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June 21, 2018

The Honorable Antonio Cabral
Chair, House Committee on Bonding, Capital Expenditures and State Assets
24 Beacon Street
State House, Room 466
Boston, MA 02133

RE: Testimony on H.4592, *An Act Relative to Economic Development in the Commonwealth*

Dear Chairman Cabral and Distinguished Members of the House Committee on Bonding, Capital Expenditures and State Assets,

On behalf of Citizens' Housing and Planning Association (CHAPA), thank you for the opportunity to testify on H.4592, *An Act relative to economic development in the Commonwealth*. I am writing in support of the Economic Development Bill and to respectfully request the Committee to add several provisions to further promote economic development and affordable housing.

CHAPA's mission is to encourage the production and preservation of housing that is affordable to low- and moderate-income families and individuals and to foster diverse and sustainable communities through planning and community development. We advocate for the policies and resources needed to make sure everyone in the Commonwealth has a safe, healthy, and affordable place to call home.

We support the Economic Development Bill because housing is directly tied to economic development. The housing industry creates and supports thousands of jobs in the Commonwealth, including construction workers, architects, and the permanent staff needed to manage developments. Housing also generates revenue through state and local tax collections and residents support small businesses like restaurants and retail shops in communities across Massachusetts. Finally, housing provides the foundation for a family to be stable and economically self-sufficient.

CHAPA strongly supports the \$300 million capital reauthorization for the MassWorks Infrastructure Development Program. This will allow more grants to communities to support economic development, affordable housing, and job creation.

We also ask the Committee to include several new provisions in the bill to support affordable housing and economic development for families. Specifically, CHAPA supports adding provisions concerning the following issues:

- I. Including public housing reforms;
- II. Creating an exemption from mortgage loan originator licensing requirements and fees for certain affordable housing nonprofits; and
- III. Establishing an economic mobility commission.

CHAPA's suggestions are explained below and proposed language to implement our recommendations is included at the end of this testimony.

I. Including Public Housing Reforms

CHAPA respectfully requests that the Committee include public housing reform provisions, that Governor Baker originally filed in his Economic Development Bill, H.4297, *An Act enhancing opportunities for all*.¹ These provisions will promote affordable housing and economic development by giving local housing authorities more flexibility to enter redevelopment partnerships and to address deferred capital needs.

These sections will also support creative efforts to repair and rehabilitate public housing in Massachusetts to ensure that these homes remain affordable and available for all current and future residents. In return for the modernization of the public housing stock, including a full one-to-one replacement of current units, the housing authorities' development partners will construct additional new market-rate homes to create vibrant communities.

However, CHAPA asks the Committee to include the Governor's public housing reform provisions, as contained in H.4297, with the following changes in order to improve these proposed reforms:

1. Clarifying Tenant Protections
2. Providing Technical Assistance to Residents
3. Allowing Residents to Enforce Rights
4. Retaining Authority of LHA and DHCD to Monitor and Enforce
5. Issuing Regulations to Implement Public-Private Partnerships
6. Allowing Federal Public Housing to Participate in Public-Private Partnerships

CHAPA also has three concerns regarding the public housing sections. Specifically, how these public-private partnerships will impact capital funding for public housing authorities; whether a tenant in a town is required to remain on the board of a housing authority with only replacement units; and if replacement units must be limited to on-site housing.

¹ H. 4297, 190th Gen. Ct. §§ 26–42 (Mass. 2018).

CHAPA's suggestions and concerns are explained below. Proposed language to implement our recommendations is included at the end of this letter.

1. Clarifying Tenant Protections

As public housing units are converted into private affordable housing, Section 33 of H.4297 should be amended to ensure that the protections for public housing tenants provided by regulations apply to future residents of the affordable housing created by the partnerships between housing authorities and private developers.

