

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Rogers and Jon Santiago

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to Affirmatively Further Fair Housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/19/2021</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to Affirmatively Further Fair Housing.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 23B of the General Laws, as so appearing, is hereby amended by
2 adding the following section:-

3 Section 31. As used in sections 31 to 32, inclusive, the following words shall have the
4 following meanings:

5 “Affirmatively further fair housing” means taking meaningful actions, in addition to
6 combating discrimination, that overcome patterns of segregation and foster inclusive
7 communities free from barriers that restrict access to opportunity based on protected
8 characteristics. Specifically, to affirmatively further fair housing means to take meaningful
9 actions that, taken together, address significant disparities in housing needs and in access to
10 opportunity, replacing segregated living patterns with truly integrated and balanced living
11 patterns, transforming racially and ethnically concentrated areas of poverty into areas of
12 opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

13 “Meaningful actions” means significant actions that are designed and can be reasonably
14 expected to achieve a material positive change that affirmatively furthers fair housing by, for
15 example, increasing fair housing choice or decreasing disparities in access to opportunity.

16 “Public entity” means (i) any department or office of a state or municipal government and
17 any council, division, board, bureau, commission, institution, tribunal or other instrumentality
18 thereof or thereunder; and (ii) any other political subdivision of the state that is a grantee or sub-
19 grantee receiving funds provided by the United States Department of Housing and Urban
20 Development under the Community Development Block Grant program, the Emergency
21 Solutions Grants program, the HOME Investment Partnerships program, or the Housing
22 Opportunities for Persons With AIDS program or the successors to these programs.

23 “Protected characteristics” means any characteristic enumerated in chapter 151B of the
24 Massachusetts General Laws.

25 SECTION 2. Chapter 23B of the General Laws, as so appearing, is hereby amended by
26 adding the following section:-

27 Section 32. (a) A public entity affecting housing and community development shall
28 administer its programs and activities in a manner to affirmatively further fair housing, and take
29 no action that is materially inconsistent with its obligation to affirmatively further fair housing.

30 (b) There shall be a commission to determine how a public entity shall fulfill its
31 obligation to affirmatively further fair housing as created by this section. The commission shall
32 establish different categories of public entities based on criteria identified by the commission.
33 The categories shall include, but not be limited to exclusionary municipal governments, local
34 governments where there is a high risk of displacement, and local housing authorities. The

35 commission shall establish lists of meaningful actions that a public entity may take to fulfill the
36 obligation to affirmatively further fair housing created by this section, with such lists being
37 specific to the types of public entities and specific protected characteristics. The commission
38 shall establish the minimum number of actions a public entity must take in order to fulfill its
39 obligation to affirmatively further fair housing as created by this section.

40 The commission shall be chaired by the secretary of housing and economic development,
41 or a designee. The commission shall consist of, but not be limited to, the following members or
42 their designees: the house and senate chairs of the joint committee on housing; one member of
43 the house of representatives who shall be appointed by the minority leader and one member of
44 the senate who shall be appointed by the minority leader; the undersecretary of housing and
45 community development; the Massachusetts Attorney General; a member from each of the
46 Massachusetts regional planning agencies; the executive director of the Massachusetts Housing
47 Partnership; one member from Citizens' Housing and Planning Association; one member from
48 the Massachusetts Municipal Association; one member from the Massachusetts Chapter of the
49 National Association of Housing and Redevelopment Officials; one member from the
50 Massachusetts Union of Public Housing Tenants; at least six members representing those with
51 protected characteristics; and at least two experienced civil rights practitioners.

52 The commission shall submit its report and findings to the joint committee on housing
53 and the clerks of the house of representatives and senate no later than one year following the
54 passage of this act.

55 (c) Compliance by a public entity with its obligation to affirmatively further fair housing
56 as created by this section shall be evaluated every three years.

57 (d) Any person, as defined by Chapter 151B, may institute and prosecute a civil action
58 for injunctive and other appropriate equitable relief for a public entity's failure to affirmatively
59 further fair housing as described in this section and regulations promulgated by the department of
60 housing and community development. A prevailing plaintiff shall be entitled to an award of the
61 costs of the litigation and reasonable attorneys' fees in an amount fixed by the court or by
62 agreement of the parties.

63 (e) The compliance of a public entity with the duty to affirmatively further fair housing as
64 created in this section shall not relieve a public entity from any obligation to affirmatively further
65 fair housing under federal law.

66 (f) The compliance of a public entity with any obligation to affirmatively further fair
67 housing created under federal law shall not relieve a public entity from the obligation to
68 affirmatively further fair housing as created in this section. The provisions of this section shall be
69 construed liberally for the accomplishment of the remedial purposes thereof, regardless of
70 whether federal laws, including those laws with provisions comparably worded to the provisions
71 of this section, have been so construed.

72 (g) The department of housing and community development shall promulgate guidelines
73 to implement this section and to incorporate the report and findings of the commission created by
74 this section.