

Tracked Changes to Chapter 121B from Governor's Bond Bill H.3653

The sections referenced in the Comments are sections of the bill, H.3653. The "Gov's Summary" referenced in the comments is from DHCD's summary.

Section 1: Definitions

Section 1. The following words, whenever used in this chapter shall, unless a different meaning clearly appears from the context, have the following meanings:?

"Acquisition cost", the amount prudently required to be expended by an operating agency in acquiring a housing or clearance project.

"Blighted open area", a predominantly open area which is detrimental to the safety, health, morals, welfare or sound growth of a community because it is unduly costly to develop it soundly through the ordinary operations of private enterprise by reason of the existence of ledge, rock, unsuitable soil, or other physical conditions, or by reason of the necessity for unduly expensive excavation, fill or grading, or by reason of the need for unduly expensive foundations, retaining walls or unduly expensive measures for waterproofing structures or for draining the area or for the prevention of the flooding thereof or for the protection of adjacent properties and the water table therein or for unduly expensive measures incident to building around or over rights-of-way through the area, or for otherwise making the area appropriate for sound development, or by reason of obsolete, inappropriate or otherwise faulty platting or subdivision, deterioration of site improvements or facilities, division of the area by rights-of-way, diversity of ownership of plots, or inadequacy of transportation facilities or other utilities, or by reason of tax and special assessment delinquencies, or because there has been a substantial change in business or economic conditions or practices, or an abandonment or cessation of a previous use or of work on improvements begun but not feasible to complete without the aids provided by this chapter, or by reason of any combination of the foregoing or other condition; or a predominantly open area which by reason of any condition or combination of conditions which are not being remedied by the ordinary operations of private enterprise is of such a character that in essence it is detrimental to the safety, health, morals, welfare or sound growth of the community in which it is situated.

"Capital funds", funds advanced by the department to a housing authority under state legislation financing capital outlays for housing production and/or preservation, including without limitation state legislation authorizing the issuance and sale of bonds by the Commonwealth to finance capital expenditures.

Commented [ADuke1]:

Section 6, Gov's summary says: **Adds a definition of "capital funds" used in Section 8**

"Clearance project", the demolition and removal of buildings from any substandard, decadent or blighted open area by an operating agency in accordance with subsection (d) of section twenty-six.

"Community development project", a work or undertaking on property which is publicly owned or managed for the installation, improvement, construction, alteration, enlargement, repair, rehabilitation, remodeling or reconstruction of buildings or other structures, facades, streets, roadways, thoroughfares, sidewalks, rail spurs, utility distribution system, water and sewer lines, parks, playgrounds, for site preparation and improvements, including demolition of existing structures, relocation assistance and for other like improvements necessary or desirable for the revitalization of the area in which the project is located or the acquisition of property on which any of the foregoing is being or will be undertaken.

"Community renewal program", any planning work or other undertaking (1) to identify substandard, decadent, and blighted open areas and other deteriorated or deteriorating areas, (2) to measure the nature and degree of blight and blighting factors within such areas, (3) to determine the financial, relocation, and other resources needed and available to restore and renew such areas, (4) to identify potential project areas and, where feasible, types of action proposed within such areas, and (5) scheduling or programming of urban renewal projects and other renewal activities in the community.

"Decadent area", an area which is detrimental to safety, health, morals, welfare or sound growth of a community because of the existence of buildings which are out of repair, physically deteriorated, unfit for human habitation, or obsolete, or in need of major maintenance or repair, or because much of the real estate in recent years has been sold or taken for nonpayment of taxes or upon foreclosure of mortgages, or because buildings have been torn down and not replaced and under existing conditions it is improbable that the buildings will be replaced, or because of a substantial change in business or economic conditions, or because of inadequate light, air, or open space, or because of excessive land coverage or because diversity of ownership, irregular lot sizes or obsolete street patterns make it improbable that the area will be redeveloped by the ordinary operations of private enterprise, or by reason of any combination of the foregoing conditions.

"Department", department of housing and community development.

"Development cost", the cost of construction or acquisition of a housing project, as determined by the department, including the costs of planning, engineering, surveying and studies; of acquisition of real estate, including the buildings thereon, site preparation, construction, reconstruction, alteration and repair; of interest on notes issued to temporarily finance the project; and of all other fees and expenses reasonably necessary and incurred or to be incurred in connection with construction or acquisition of a housing project.

"Elderly persons of low income", persons having reached the age of sixty or over whose annual income is less than the amount necessary to enable them to maintain decent, safe and sanitary housing.

"Families of low income", families and persons whose net annual income is less than the amount necessary to enable them to obtain and maintain decent, safe and sanitary housing.

"Federal government", the United States of America, and any agency or instrumentality corporate or otherwise of the United States of America.

"Federal legislation", any legislation of the Congress of the United States relating to federal assistance for urban renewal, clearance of substandard, decadent or blighted open areas, city or regional planning, rehabilitation, code enforcement, housing, relocation or any related matters, and any regulations authorized thereunder.

"Handicapped persons of low income", persons whose annual net income is less than the amount necessary to enable them to maintain decent, safe and sanitary housing and who have been determined, pursuant to regulations issued by the director of housing and community development to have an impairment which is expected to be of long continued and indefinite duration, which substantially impedes the ability to live independently in conventional housing and which is of such a nature that such ability could be improved by more suitable housing conditions. Except as required by federal law, and notwithstanding any other law to the contrary, a history of alcohol or substance use shall not constitute a qualifying impairment. Eligibility for protection as a handicapped or disabled person under state or federal anti-discrimination laws does not constitute a guarantee of eligibility for housing as a handicapped person of low income as defined herein. A person who has a handicap as defined in paragraph seventeen of section one of chapter one hundred and fifty-one B shall still meet the definition set out herein in order to be eligible for housing as a handicapped person of low income.

"Housing authority", a public body politic and corporate created pursuant to section three or corresponding provisions of earlier laws.

"Housing project", such projects for housing as a housing authority is authorized to undertake under sections twenty-five to thirty-three, inclusive.