H.4297 allows current units in a public housing development to be converted into affordable housing "replacement units" within a privately owned mixed-income development.² The Governor's provisions state that these developments will comply with public housing laws and regulations "in the same manner and to the same effect as if such entity were a housing authority," requiring that developments remain in compliance with the Massachusetts public housing statute, Chapter 121B, and related regulations.³

For regulations that will continue to apply to these developments, H.4297 explicitly lists regulations for the General Administration of Local Housing Authorities;⁴ Eligibility and Selection Criteria;⁵ and Occupancy Standards and Tenant Participation for State-Aided Housing.⁶

To make clear that all public housing regulations apply to these developments, Section 33 of H.4297 should be amended to also explicitly include regulations for privacy and confidentiality,⁷ relocation assistance,⁸ and fair housing.⁹

2. Allowing Residents to Enforce Rights

Section 33 of H.4297 should also be amended to allow residents of replacement units to enforce the terms of the legal contracts, land use restrictions, and regulations for their development. This will help ensure that the affordable housing and tenant protections created by the public-private partnerships between housing authorities and developers remain in place for all current and future residents.

Adding this language will provide a clear path for residents to enforce their rights. This suggested change mirrors protections for residents of affordable units created with the

² H. 4297, 190th Gen. Ct. §§ 27 (Mass. 2018) (defining "replacement units").

³ H. 4297, 190th Gen. Ct. §§ 33 (Mass. 2018).

⁴ 760 Mass. Code Regs. 4.

⁵ 760 Mass. Code Regs. 5.

⁶ 760 Mass. Code Regs. 6.

⁷ 760 Mass. Code Regs. 8.

⁸ 760 Mass. Code Regs. 27.

⁹ 760 Mass. Code Regs. 47.

federal Low-Income Housing Tax Credit (LIHTC).¹⁰ This protection also already applies to affordable housing created by the Massachusetts LIHTC program.¹¹

3. Retaining Authority of LHA and DHCD to Monitor and Enforce

Section 33 of H.4297 should provide local housing authorities and the Department of Housing and Community Development (DHCD) with monitoring and enforcement responsibilities which will be articulated in the contract and land use restrictions documents between housing authorities and private developers. This will make clear where residents can turn to enforce regulations and use agreements.

4. Issuing Regulations to Implement Public-Private Partnerships

Section 33 of H.4297 should also be amended add language directing DHCD to issue regulations to implement these changes that will allow the creation of the public-private partnerships between local housing authorities and developers.

It is impossible to predict and clarify all of the issues that will arise with these new developments. Regulations are necessary to ensure developments will be successful. However, the process of issuing regulations should not be allowed to delay any current or future public-private partnerships from moving forward.

5. Providing Technical Assistance to Residents

Projects developed under the public-private partnerships allowed by H.4297 will seriously impact the homes of current public housing residents. As projects move forward, apartments once managed and owned by local housing authorities will be taken over by private developers. As developments are modernized and improved, new units will be added and mixed-income communities will be created. While ultimately these changes will benefit the preservation of affordable housing, current residents will face serious disruptions, including the need to be relocated as their homes are rehabilitated.

In order for these residents facing significant impacts to their lives to participate and have meaningful input on projects proposed under this legislation, a section should be added that requires technical assistance to be provided to these tenants.

The state public housing statute, Chapter 121B, currently requires that residents of a public housing development being disposed of must have fully participated and have adequate notice and opportunity to review a proposed project and relocation plan for their development.¹² This requirement will apply to any project developed under a public-private partnership allowed by the Governor's provisions.

¹⁰ See 26 U.S.C. § 42(h)(6)(B)(ii) (allowing enforcement rights to any prospective, present, or former occupants of affordable housing).

¹¹ See 760 Mass. Code Regs. 54.15 (requiring the Massachusetts LIHTC to be administered and allocated in accordance with the standards and requirements applicable to the federal LIHTC).

¹² Mass. Gen. Laws ch. 121B, § 26(k)(6).

