnership Fund board
380 in accordance with a fee schedule adopted by the department. Such fee shall be payable upon the
381 filing of a comprehensive permit application.

382 Section 20D. The department shall promulgate regulations and establish
383 programs, policies, guidelines and necessary fee schedules to implement sections 20 to 23,
384 inclusive, of this chapter. The department shall make available planning and housing

385 development information and technical assistance to assist cities and towns in reaching their
386 affordable housing threshold as defined in this chapter.

387 SECTION 7. Section 21 of said chapter 40B, as so appearing, is hereby amended
388 by striking out, in lines 3 and 4, the following words: "board of appeals, established under
389 section twelve of chapter forty A" and inserting in place thereof the following words:- planning
390 board, established under section 70 of chapter 41.

391 SECTION 8. Said section 21 of said chapter 40B, as so appearing, is hereby further
392 amended by striking out, in lines 5, 9, 17, 20 and 24 the words "board of appeals" and inserting
393 in place thereof, in each instance, the following words:- planning board.

394 SECTION 9. Section 22 of said chapter 40B, as so appearing, is hereby amended
395 by striking out, in lines 7 and 10, the words "board of appeals" and inserting in place thereof, in
396 each instance, the following words:- planning board.

397 SECTION 10. Section 23 of said chapter 40B, as so appearing, is hereby
398 amended by striking out, in lines 4, 9, 23 and 30, the words "board of appeals" and inserting in
399 place thereof, in each instance, the following words:- planning board.

400 SECTION 11. The first paragraph of said section 23 of said chapter 40B, as so
401 appearing, is hereby amended by inserting after the first sentence the following sentence:—

402 The committee shall receive evidence of and shall consider the following
403 matters: (1) a city or town's master plan, comprehensive plan or community development plan,
404 and (2) the results or good faith effort of the city or town's efforts to implement such plans.

405 SECTION 12. Said section 23 of said chapter 40B, as so appearing, is hereby amended
406 by adding the following paragraph:-

407 There shall be a bureau of certified public accountants housed in the department of
408 housing and community development to review cost certification and profit limitation
409 requirements for developments constructed through a comprehensive permit as detailed in this
410 chapter. This bureau shall also conduct periodic audits of developers' financial statements.

411 SECTION 13. Notwithstanding any general or special law to the contrary, no
412 application for a comprehensive permit filed under sections 20 through 23 of chapter 40B of the
413 General Laws before the effective date of this act shall be denied as a result of changes under this
414 act.

415 SECTION 14. Notwithstanding any general or special law to the contrary, there
416 shall be a special commission to study the opportunity to increase the availability of housing for
417 extremely low to moderate-income families and individuals in the commonwealth by prioritizing
418 the redevelopment of brownfield sites and commercial areas for residential purposes. The

419 commission shall consist of 3 members of the senate, 3 members of the house of representatives,
420 1 from each branch shall serve as co-chairmen, the director of housing and community
421 development or the director's designee, the director of Massachusetts Development Finance
422 Agency or the director's designee; and 5 persons to be appointed by the governor, 1 of whom
423 shall be a representative from Citizen's Housing and Planning Association, Inc., 1 of whom shall
424 be a representative of the Greater Boston Chamber of Commerce, 1 of whom shall be a
425 representative from the Massachusetts Homebuilders Association, and 1 of whom shall be a
426 representative from the Massachusetts Municipal Association.

427 The commission shall also study the most appropriate punishment for developers that
428 provide false information on cost certification forms or for department audits. The commission
429 shall be consist of 3 members of the senate; 3 members of the house of representatives; 2
430 representatives appointed by the department of housing and community development, 2
431 representatives appointed by the Citizens' Housing and Planning Association, and 2 members of
432 a developer association selected by the chairman of the joint committee on housing. The
433 commission shall carefully balance the need for developer accountability with the need for
434 effective developer incentives in order to encourage affordable housing production. The
435 commission shall report its findings to the senate president and house speaker within 1 year of
436 the effective date of this act, and shall consider whether criminal sanctions for perjury or fraud,
437 or civil penalties are appropriate. The commission shall file its recommendations together with
438 the recommendations for legislation, if any, with the house and senate clerks who shall forward
439 the same to the house speaker and senate president within 2 years of the passage of this law.

440 SECTION 15. Notwithstanding any general or special law to the contrary, there shall be a
441 special commission to study objectives of sections 20 through 23 of chapter 40B of the General
442 Laws as those sections pertain to regions and regional need for low and moderate income
443 housing. The commission shall be comprised of 7 members appointed by the governor and
444 include 2 members of the department of housing and community development; 2 members of the
445 department of public utilities; 2 officers from the executive office of labor and workforce
446 development; and 1 member of the department of economic development. The commission shall
447 file its recommendations together with the recommendations for legislation, if any, with the
448 house and senate clerks who shall forward the same to the house speaker and senate president
449 within 2 years of the passage of this law.