"Low rent housing", decent, safe and sanitary dwellings within the financial reach of families or elderly persons of low income, and developed and administered to promote serviceability, efficiency, economy and stability; together with all necessary appurtenances of such dwellings.

"Low rent housing project", (1) a clearance project; or (2) any work or undertaking to provide decent, safe and sanitary dwellings, apartments or other living accommodations for families of low income, which work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient and desirable appurtenances, public or private ways, sewers, water supply, parks, site preparation or improvement, or administrative, community, health, recreational, welfare, or other facilities; or (3) the purchase of, or acquisition, otherwise than by eminent domain, of the right to use, completed dwelling units which have been recently constructed, reconstructed or remodeled (whether condominium units, individual buildings part of a larger development, or a portion of the units in a multifamily development); or (4) any combination of the foregoing. Such a project may include the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and other work performed in connection therewith, but construction activity in connection with a project may be confined to the reconstruction, remodeling or repair of existing buildings.

"Mayor", the city manager of the city in all cities having a Plan D or Plan E charter and the duly elected mayor of the city in all other cities. The mayor is hereby designated as the chief executive of the locality for purposes of any approval or action of such officer required by federal legislation.

"Municipal officers", in the case of all cities, the city council with the approval of the mayor, and in the case of all towns, the board of selectmen with the approval of the town manager, if any. The municipal officers are hereby designated as the local governing body for purposes of any approval or action of such body required by federal legislation.

"Operating agency", a housing authority or redevelopment authority.

"Redevelopment authority", a public body politic and corporate created pursuant to section four or corresponding provisions of earlier laws.

"Relocation payments", voluntary payments whether or not required by federal legislation made by an operating agency as reimbursement or compensation for the reasonable moving expenses necessarily incurred and any actual, direct loss of property, except good will or profit, suffered by

individuals, families, business concerns and nonprofit organizations, resulting from displacement on or after August twelfth, nineteen hundred and sixty-five, if such displacement is reasonably required to carry out an urban renewal plan or because of the acquisition of property by an operating agency.

Such relocation payments shall not include reimbursement or compensation for any expenses or losses for which reimbursement or compensation would be otherwise made, nor shall any person have any right of action for relocation payments, except as provided by federal legislation or chapter seventy-nine A.

"Relocation project", any work or undertaking for providing decent, safe and sanitary dwellings for persons or families displaced by any urban renewal project or other public improvement by the commonwealth or any city, town or other body politic and corporate of the commonwealth.

"Replacement units", low rent housing created to replace an existing housing project that is demolished or disposed of under subsection (k) of section 26; such units may be included within a privately owned mixed-income development that also includes dwellings that are not low rent housing, provided that the use and occupancy of the replacement units is subject to a binding legal contract and land use restriction under paragraph (7) of subsection (k) of section 26.

Commented [ADuke2]: Section 7 Gov's summary says **Adds a definition of "replacement units" used in Sections [9], [12] and [13].**

"Substandard area", any area wherein dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitation facilities or any combination of these factors, are detrimental to safety, health or morals.

"Tenant member", a member of the board of the housing authority who is directly assisted by that housing authority pursuant to this chapter.

"Urban renewal agency", the agency described in section nine.

"Urban renewal plan", a detailed plan, as it may exist from time to time, for an urban renewal project, which plan may comply with all requirements from time to time prescribed by federal legislation in order to qualify an urban renewal project for federal financial assistance and which plan shall (1) conform to the general plan for the municipality as a whole and be consistent with any definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational, educational and community facilities and other public improvements; (2) be sufficiently complete to indicate the boundaries of the area, such land acquisition, such demolition, removal, and rehabilitation of structures, and such redevelopment and general public improvements as may be proposed to be carried out within such area, zoning and planning changes, if any, and

proposed land uses, maximum densities and building requirements; and (3) indicate or be accompanied by materials indicating the proposed method for relocation of persons and organizations to be displaced by the project and the availability of and means by which there will be provided dwelling units for such persons substantially equal in number to the number of dwelling units to be rendered temporarily or permanently uninhabitable as a result of carrying out the project. In any case where an educational institution or a hospital is located in or near an urban renewal project area, the urban renewal plan for such project, or a development plan prepared by the hospital or educational institution and approved by the urban renewal agency after due notice and public hearing, may include plans for the development of land, buildings and structures adjacent to or in the immediate vicinity of the project area acquired or to be acquired and redeveloped or rehabilitated by such educational institution for educational uses or by such hospital for hospital uses. Such plans may comply with all requirements of federal legislation as they may exist from time to time relating to noncash grant-in-aid credits for expenditures of such hospitals or educational institutions. After its approval by the urban renewal agency, as aforesaid, any development plan which is not part of an urban renewal plan shall be approved by the planning board, the municipal officers and the department in the same manner as urban renewal plans, except that no further public hearing shall be required.

"Urban renewal project", a project to be undertaken in accordance with an urban renewal plan (1) for acquisition by an urban renewal agency of the land and all improvements thereon, if any, within a decadent, substandard or blighted open area covered by an urban renewal plan and for assembly or clearance by such agency of the land so acquired; or a project (2) for the elimination and for the prevention of the development or spread of a substandard, decadent or blighted open area covered by an urban renewal plan by means of rehabilitation or conservation work, which work may include the promulgation and enforcement of building and other codes within such area or the restoration and renewal of any such area or portion thereof, including the preservation, restoration or relocation of historical buildings, by carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements or by the acquisition by gift, purchase or eminent domain of land and all improvements thereon, if any, and demolition, removal, or rehabilitation of any such improvements whenever necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, provide land for needed public facilities or otherwise remove or prevent the spread of blight and deterioration; or a project (3) involving any combination of the foregoing types of project. "Urban renewal project" may also include the