In order to strengthen this requirement, a new section should be added to these provisions to clarify that in order to have meaningful participation by tenants, the housing authority must describe how occupants will be provided with technical assistance. Proposed language to achieve this comes directly from existing regulations for the Public Housing Innovations Program.¹³

6. Allowing Federal Public Housing to Participate in Public-Private Partnerships

The Governor's provisions from H.4297 should be amended to allow federal public housing to benefit from the public-private partnerships created by this legislation. Massachusetts is fortunate to have a robust public housing portfolio. This includes 33,800 households in federally supported public housing¹⁴ and 36,000 state supported public housing units.¹⁵ Over 230 local housing authorities manage these public housing units.¹⁶ Often a local housing authority manages both federal and state public housing developments.

Both state and federally supported public housing developments in need of rehabilitation could benefit from the public-private partnerships created by the Governor's provisions. However, as currently written, only state public housing developments can benefit from the reforms in the legislation. In order for all residents of public housing to potentially benefit from these partnerships, regardless of whether they live in a state or federally assisted project at any particular housing authority, H.4297 should be amended to apply also to federally supported public housing.

CHAPA also has three concerns about the Governor's public housing reform provisions.

First, we hope that capital funding for local housing authorities will be increased in order to adequately support all public housing. Capital funding should be sufficient to support both the public-private partnerships between housing authorities and developers as well as traditional public housing developments.

CHAPA thanks the House and Senate for recently passing the Housing Bond Bill, which authorizes \$600 million in capital spending over the next five years for affordable housing, as well as a \$50 million public housing demonstration program. Together, these authorizations will help ensure that all housing authorities receive enough funding to keep public housing in good repair and available for current and future low-income households. We will continue to advocate annually to the Governor for an increased allocation for public housing in the capital budget.

¹³ 760 Mass. Code Regs. 63.04(1)(f).

¹⁴ *Massachusetts Fact Sheet: Federal Rental Assistance*, The Cent. on Budget & Policy Priorities (Mar. 30, 2017) <https://www.cbpp.org/sites/default/files/atoms/files/4-13-11hous-MA.pdf>.

¹⁵ *CHAPA Policy Summary on State Housing and Community Development Policy*, Citizens' Hous. & Planning Ass'n 4 (Sept. 2014).

¹⁶ *Public Housing Assistance Programs*, Mass. Dep't of Hous. & Comty. Dev., <https://www.mass.gov/public-housing-assistance-programs>.

Second, CHAPA is concerned by Section 39 in H.4297 that would exempt a housing authority in a town from the requirement of having a designated tenant seat on the housing authority board if the housing authority has disposed of all of its traditional public housing units. This would only apply to towns because housing authorities in cities would still be required to have a designated tenant seat on the board. Section 39 also exempts commissioners on housing authority boards from receiving training if there are no remaining traditional public housing units. If a housing authority still exists, tenants from replacement units should still have representation on the board. Additionally, if a housing authority still exists, commissioners should be required to participate in training. We ask the Committee to consider removing this language from Section 39.

Third, CHAPA has concerns about whether replacement units must be limited to on-site housing within a particular development or if housing may be developed off-site at an alternative location. As currently written, the Governor's reform provisions prohibit any off-site redevelopment of replacement units.

Regarding allowing replacement units to be off-site, there are concerns among legal services advocates who have worked on projects with off-site replacement housing and the serious issues that have arisen. For example, development off-site housing can divide a public housing community, making it difficult to effect tenant participation. Attempts have also been made to count off-site units as housing that counts towards an inclusionary zoning requirement, which reduces the overall production of new affordable homes. Finally, off-site housing may result in a loss of certain types of units and/or reduction of bedrooms.

However, with the proper regulation, oversight, and guidance for developers and housing authorities, there may be situations when developing off-site housing is done well and is appropriate. Allowing off-site replacement units, if done appropriately, such as locating replacement units on adjacent sites or in the same community, can make a revitalization project viable.