provision of financial and other assistance in the relocation of persons and organizations displaced as a result of carrying out a project, the installation, construction or reconstruction of public and private ways, public utilities and services, parks, playgrounds, off street parking lots, traffic or fire control and police communications systems and other like improvements necessary for carrying out the objectives of the urban renewal project, together with such site improvements as are necessary for the preparation of any sites for uses in accordance with the urban renewal plan, and making any land or improvements acquired in the area of the project available for redevelopment or rehabilitation by private enterprise or public charitable agencies, including sale, initial leasing or retention by the urban renewal agency itself for residential, recreational, education, hospital, commercial, industrial, public, charitable or other uses in accordance with the urban renewal plan. "Urban renewal project" may also include the construction by a housing authority of any of the buildings, for residential use, contemplated by the urban renewal plan and the repair, removal or rehabilitation by an operating agency of any of the buildings, structures or other improvements located in the area covered by the urban renewal plan and which, under such plan, are to be repaired, moved or rehabilitated. "Urban renewal project" may also include acquisition by any means other than eminent domain and not involving public expenses of land outside of but adjacent to or in the immediate vicinity of an urban renewal project to be developed for hospital or educational uses under the urban renewal plan, whenever such acquisition is for the purpose of making such land subject to the urban renewal plan and the hospital or educational institution involved consents thereto. The term "redevelopment" shall include "development".

"Urban Revitalization and Development Project", any urban renewal project undertaken after January first, nineteen hundred and eighty-six for such residential, commercial, or industrial redevelopment projects as the department deems appropriate.

"Veteran", any person who is a veteran as defined in clause Forty-third of section seven of chapter four. The word "veteran" as used herein shall also include the spouse, surviving spouse, parent or other dependent of such person.

Section 11: Powers of operating agencies

Section 11. Each operating agency shall have the powers and be subject to the limitations provided in sections one to sixteen, inclusive, shall have the powers necessary or convenient to carry out and effectuate the purposes of the relevant provisions of the General Laws and shall have the following powers in addition to those specifically granted in this chapter:?

- (a) To sue and be sued; to have a seal; to have corporate succession;
- (b) To act as agent of, or to cooperate with the federal government in any clearance, housing, relocation, urban renewal or other project which it is authorized to undertake;
- (c) To receive loans, grants and annual or other contributions from the federal government or from any other source, public or private;
- (d) To take by eminent domain under chapter seventy-nine or chapter eighty A, or to purchase or lease, or to acquire by gift, bequest or grant, and hold, any property, real or personal, or any interest therein, found by it to be necessary or reasonably required to carry out the purposes of this chapter, or any of its sections, and to sell, exchange, transfer, lease or assign the same; provided, that in case of a taking by eminent domain under said chapter seventy-nine, the provisions of section forty of said chapter shall be applicable, except that the security therein required shall be deposited with the mayor of the city or the selectmen of the town in which the property to be taken is situated. Except as herein otherwise provided, the provisions of chapters seventy-nine and eighty A relative to counties, cities, towns and districts, so far as pertinent, shall apply to operating agencies, and the members of a housing or redevelopment authority shall act on its behalf under those chapters.
- (e) To clear and improve any property acquired by it;
- (f) To engage in or contract for the construction, reconstruction, alteration, remodeling or repair of any clearance, housing, relocation, urban renewal or other project which it is authorized to undertake or parts thereof;
- (g) To make relocation payments to persons and businesses displaced as a result of carrying out any such project;
- (h) To borrow money for any of its purposes upon the security of its bonds, notes or other evidences of indebtedness, and to secure the same by mortgages upon property held or to be held by it or by pledge of its revenue,

including without limitation grants or contributions by the federal government, or in any other lawful manner, and in connection with the incurrence of any indebtedness to covenant that it shall not thereafter mortgage the whole or any specified part of its property or pledge the whole or any specified part of its revenues;

(i) To invest in securities legal for the investment of funds of savings banks any funds held by it and not required for immediate disbursement;

(j) To enter into, execute and carry out contracts with any person or organization undertaking a project under chapter one hundred and twenty-one A;

(k) To enter, with the approval of the mayor or board of selectmen and the department, into agreements with the federal government relative to the acceptance or borrowing of funds for any project it is authorized to undertake and containing such covenants, terms and conditions as the operating agency, with like approval, may deem desirable; provided, however, that nothing herein shall be construed to require approval by the mayor or selectmen or the department of requisition agreements and similar contracts between an agency and the federal government which are entered into pursuant to an agreement approved by them;

(l) To enter into, execute and carry out contracts and all other instruments necessary or convenient to the exercise of the powers granted in this chapter;

(m) To make, and from time to time amend or repeal, subject to the approval of the department, by-laws, rules and regulations, not inconsistent with pertinent rules and regulations of the department to govern its proceedings and effectuate the purposes of this chapter;

(n) To join or cooperate with one or more other operating agencies in the exercise, either jointly or otherwise, of any of their powers for the purpose of financing, including the issuance of bonds, notes or other obligations and the giving of security therefor, planning, undertaking, owning, constructing, operating or contracting with respect to any project or projects authorized by this chapter located within the area within which one or more of such authorities are authorized to exercise their powers; and for such purpose to prescribe and authorize, by resolution, any operating agency so joining and cooperating with it to act in its behalf in the exercise of any of such powers; and

(o) To lease energy saving systems that replace non-renewable fuels with renewable energy such as solar powered systems.

Notwithstanding any general or special law to the contrary, a housing authority, with the approval of the department, shall have the power to secure indebtedness incurred for the preservation, modernization and maintenance of one or more of its low-rent housing developments assisted under section 32 or section 34 of chapter 121B by a pledge of a portion of capital funds awarded to it for improvements to be carried out pursuant to a department-approved capital improvement plan in accordance with department regulations governing capital projects. The department shall promulgate regulations establishing limitations on the percentage of awarded capital funds that may be pledged to secure indebtedness, describing permitted terms for borrowing and repayment, and establishing criteria for housing authorities that will be permitted to incur indebtedness secured by a pledge of capital funds. Any pledge of future year capital funds under this section is subject to the availability of funds under the department's capital spending plan as approved by the Governor for that year. All financing documents related to future year capital fund amounts must include a statement that the pledging of funds is subject to the availability of funds under the department's capital spending plan as approved by the Governor.

Commented [ADuke3]: Section 8 Gov's summary says: **Authorizes LHAs, with DHCD approval and pursuant to a DHCD-approved capital plan and regulations, to pledge a portion of their capital funds to secure debt, subject to availability under the capital plan. Because the amount of capital funds available to an LHA in any given year is often less than what is required to undertake urgent capital needs, such as roof replacement across all buildings in a given project, the ability to borrow against a stream of capital funds will allow LHAs to carry out critical projects in a more timely manner, with associated cost savings.**

Section 16: Exemption from taxation for real estate and tangible personal property of operating agency; revaluation or reassessment of real property; payments in lieu of taxes

Section 16. The real estate and tangible personal property of an operating agency including houses constructed by a housing authority on private land in rural areas under the provisions of section twenty-seven shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments; provided, that in lieu of such taxes, betterments and special assessments, a city or town in which an operating agency holds real estate used or to be used in connection with such a project may determine a sum to be paid to the city or town annually in any year or period of years, such sum to be in any year not in excess of the amount that would be levied at the current tax rate upon the average of the assessed value of such real

estate, including buildings and other structures, for the three years preceding the year of acquisition thereof, the valuation for each year being reduced by all abatements thereon.

Whenever a city or town in which such real estate is located shall have made a general revaluation or reassessment of its real property for purposes of taxation, the valuation of such real estate shall be determined by the assessors of said city or town as of January first, in the year succeeding such revaluation or reassessment, by dividing the amount of the payment authorized by this section for the year last preceding the revaluation by the residential class tax rate of said city or town for the year of the revaluation, so that the payment with respect to such land shall remain substantially the same as that made prior to such revaluation or reassessment. The operating agency, if aggrieved by the determination of the assessors, may within six months after written notice thereof appeal to the appellate tax board.

Such a city or town may, however, agree with such an operating agency upon the payments to be made to the city or town as herein provided or such agency may make and such city or town may accept such payments, the amount of which shall not in either case be subject to the foregoing limitation. The last paragraph of section six and all of section seven of chapter fifty-nine shall, so far as apt, be applicable to payments under this section.

Nothing in this chapter shall be construed to prevent the taxation to the same extent and in the same manner as other real estate is taxed, of real estate acquired by an operating agency for an urban renewal project and sold by it, or of the leasehold interests and buildings and other structures belonging to private individuals or corporations on land acquired by it; provided, however, that real estate so acquired by an operating agency and sold or leased to an urban redevelopment corporation or other entity operating under chapter one hundred and twenty-one A, or to an insurance company or savings bank or group of savings banks operating under said chapter, shall be taxed as provided in said chapter and not otherwise; and provided, further, that nothing in this chapter or in chapter fifty-nine shall be construed to require a city or town to impose a tax on the leasehold of real estate owned by an operating agency and leased by it beyond any amount which the city or town and the operating agency have agreed to be the payment in lieu of taxes hereunder.

Notwithstanding any provision to the contrary in this chapter or in any other general or special law relative to the tax status of real property, where a housing authority sells or transfers ownership of buildings or other structures on land owned by it to a private entity, including without limitation a for-profit or charitable corporation, general or limited

Commented [ADuke4]: Section 9: Gov's summary says **Exempts from ordinary real estate taxes a portion of privately-owned redevelopment projects that include public housing "replacement units", with a proration based on square footage ratios. The exempt portion of buildings or structures and land will be subject to the same agreements on payments in lieu of taxes that apply to other public housing units in the municipality.**

partnership, or limited liability company, for the purpose of rehabilitation, repair, development, or redevelopment of multifamily housing that will contain replacement units as defined in section 1, so much of the resulting buildings or structures as is restricted for use as replacement units, including associated common areas, and associated land shall be exempt from taxation, betterments and special assessments. If replacement units and associated common areas constitute only a portion of such resulting buildings or structures, the exemption shall be prorated based on the ratio which the square footage of replacement units bears to the square footage of all other residential or commercial units within the buildings or structures. The private entity shall pay (i) with respect to the exempt portion of the buildings or structures and land, a payment in lieu of taxes consistent with the valuation or other formula generally applicable under this section to the housing authority's real estate in the city or town in which such real estate is located, or as otherwise previously agreed upon between the city or town and the housing authority as the method for computing the payments to be made in lieu of taxes, and using the ratio described above, and (ii) with respect to the non-exempt portion of the buildings or structures and land, real estate taxes in accordance with chapter 59 of the General Laws based on the fair cash value of the non-exempt portion of the buildings or structures and non-exempt portion of the land using the ratio described above.

Section 26: Powers of a housing authority

Section 26. A housing authority shall have the following powers in addition to those set forth in section eleven or elsewhere in this chapter:?

(a) To make studies of housing needs and markets, including data with respect to population and family groups and their distribution according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages and other factors affecting housing needs and markets, and surveys and plans for housing related to community development, including desirable patterns for land use and community growth, and to make such studies, surveys and plans available to the federal government, the department and other state agencies, other operating agencies, the public and the building, housing and supply industries;

(b) To conduct investigations and disseminate information relative to housing and living conditions and any other matter deemed by it to be material in connection with any of its powers and duties;

(c) To determine what areas within its jurisdiction constitute substandard, decadent or blighted open areas;

(d) To prepare plans for the clearance of such decadent, substandard or blighted areas and to clear open areas whenever necessary or desirable to provide for the equivalent elimination of substandard buildings in accordance with section thirty-three provided that no housing authority in any city or town in which a redevelopment authority has been organized shall initiate such a clearance project without the approval of such redevelopment authority and the approval of the municipal officers of the city or town;

(e) To provide housing projects for families of low income;

(f) To provide projects or parts thereof for elderly persons of low income;

(g) To provide housing for families of low income in rural areas in accordance with provisions set forth in section twenty-seven;

(h) To undertake and provide relocation projects in order to house for a limited period families who are displaced by an urban renewal project or other public improvement involving the elimination of dwelling units whenever such project or public improvement is determined upon and it or an urban renewal agency finds that there exists in the city or town an acute shortage of housing and that there are no adequate means available for immediate relocation of persons and families displaced from that project area;