Again, as currently written, H.4297 explicitly and implicitly prohibits any off-site development of replacement units. Specifically, Sections 29, 32, and 42 of H.4297 all contain language limiting replacement units to on-site redevelopment.¹⁷

H.4297, and the language in the sections referenced above, should not prevent the broader discussion among stakeholders on the question of allowing off-site replacement units, the policy issues it raises, and recommendations for how to balance all those with involved interests, including tenants, DHCD, housing authorities, developers, and legal services advocates. By giving DHCD the authority to issue regulations in order to implement these public-private partnerships, the public process required to promulgate

¹⁷ H. 4297, § 29 (language references property “where a housing authority sells or transfers ownership of buildings or other structures on land owned by it”); H.4297, § 32 (referencing making replacement housing available “on the land where the existing project is situated”); H.4297, § 42 (referencing redevelopment where “the land, buildings or structures associated with the housing project have been conveyed or transferred to a private entity”).

such regulations, and a commitment from stakeholders to work towards consensus, we can define a clear set of circumstances for developing off-site units.

II. Creating an Exemption from Mortgage Loan Originator Licensing Requirements and Fees for Certain Affordable Housing Nonprofits

CHAPA respectfully requests that the Committee add language to H.4592 to create an exemption from mortgage loan originator licensing requirements and fees for certain affordable housing nonprofit organizations that will support new affordable housing and economic development opportunities.

Many affordable housing nonprofit organizations administer loan programs that help families buy homes, address home repair needs or lead paint remediation, prevent foreclosure, and acquire or preserve rental housing. These loans offer terms that are favorable to the borrower, in some cases loans at no interest with repayment deferred. Frequently, the non-profit is administering loans on behalf of a government entity, which sets the terms of the loans.

Unfortunately, current state law does not permit these nonprofits to be exempt from mortgage loan originator requirements created by the federal SAFE Act.¹⁸ Congress enacted the SAFE Act during the height of the mortgage crisis. The law governs the licensing requirements for mortgage loan originators, setting minimum standards for mortgage loan officers who may profit from the sale and origination of mortgages.

In recognition of the material differences between the loans administered by nonprofits with a public or charitable purpose and the commercial purpose of the work of a typical mortgage lender, the SAFE Act permits states to exempt certain nonprofits, and the employees who work for them, from the mortgage licensing requirements.¹⁹

Specifically, states are permitted to exempt from the licensing requirements a “bona fide nonprofit organization,” defined in the SAFE Act as a tax-exempt nonprofit organization that promotes housing or provides homeownership services, conducts its business in a manner that serves charitable purposes, provides loan terms that are favorable to the borrower, and compensates its employees in a manner that does not incentivize employees to act other than in the best interests of the borrower.²⁰ Currently, 34 states and the District of Columbia provide some kind of exemptions for nonprofit lenders, either by statute or through their regulating authority.

Massachusetts law governing the licensing of mortgage loan originators does not currently provide for this exemption from the licensing requirements.²¹ However, a 2008

¹⁸ See Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) of 2008, 12 U.S.C. § 5100.

¹⁹ See 12 C.F.R. § 1008.103 (describing mortgage loan originators required to be licensed by state and those that may be exempted).

²⁰ 12 C.F.R. § 1008.103(e)(7)(ii).

²¹ See Mass. Gen. Laws ch. 255E, § 2 (concerning mortgage broker or lender license requirements and exempted entities); see also Mass. Gen. Laws ch. 255F, § 2 (concerning licensing or exemption requirements for mortgage loan originators).

Opinion Letter from the Massachusetts Division of Banks (DOB) stated that certain nonprofits and employees were exempt from the licensing requirements.²² Unfortunately, in June 2017, the DOB revoked this exemption stating that amendments to ch. 255F in 2009 altered the regulatory scheme to require that any person that meets the definition of a mortgage loan originator must be licensed as such, even if he or she is employed by a nonprofit entity.²³

Without a change to state law, the DOB states that it cannot exempt employees of “bona fide nonprofit organizations,” even if they meet the requirements for exemption under the SAFE Act.

Prior to obtaining a mortgage loan originator license, individuals must pay licensing fees, complete pre-licensing coursework, and pass a written test. Consequently, these nonprofits and their employees would need to make a significant investment of time and money that would not materially benefit their organizations or people served by their programs.

Adding language to H.4592 to create an exemption from mortgage loan originator licensing requirements and fees for certain affordable housing nonprofit organizations would re-establish in state law the exemption provided for these nonprofits from 2008 to 2017. Specifically, the exemption would apply to Massachusetts nonprofits and their employees that exclusively make mortgage loans on residential property to be financed with public funds under a contract with a government or quasi-government entity. This recognizes the charitable nature of nonprofit organizations that administer publicly-funded programs.

CHAPA also asks the Committee to create an exemption for “Bona fide nonprofit affordable homeownership organizations” if their primary purpose is to help qualified low-income individuals build, repair, and purchase affordable housing. This would include Habitat Humanity, recognizing its work in making affordable homeownership a reality for so many low-income families in Massachusetts.

Unfortunately, there will be negative impacts on affordable housing in Massachusetts if the DOB starts requiring these affordable housing nonprofits to be licensed as mortgage loan originators. Affordable housing nonprofits and their employees would incur significant additional expense for training that is more suitable for lenders operating in a commercial context. This may result in some nonprofits choosing to stop offering housing assistance programs that involves lending public funds. Even for nonprofits who choose to continue offering this assistance, due to the time involved in obtaining a license for their affected employees, some of these nonprofit organizations may need to suspend the provision of such assistance until the organization becomes compliant with the licensing requirements.

²² See Mass. Div. of Banks, *Selected Opinion 08-018* (July 17, 2008) <https://www.mass.gov/opinion/selected-opinion-08-018>.

²³ Mass. Div. of Banks, *Industry Letter Regarding Applicability of Mortgage Loan Originator Licensing to Individuals Employed by Nonprofit Entities* (June 15, 2017) <http://www.mass.gov/ocabr/docs/dob/industry-letter-06152017.pdf>.

Habitat for Humanity affiliates will also have to limit their production of affordable housing in Massachusetts because Habitat acts as the lender to subsidize the sale of its homes to low-income families.

Ultimately, the low-and moderate-income households and their communities would be harmed by losing access to programs that help create and preserve affordable homes.

Suggested language to create an exemption for certain affordable housing nonprofits is included at the end of this testimony. This language was developed in partnership with CHAPA, Habitat for Humanity, the Massachusetts Association of Community Development Corporations (MACDC), and the Massachusetts Mortgage Bankers Association (MMBA), the Regional Housing Network, and the Division of Banks.

The language is similar to an existing bill, H.4334, *An Act relative to mortgage licensing and exemptions*, filed by Representative Edward Coppinger. The Joint Committee on Financial Services reported the bill out favorably and it is currently before the House Committee on Ways and Means.

III. Establishing an Economic Mobility Commission

CHAPA respectfully requests that the Committee add language to H.4592 that establishes an Economic Mobility Commission.

The proposed commission will help identify the most effective components of many self-sufficiency programs, examine the impact of cliff effects, provide recommendations, and help shape programs that will better assist families reach economic independence.

Numerous self-sufficiency and economic mobility programs administered on federal, state and local levels work to provide households a path to economic mobility. These programs help families get education, increase their incomes, and build assets to attain financial self-sufficiency and reduce reliance on supports with stable housing as the foundation. Each program offered across the state, including the Family Self-Sufficiency Program, MassLEAP, and Jobs Plus, has a different approach and varying program components with different outcomes.

A legislative commission would provide the opportunity to bring together stakeholders to examine these programs. The commission would make recommendations to the Legislature and Administration for programs and components that could be scaled to assist more families across the Commonwealth towards a path of economic mobility.

Tied to increases in income, the Commission will also examine cliff effects and determine ways to adjust assistance in response to changes in income, including automatic adjustments tied to minimum wage increases. When recipients of support programs begin to work or receive raises, they often experience an economic penalty because of the steep decline in their benefits which leaves them worse off than prior to getting a job or a raise.

These setbacks, referred to as “cliff effects”, are a barrier for families trying to achieve economic independence and financial stability.