(i) To lease, operate and, subject to section thirty-two, establish or revise schedules of rents for any project or part thereof undertaken by it; and

(j) To undertake as a separate project the renovation, remodeling, reconstruction, repair, landscaping and improvement of an existing housing project or part thereof, including the reduction of undesirable unit densities in an existing housing project as deemed necessary by the department for the improvement of an existing housing project assisted by the commonwealth pursuant to section thirty-four or forty-one; provided, that an equal number of low-rent relocation units are provided to replace those occupied units which are removed in the reduction of an undesirable unit density; and provided, further, that the plans for each such project shall be undertaken in accordance with rules and regulations promulgated by the department for such projects; and provided, further, that notwithstanding the provisions of any other law, where the funding for such project or any similar state or federally funded undertaking with respect to low-rent housing exceeds fifteen million dollars, the number of households living on the original site when funds are or were committed exceeds two hundred and a receiver has been appointed for the housing authority pursuant to section one hundred and twenty-seven H of chapter one hundred and

eleven, the award of construction, reconstruction, installation, demolition, maintenance, alteration, remodeling or repair contracts shall be governed by the provisions of section thirty-nine M of chapter thirty, and shall include a requirement for certification of ability to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work, and shall not be subject to the provisions of sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine; and provided, further, that notwithstanding the provisions of any other law, where the funding for such project or any similar state or federally funded undertaking with respect to low rent housing exceeds fifteen million dollars, the number of households living on the original site when funds are or were committed exceeds two hundred and a receiver has been appointed for the housing authority pursuant to section one hundred twenty-seven H of chapter one hundred eleven, the receiver shall award contracts for construction, reconstruction, installation, demolition, maintenance, alteration, remodeling or repair of any building as provided in sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine and the receiver shall not only prequalify general bidders as set forth in section forty-four D but shall also prequalify sub-bidders for all classes of work for which sub-bids are required in accordance with prequalification requirements the receiver shall establish. The receiver shall also include as a prequalification requirement for both general bidders and for sub-bidders for each such contract that each general bidder and each sub-bidder be able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on each contract.

(k) To undertake as a separate project the demolition, clearance, preparation for sale [or other disposition](#), including the payment of relocation costs for occupants of such existing housing projects, and sale or other disposition of any of all of any existing housing project or part thereof assisted by the commonwealth, pursuant to section thirty-four, [notwithstanding the provisions of clause \(d\) or section thirty-four](#), provided, that the department shall first have:

[_ \(1\) found that all or a substantial portion of such existing housing project or part thereof no longer provides decent, safe and sanitary housing, as determined by the department of public health or the department of public safety, and, in the judgment of the department, such project or part thereof cannot feasibly be operated or renovated pursuant to the provisions of this chapter;](#)

[\(2\) approved the proposed project, including a relocation plan for occupants of the existing project and a plan to make housing available on the land where the existing project is situated, at least twenty-five per cent of the units of which shall be for low income persons or families, which project may](#)

Commented [ADuke5]: Section 10. Gov's summary says **Clarifies that an LHA's power to undertake the disposition of property includes a disposition by a means other than sale (e.g., long-term lease)**

Commented [ADuke6]: Section 11, Gov's summary says; **Makes clear that Section 34 applies to sales or other dispositions of a project by an LHA under Section 26(k).**

include plans to use a portion of such land for a public purpose ancillary to such development and approved by the department;

(3) approved the sale and the terms thereof, if the land is to be sold, which shall be at the fair market value for the proposed reuse, as determined by MHFA and approved by the department, and in accordance with the cooperation agreement referred to below;

(4) determined that the availability of funds to the housing authority for such project is conditioned upon the occurrence of the initial mortgage loan closing for the development of new or rehabilitated housing on the land where the existing project is situated; and the execution of a cooperation agreement by the MHFA and the department which shall establish a procedure for selection of a developer best qualified to develop, own and operate the new or rehabilitated housing on the existing land, for providing for such development of the new housing within a reasonable time in accordance with MHFA-approved contracts, and for assuring continued occupancy of at least twenty-five per cent of the dwelling units in the new development by families of low income;

[(1) found that all or a substantial portion of such existing housing project or part thereof requires such substantial modernization or rehabilitation to continue to provide decent, safe and sanitary housing that, in the judgment of the department, the required substantial modernization or rehabilitation cannot feasibly be executed by the housing authority pursuant to the provisions of this chapter;

[(2) approved the proposed project, including a relocation plan for occupants of the existing project and a plan to make housing available on the land where the existing project is situated, in which the number of replacement units restricted as low rent housing for occupancy by low income persons or families shall be the same as the number of low rent housing units in the existing housing project or part thereof that is subject to demolition or disposition, unless the department determines that (A) a shortage of low-rent housing no longer exists in the applicable city or town, or (B) the reduction in the number of units is necessary to increase the number of units that are accessible for persons with disabilities, which project may include plans to use a portion of such land for market-rate housing or for a public purpose ancillary to such development and approved by the department;

[(3) approved the sale or other disposition and the terms thereof, which shall be at the fair market value for the proposed reuse unless the department determines that a below-market disposition would be in the public interest in order to support the continued occupancy of dwelling units in the new development by families of low income;

Commented [ADuke7]: Section 12 Gov's summary says; **Revises the findings that DHCD must make to approve a sale or disposition of a public housing development to create greater opportunity for public-private redevelopment of existing public housing sites, while adding a requirement for one-for-one replacement unless a shortage of low-rent housing no longer exists in the applicable city or town or where some reduction in units is necessary to increase the number of units that are accessible for persons with disabilities.**

(4) determined that the availability of funds to the housing authority for such project is conditioned upon the occurrence of the initial mortgage loan closing for the development of new or rehabilitated housing on the land where the existing project is situated; and the selection by the housing authority through a qualifications-based competitive procurement process approved by the department of a developer best qualified to develop, own and operate the new or rehabilitated housing on the existing land, for providing for such development of the new housing within a reasonable time in accordance with department-approved contracts, and for assuring continued occupancy of the required number of replacement units in the new development by families of low income in accordance with the requirements of this chapter.

(5) determined that the proceeds of such sale or other funds available to the housing authority for such project, or both, shall not be less than the amount necessary to pay in full the principal of and interest on the outstanding obligations of the housing authority with respect to such existing project if the whole is sold or not less than that percentage of such obligations which the original cost of the part sold bears to the total original cost of the entire existing project if a part is sold. Such amount of proceeds or other funds necessary to pay in full such obligations or percentage thereof shall be deposited in trust for the benefit of the holders of such outstanding obligations and until and unless all such obligations are paid and discharged in full said proceeds and other funds shall be expended solely for payment of principal and interest thereon.

(6) found that representatives of all occupants of such existing housing project, selected by the occupants in a manner approved by the department, have fully participated in the development of the project proposal and that all occupants of such existing housing projects have adequate notice and an opportunity to review the proposed project and relocation plan and an opportunity to present their views at a public hearing which shall be held by the department.

|(7) approved a binding legal contract and land use restriction to be entered into by the transferee of the property in favor of the local housing authority and the department of housing and community development that requires compliance with chapter 121B of the General Laws and 760 CMR §§ 4.00 et seq., 5.00 et 2seq. and 6.00 et seq. with respect to the replacement units in the same manner and to the same effect as if such entity were a housing authority, subject to such regulatory waivers given by the department of housing and community development as may be necessary to secure financing. The contract shall require compliance in perpetuity unless the department determines that the project financing requires the use of Federal low income housing tax credits and that compliance in perpetuity would

Commented [ADuke8]: Section 13. Gov's summary says **Requires, as a condition of sale or disposition of an existing housing project, that the transferee enter into a binding land use restriction, requiring compliance with public housing restrictions with respect to replacement units in perpetuity, except in limited circumstances for projects utilizing Federal low income housing tax credits.**

[make it infeasible to comply with Internal Revenue Service requirements with respect to the low income housing tax credit program.](#)

(l) To provide housing projects or specific parts thereof, or cooperative apartments, community residences and such other forms of congregate housing, or housing in separate dwelling units, for low income handicapped persons or low income families, of which one or more than one person is handicapped, or persons whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging; provided, that such housing may be provided in newly constructed buildings, or in buildings purchased or leased, and that may be made renovated as necessary, or in buildings already owned by local housing authorities that may be made accessible; and to provide living facilities for persons essential for the well-being of such handicapped persons or families; and to provide other such facilities as are necessary to the well-being of the handicapped residents of such housing; and to contract with various corporations for the provision of services to the handicapped residents, including but not limited to staffing, management and maintenance of such housing; provided further, that such contracting shall be in accordance with guidelines and directives or rules and regulations, or either, promulgated or issued by the department, and that such contracting shall be approved by the department.

(m) To participate in the development of low and moderate income housing undertaken or assisted pursuant to federal legislation and to finance mortgage loans for the construction or rehabilitation of low and moderate income housing, which may include ancillary commercial facilities to the extent permitted by the then applicable regulations of the department, and to purchase, or participate in the purchase of, securities which are secured by such mortgage loans. A local housing authority may create, designate or approve agencies or instrumentalities to provide such housing and do all other things necessary or desirable to secure financial or other forms of assistance from the federal government including the exemption from federal income taxation of interest on bonds or notes of such housing authority issued with respect to such housing. Low and moderate income housing shall be financed under this paragraph only after the housing authority shall, pursuant to regulations adopted by the department, have found (A) that persons and families whose annual incomes are less than eighty per cent of the median income in the area in which such housing is to be constructed or rehabilitated, as determined by the department, can afford the rentals, including the provision of heat, electricity and hot water, set for twenty per cent of the units in the project on the basis of the use of not more than thirty per cent of their annual income or such greater portion of their annual income as may be required by laws or regulations applicable to any housing subsidy program of any agency of the United States government or the commonwealth to be used in connection with the

proposed project or any laws or regulations applicable to the exemption of the interest on the bonds or notes of the housing authority from federal income taxation and (B) either (1) that the other tenants occupying the project shall pay a rental not less than one-seventh of their annual income but in no event greater than the maximum rental which could be obtained for such unit in light of the rentals charged for comparable units within the same market area; or (2) that the project is located in a blighted open area, or any decadent area, or any substandard area. Any bonds, notes or other securities issued by any local housing authority, or any agency or instrumentality designated or approved by any such authority, pursuant to the provisions of this paragraph, shall not create or imply any obligation or indebtedness of any kind on the part of any local housing authority, the commonwealth, or any political subdivision thereof. The department may promulgate such rules and regulations as it may deem necessary to further the purposes of this paragraph.

(n) to disseminate to and receive from other housing authorities information, including personal data as defined in section one of chapter sixty-six A, which could have a direct bearing on a determination as to whether an individual or household is qualified for selection or placement in accordance with state or federal eligibility or tenant selection regulations; provided, that in instances where the department of housing and community development or a nonprofit corporation is administering a state or federal housing program, a housing authority may disseminate to and receive such information for the aforementioned purpose from the department of housing and community development or a nonprofit corporation. Such information may be disseminated for the aforementioned purpose among the department of housing and community development and any nonprofit corporations administering a state or federal housing program. Any personal data, as defined in section one of said chapter sixty-six A, which is received by a housing authority, the department of housing and community development, or a nonprofit corporation pursuant to this paragraph, shall be used, maintained and disseminated further in accordance with the provisions of said chapter sixty-six A and this paragraph. Whenever such information is disseminated by a local housing authority, the department of housing and community development, or a nonprofit corporation, a copy of all such information and the names of the agencies which received it shall be sent to said individual or household. The department of housing and community development shall promulgate such rules and regulation as it deems necessary to further the purposes of this paragraph.

(o) To provide in the case of a unit in a housing project occupied by an elderly person of low income or a handicapped person of low income, for the installation, removal, or maintenance of air conditioner units, stoves, and such other personal property of said elderly person or such handicapped

person as the housing authority may determine necessary to maintain the building and to protect the safety of tenants residing therein.