This Commission will help more households across the Commonwealth build assets, reduce their reliance on public assistance, and attain financial stability. Establishing this commission will ensure an evidence-based approach to identify and expand, effective economic development opportunities in Massachusetts.

Suggested language to establish the Commission is included at the end of this testimony. The language is similar to an existing bill, H.3020, *An Act relative to the economic mobility and stability program*, filed by Representative Aaron Vega. The Joint Committee on Housing reported the bill out favorably and it is currently before the House Committee on Rules.

Thank you for your continued leadership on helping everyone in the Commonwealth find a safe, healthy, and affordable place to call home. Please do not hesitate to contact me with any questions.

Sincerely,



Eric Shupin
Director of Public Policy

Appendix I. Language to Include Public Housing Reforms

The following is proposed language on public housing reforms, based on provisions originally included in Governor Baker's Economic Development Bill, H.4297.

The section numbers included below reference the sections from H.4297. The highlighted language shows CHAPA's suggested changes to the Governor's provisions.

The following language would address the following CHAPA recommendations. The number corresponds to the section in CHAPA's testimony:

1. Clarifying Tenant Protections
2. Allowing Residents to Enforce Rights
3. Retaining Authority of LHA and DHCD to Monitor and Enforce
4. Issuing Regulations to Implement Public-Private Partnerships

SECTION 33. Said subsection (k) of said section 26 of said chapter 121B, as so appearing, is hereby further amended by adding the following paragraph:-

(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 seq. ~~and 6.00 et seq., 8.00 et seq., 27.00 et seq., and 47.00 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; that provides prospective, present or former occupants of the replacement units with the ability to enforce such contractual obligations that impact their rights; and that delineates the roles of the housing authority and the department in monitoring and enforcing compliance with the contract and regulations named herein. 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 make it infeasible to comply with Internal Revenue Service requirements with respect to the low income housing tax credit program. The department shall promulgate rules and regulations to further the purposes of subsection (k).

The following is a proposed section to add in order to implement the following recommendation. The number corresponds to the section in CHAPA’s testimony:

5. Providing Technical Assistance to Residents

The emphasized language highlights the changes that the new section of H.4297 would make to Mass. Gen. Laws ch. 121B, § 26(k)(6).

SECTION XX. Subsection (k) of said section 26 of said chapter 121B, as so appearing, is hereby further amended by striking out paragraph (6) and inserting in place thereof the following paragraph:-

(6) found that the housing authority has described how occupants in state-aided public housing will be provided with independent technical assistance sufficient to allow them meaningful and informed input into the development of the proposed project and 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.

The following are proposed changes to implement the following recommendation. The number corresponds to the section in CHAPA’s testimony:

6. Allowing Federal Public Housing to Participate in Public-Private Partnerships

In order to achieve this, the following sections of H.4297 should be amended:

- **Section 27: Adding Amended Definition for “Replacement Units”**
- **Section XX: Adding definition for “Controlled affiliate”**
- **Section XX: Adding Definition for “Federal replacement units”**
- **Section 29: Payment in Lieu of Taxes (PILOT)**
- **Section 38: Disposition / Chapter 30B**
- **Section 42: Filed Sub-bid Exemption / Chapter 149**

SECTION 27. Said section 1 of said chapter 121B, as so appearing, is hereby further amended by inserting, after the definition of “Relocation project,” the following definition:-

“Replacement units”, (i) federal replacement units, or (ii) low rent housing created to replace 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.

SECTION XX. Said section 1 of said chapter 121B, as so appear, is hereby further amended by inserting, after the definition of “Community renewal program,” the following definition:

“Controlled affiliate”, an entity with the power to own and operate real property of which and over which actual and legal control shall be in a local housing authority.

SECTION XX. Said section 1 of said chapter 121B, as so appear, is hereby further amended by inserting, after the definition of “Federal legislation,” the following definition:

“Federal replacement units”, housing units that provide replacement housing for an existing or former federally-assisted public housing project in accordance with federal standards as established pursuant to, (i) Section 9 of the United States Housing Act of 1937, as amended, (ii) the federal Rental Assistance Demonstration program, (iii) the federal Choice Neighborhoods Initiative, (iv) Section 8(o)(13) of the United States Housing Act of 1937, as amended, or (v) such other similar or equivalent federal standards or successor programs as identified by the department.