(p) Notwithstanding this [section or section 34 any provision of this chapter](#) to the contrary, to dispose of or demolish any part or all of an existing housing project assisted by the commonwealth pursuant to chapter 689 of the acts of 1974, chapter 167 of the acts of 1987 or chapter 705 of the acts of 1966, if: (1) the department and the housing authority have determined that it is not financially feasible to [maintain or to](#) bring the units up to a reasonable program standard for occupancy or permissible to convert the units to another low-rent housing program; (2) the inventory of available housing units remaining in the surrounding community is not substantially diminished as a result of such demolition [or other disposition](#); and (3) for units financed pursuant to chapter 705 of the acts of 1966, the units were vacant as of [November 1, 2012 for at least two years](#), or, for units financed by the chapter 689 of the acts of 1974 or chapter 167 of the acts of 1987, the department has received written confirmation from both the department of developmental services and the department of mental health that those units are obsolete and inappropriate for housing their respective clients. Upon approval by the department, the authority may dispose of the property by sale, ground lease or other transfer of its interest in the property; provided, that the department shall review and approve of any appraisal and request for proposals related to the disposition, as well as the selection of the selected bidder. The request for proposals shall provide that, in reviewing responses to the request for proposals, first priority for selecting from among the responsive and responsible bidders shall be those bidders that offer a feasible plan to provide housing on the site that is permanently affordable to households under 80 per cent of area median income as defined by the department. Those bidders shall obtain the property for \$1, subject to an enforceable agreement to meet the requirements of its proposal. If no responsive and responsible bidder meets the above standard, the property shall be sold to the bidder offering the highest price for the property. Notwithstanding anything to the contrary in this chapter, proceeds from the disposition, after paying for the costs of the disposition, shall be deposited in an expendable trust controlled by the department, the purpose of which shall be to fund capital improvements that the department determines are necessary and appropriate at existing housing developments that serve households that would have been eligible for occupancy of the units that had been sited on the property.

[\(q\) Notwithstanding any general or special law to the contrary, including without limitation section 16 of chapter 30B of the General Laws, a housing authority may dispose of property pursuant to this section or section 34 of this chapter to a developer selected by competitive, qualifications-based](#)

Commented [ADuke9]: Section 14
Gov's summary says **Technical change to replace reference to particular sections with reference to chapter as a whole.**

Commented [ADuke10]: Section 15
Gov's summary says **Technical change to address powers of a housing authority when it is not financially feasible to maintain units to a reasonable program standard for occupancy even if the units have not yet fallen below that standard.**

Commented [ADuke11]: Section 16
Gov's summary says **Technical correction to make clear that section 26(p) applies to certain types of dispositions as well as demolition.**

Commented [ADuke12]: Section 17
Gov's summary says **Changes the requirement that a unit must be determined to be vacant as of a date certain of November 1, 2012 in order for a housing authority to seek DHCD approval to dispose of or demolish the unit to a requirement that the unit be vacant for a two year period before disposition or demolition.**

Commented [ADuke13]: Section 18.
Gov's summary says: **Adds provisions permitting LHAs to procure developer partners for public housing redevelopment projects through a competitive, qualifications-based procurement process that will allow the disposition of property to the selected developer without having to go through a separate land disposition process. The proposed language retains protections inherent in G.L. c. 30B, §16 by requiring a pre-disposition appraisal and publication in the central register if the final disposition price is less than appraised value.**

procurement without separately soliciting proposals for the property disposition, provided that the developer procurement declares the property available for disposition and that, in the case of a disposition of property pursuant to subsection (k), the number of replacement units required under paragraph (2) of said subsection (k) are provided. Without limiting the generality of the foregoing:

(1) A housing authority shall not be required to determine the value of the property prior to soliciting proposals for selection of a developer best qualified to develop, own and operate the new or rehabilitated housing on the land. Prior to disposition of property by deed or other instrument, the housing authority shall determine the value of the property through procedures customarily accepted by the appraising profession as valid prior to the sale or other disposition of the property, and if, with the approval of the department, the housing authority decides to dispose of the property at a price less than the value as so determined, the housing authority shall publish notice of its decision in the central register, explaining the reasons for its decision and disclosing the difference between such value and the price to be received; and

(2) A housing authority shall not be required to specify all of the restrictions that may be placed on the subsequent use of property prior to selecting a developer through a qualifications-based competitive procurement process, provided that the developer procurement identifies the minimum number of dwelling units in the new development that must be occupied by families of low income. In the case of a disposition pursuant to subsection (k), such minimum number must conform to the requirements of paragraph (2) of subsection (k).

Section 29: Accounts and reports of housing authorities; review of financial records; availability to public; audit; investigations by department; rules and regulations of department

Section 29. The members of a housing authority shall annually, at a time to be determined by the department, file with the department a written report for its last preceding fiscal year. The report shall be filed in the manner prescribed by the department and shall contain an agreed upon procedure for the review of housing authority financial records, an annual plan as provided for in this chapter and other information as the department may require.

Each housing authority shall contract with an independent external auditor to prepare the agreed upon procedures for review of housing authority financial records. An external compliance auditor shall perform not more than 5 consecutive agreed upon procedures for review of housing authority financial records for a housing authority; provided, however, that the department may grant a waiver of this requirement to a housing authority that proves unsuccessful in procuring bids from multiple external auditors qualified to perform the housing authority's state compliance audit. The department shall promulgate procedures, rules or regulations prescribing the requirements to be included in the agreed upon procedures for review of housing authority financial records.

The report, agreed upon procedures for review of housing authority financial records and the annual plan, shall be made available to the public on the department's website, as well as the housing authority's website required under section 26D. Failure of the members of a housing authority to provide the department with the required written report may constitute neglect of duty and may subject a responsible member to removal proceedings pursuant to section 6.