SECTION 29. Section 16 of said chapter 121B, as so appearing, is hereby amended by adding the following paragraph:-

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 a housing authority, a controlled affiliate or another ~~it to a~~ private entity, including without limitation a for-profit or charitable corporation, general or limited partnership, or limited liability company, ~~for the purpose of rehabilitation, repair, development, or redevelopment of multifamily housing~~ that contain or will contain replacement units as defined in section 1, shall be exempt from taxation, betterments and special assessments so much of the resulting to the extent such buildings or structures as is/are 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 housing authority, controlled affiliate or other 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 38. Said section 26 of said chapter 121B, as so appearing, is hereby further amended by adding the following subsection:-

(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 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).

(r) 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 federally assisted public housing projects and the property on which such projects are located to a developer selected by competitive, qualifications-based procurement without separately soliciting proposals for the property disposition, provided that the developer procurement declares the property

available for disposition and that such disposition is approved by the federal government.

(s) Section 16 of chapter 30B of the General Laws shall not apply to a transfer of property from a housing authority to a controlled affiliate for purposes of redeveloping such property.

SECTION 42. Said section 34 of said chapter 121B, as so appearing, is hereby further amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary, construction and development activity related to (i) the creation of replacement units as defined in section 1 that will be owned by a private entity, and/or (ii) redevelopment of state-aided or federally assisted public housing projects where the land, buildings or structures associated with the housing project have been or will be 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 create replacement units and/or undertake this redevelopment (including, if applicable, in accordance with subsection (q) of section 26). In the case of redevelopment of state-aided or federally assisted public housing projects claiming exemption pursuant to clause (ii) of the preceding sentence, construction of the replacement units or other buildings or structures on the land associated with the housing project shall not proceed unless and until the conveyance or transfer to the private entity has occurred~~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, as applicable.

Appendix II. Language to Create an Exemption from Mortgage Loan Originator Licensing Requirements and Fees for Certain Affordable Housing Nonprofits

SECTION XX. Section 1 of chapter 255E of the General Laws as appearing in the 2016 Official Edition is hereby amended by inserting, after the word “meanings:-” in line 2, the following definitions:-

“Bona fide nonprofit affordable homeownership organization”, a Massachusetts nonprofit corporation with a primary purpose of helping qualified low-income individuals build, repair and purchase affordable housing and must meet the definition of “Bona fide nonprofit organization” set forth in federal Regulation H, SA.F.E. Mortgage Licensing Act –State Compliance and Bureau Registration System, 12 CFR Part 1008.103(e)(7)(ii).

“Instrumentality created by the United States or any state”, a Federal, state, municipal government, or quasi-government entity; or a nonprofit agency or corporation incorporated under the laws of the Commonwealth which has a tax exempt status granted under the provisions of Section 501(c)(3) of the Internal Revenue Code, which exclusively makes or issues commitments for mortgage loans on residential property to be financed with public funds, or negotiates, places, assists in placement of, finds, or offers to negotiate, place, assist in placement of, or find mortgage loans on residential property to be financed with public funds only under a contract with a federal, state, or municipal government, any instrumentality thereof or any quasi-government entity as determined by the Commissioner. The making of a mortgage loan includes being named as the lender or mortgagee on the note, mortgage, or other loan documents.