Housing authorities shall be subject to audit by the state auditor, in accordance with generally accepted government auditing standards, as often as the auditor determines is necessary. The auditor shall have access to the written report required by this section and shall have the power to examine

the property and records of housing authorities and to prescribe methods of accounting. In determining the audit frequency of housing authorities, the state auditor shall consider the materiality, risk and complexity of housing authority activities, as well as the nature and extent of prior audit findings. Each housing authority may be audited separately or as a part of an audit covering multiple housing authorities.

The department shall investigate the budgets, finances and other affairs of housing authorities and the housing authority's dealings, transactions and relationships. The department may, severally with the state auditor, examine the properties and records of housing authorities and prescribe methods of accounting and the rendering of periodical reports in relation to clearance and housing projects undertaken by such authorities. The department shall make, amend and repeal rules and regulations prescribing standards and stating principles governing the planning, construction, maintenance and operation of clearance and housing projects by housing authorities.

The proceeds of any sale or other disposition of such project in excess of the total of all obligations of the housing authority with respect to such project shall, after the payment of all bonds issued by the housing authority to finance the cost of such project and payment of the costs of the sale or disposition, be retained by the housing authority for the preservation, modernization and maintenance of its public housing assisted under this chapter as approved by the department, or where the housing authority has no public housing assisted under this chapter, such proceeds shall be paid to the department to fund capital improvements for the preservation, modernization and maintenance of state-aided public housing.

In the development or administration of a project which is not federally aided, a housing authority shall furnish the commissioner of labor and industries, upon his request, with a list of the classifications of work performed by all architects, technical engineers, draftsmen, technicians, laborers and mechanics employed therein, and shall notify him from time to time of any changes in said classifications. Said commissioner shall determine rates of wages and fees and payments to health and welfare plans for each such classification and shall furnish the housing authority with a schedule of such rates, fees and payments. The rates of wages and fees paid by each housing authority to such architects, technical engineers, draftsmen,

Commented [ADuke14]: Section 20, Gov's summary says **Allows an LHA to retain the proceeds from disposition of real property after Commonwealth bonds are paid in full. If the LHA has no more public housing after the disposition, proceeds will be paid to DHCD. In either case, the funding will be used to address critical modernization and maintenance needs at state-aided public housing.**

technicians, laborers and mechanics shall not be less than those determined by said commissioner who shall set the rate at no less than eighty per cent of the prevailing wage in accordance with sections twenty-six and twenty-seven of chapter one hundred and forty-nine. In the event that any housing authority fails to furnish said commissioner with said list within two weeks after the date of his request, said commissioner shall determine said rates of wages and fees and payments to health and welfare plans.

A housing authority shall bargain collectively with labor organizations representing its employees and may enter into agreements with such organizations.

Notwithstanding any provision of law to the contrary the provisions of sections four, ten and eleven of chapter one hundred and fifty E shall apply to said authorities and their employees.

No employee of any housing authority, except an employee occupying the position of executive director, who has held his office or position, including any promotion or reallocation therefrom within the authority for a total period of five years of uninterrupted service, shall be involuntarily separated therefrom except subject to and in accordance with the provisions of sections forty-one to forty-five, inclusive, of said chapter thirty-one to the same extent as if said office or position were classified under said chapter.

Except as otherwise stated therein, compliance with this chapter, the rules and regulations adopted by the department and the terms of any low-rent housing project or clearance project authorized by this chapter, may be enforced by a proceeding in equity.

Whenever a housing authority shall determine that land acquired by it under clause (d) of section 11 for the purpose of this section is in excess of or no longer required for such purposes it may, upon approval by the department, sell or otherwise dispose of such land by deed or instrument approved as to form by the attorney general. If the housing authority is disposing of such land for purposes of housing development, it may do so in accordance with section 26 of this chapter. So long as any bonds issued by a housing authority to finance the cost of a project under this section or section 35 and guaranteed by the commonwealth are outstanding, funds received from a disposition of land as provided in this chapter shall be applied in accordance with the fourth paragraph of this section. After the

Commented [ADuke15]: Section 21. Gov's summary says **Conforming change to implement section 20.**

payment of all bonds issued by the housing authority to finance the cost of such project, funds received shall be applied in accordance with the fifth paragraph of this section.

Notwithstanding any provision to the contrary in this section or elsewhere in this chapter, if a housing authority does not own, lease or manage any housing project assisted under section 32 or section 34 of this chapter, the department shall not investigate such housing authority's budgets, finances, dealings, transactions and relationships or other affairs, nor shall the department require periodic reporting by any such housing authority. Without limiting the generality of the foregoing, a housing authority that does not own, lease or manage any housing project assisted under section 32 or section 34 of this chapter shall not be required to (a) conduct elections for tenant board members under section 5A, (b) participate in a training program under section 5B, (c) submit contracts with its executive director to the department for review pursuant to section 7A, (d) participate in the performance-based monitoring program established pursuant to section 26B, (e) participate in the regional capital assistance team program established pursuant to section 26C, (f) prepare and submit an annual plan pursuant to section 28A and this section, or (g) prepare and submit, or make available, a written report and agreed upon procedures for review of housing authority financial records pursuant to this section 29.

Notwithstanding any general or special law to the contrary, construction and development activity related to redevelopment of state-aided public housing projects where the land, buildings or structures associated with the housing project have been conveyed or transferred to a private entity for purposes of completing the redevelopment shall not be subject to any general or special law related to the procurement and award of contracts for the planning, design, construction management, construction, reconstruction, installation, demolition, maintenance or repair of buildings by a public agency, provided that the department shall review and approve the procurement processes used to undertake this redevelopment in accordance with subsection (q) of section 26. Nothing in this section shall be deemed to exempt a housing project from sections 26 to 27H, inclusive, of chapter 149 of the General Laws.

Commented [ADuke16]: Section 19 Gov's summary says: **Exempts from DHCD oversight LHAs that do not own, lease or manage any state-aided public housing units. LHAs remain subject to audit by the state auditor, as often as the auditor determines is necessary.**

Commented [ADuke17]: Section 22. Gov's summary says: **Exempts private redevelopment of public housing from the public bidding requirements of c. 149, including filed sub-bid requirements, but does not relieve such redevelopment from prevailing wage requirements, to the extent applicable.**