SECTION XX. Section 2 of chapter 255E of the General Laws as so appearing is hereby amended by adding the following paragraphs:-

The Commissioner may make a determination that a bona fide nonprofit affordable homeownership organization is exempt from the provisions of this chapter upon application for an exemption by such organization. Such application shall be approved upon the Commissioner’s determination that the organization satisfies the following criteria: (a) The organization is a Massachusetts nonprofit corporation with a primary purpose of helping qualified low-income individuals build, repair and purchase affordable housing; (b) The organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; (c) The organization does not charge loan origination fees; (d) The organization does not provide residential mortgage loans which do not fully amortize over the term of the loans; (e) The organization does not compensate any employees based on the number and/or size of mortgage loans originated by the employee, or otherwise incentivize any employees to act other than in the best interests of the borrower; (f) The organization provides mortgage products that meet the Consumer Financial Protection Bureau's Ability-to-Repay rule and its Qualified Mortgage standards; and (g) The organization must determine that a borrower has a reasonable ability to repay a mortgage before consummation. A borrower’s debt-to-income ratio must not exceed 43%.

The Division of Banks may periodically monitor exempted bona fide nonprofit affordable homeownership organizations and nonprofit entities that are instrumentalities created by the United States or any state under M.G.L. c. 255F, section 2 and examine their books and activities to confirm they remain in compliance with the provisions of this chapter.

The Commissioner may revoke a bona fide nonprofit affordable homeownership organization's exempt status if the Commissioner determines it no longer meets the criteria in this section.

SECTION XX. Subsection (b) of section 2 of Chapter 255F of the General Laws as appearing in the 2016 Official Edition is hereby amended by striking out, in line 30, the word "and", and by adding the following sentences:-

“; (viii) any person who otherwise meets the definition of a mortgage loan originator, as defined in section 1 of this chapter, but who is employed by an organization determined by the Commissioner to be a bona fide nonprofit affordable homeownership organization pursuant to section 2 of chapter 255E; and (ix) any person who otherwise meets the definition of a mortgage loan originator, as defined in section 1 of this chapter, but who is employed by, or is operating on behalf of, an instrumentality created by the United States or any state as defined pursuant to section 1 of chapter 255E.”

Appendix III. Language to Establish an Economic Mobility Commission

SECTION XX. There is hereby established a special commission to study data related to programs that provide joint support for stable housing and to increase economic self-sufficiency. The commission will examine various program components, program outcomes including changes in earned income, education, and state and federally funded services, and the feedback of participants and those not enrolled in programs, for the purpose of producing a report with recommendations for criteria for economic mobility and financial stability programs for families and individuals with extremely low incomes, as defined by the U.S. Department of Housing and Urban Development, that can be offered across the Commonwealth. The Commission shall examine the impacts of cliff effects on households with low incomes and determine ways to adjust assistance in response to changes in income, including automatic adjustments tied to minimum wage increases.

SECTION XX. The commission shall be chaired by the House and Senate Chair of the Joint Committee on Children, Families, and Persons with Disabilities. The commission shall consist of, but not limited to, the following members or their designees:

(a) The secretary of administration and finance; secretary of education; the secretary of the department of labor and workforce development; the undersecretary of the department of housing and community development, the commissioner of the department of transitional assistance; the president of the senate; the speaker of the house of representatives; the senate and house chairs of the joint committee on housing; and the senate and house chairs of the joint committee on labor and workforce development.

(b) One representative of each of the following organizations: Abt Associates, Cambridge Housing Authority, Central Massachusetts Housing Alliance, Citizens' Housing and Planning Association, Compass Collaborative, CONNECT, Economic Mobility Pathways, Father Bill's & Mainspring, Franklin County Regional Housing & Redevelopment Authority, Homes for Families, Housing Assistance Corporation, Local Initiatives Support Corporation, Massachusetts Chapter of the National Association of Housing and Redevelopment Organizations, Massachusetts Association for Community Action, Massachusetts Coalition for the Homeless, Massachusetts Law Reform Institute, Massachusetts Union of Public Housing Tenants, Metro Housing Boston, MIDAS Collaborative, Regional Housing Network of Massachusetts, United Way of Massachusetts Bay and Merrimack Valley, the University of Massachusetts Center for Social Policy, Way Finders.

SECTION XX. The commission shall file a report of its findings and recommendations together with drafts of legislation necessary to carry out the recommendations, with the clerks of the senate and the house of representatives, the senate and house chairs of the joint committee on housing, and the house and senate committees on ways and means no later than December 31, 2018.