

# The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

## BILL FILING TEMPLATE

*Be It Enacted, by the Senate and House of Representatives, etc., as follows:*

SECTION 1. The General Laws, as appearing in the 2004 Official Edition, are hereby amended by inserting the following new chapter:-

### CHAPTER 44C. LOW INCOME RENTAL ASSISTANCE

Section 1. Title and purpose.

This chapter shall be known and may be cited as the Massachusetts Low Income Rental Assistance Act.

In many parts of the commonwealth, large numbers of citizens are faced with the inability to secure affordable rental housing. Due to either insufficient wages or a shortage of affordable rental housing stock, or both, many families have difficulty securing decent housing, are subjected to overcrowding, pay too large of a portion of their total monthly income for housing and consequently suffer the lack of other basic needs, live in substandard or unhealthy housing, or experience chronic housing instability. Instability and inadequacy in housing limits the employability and productivity of many citizens, adversely affects family health and stress levels, impedes children's ability to learn, and produces corresponding drains on public resources. It is the purpose of this Act to create a program to help localities address the need for decent, affordable, permanent rental housing.

Section 2. Definitions.

As used in this chapter, the following words shall, unless the context clearly indicates a different meaning, have the following meanings:--

“AMI”, the area wide median income as determined by the United States Department of Housing and Urban Development.

“Low Income Rental Assistance Fund”, the municipal fund established under section.

"Legislative body", the agency of municipal government which is empowered to enact ordinances or by-laws, adopt an annual budget and other spending authorizations, loan orders, bond authorizations and other financial matters and whether styled as a city council, board of aldermen, town council, town meeting or by any other title.

"Low Income rental housing", housing for those persons and families whose annual income is less than 30 per cent of the AMI.

"Real property", land, buildings, appurtenant structures and fixtures attached to buildings or land, including, where applicable, real property interests.

"Real property interest", a present or future legal or equitable interest in or to real property, including easements and restrictions, and any beneficial interest therein, including the interest of a beneficiary in a trust which holds a legal or equitable interest in real property, but shall not include an interest which is limited to the following: an estate at will or at sufferance and any estate for years having a term of less than 30 years; the reversionary right, condition or right of entry for condition broken; the interest of a mortgagee or other secured party in a mortgage or security agreement.

### Section 3. Surcharge on real property; collection.

(a) The fees of the registers of deeds, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge of \$12.

The surcharges shall be imposed for the purposes of low income rental assistance. No surcharge shall apply to a declaration of homestead under chapter 188. No surcharge shall apply to the fees charged for additional pages, photostatic copies, abstract cards, additional square feet for the filing and recording of plans or for additional or required marginal references.

(b) The fees of the assistant recorder, except as otherwise provided, to be paid when the instrument is left for registering, filing or entering with respect to registered land shall be subject to a surcharge of \$12. The surcharges shall be imposed for the purposes of low income rental assistance. No surcharge shall apply to a declaration of homestead of chapter 188. No surcharge shall apply to the fees charged for additional lots shown on plans, for indexing instruments recorded while a petition for registering is pending, for additional certificates of sewer assessments, for old age assistance liens, for duplicates and for photocopies.

(c) All surcharges on fees collected pursuant to this section shall be forwarded to the Massachusetts low income rental assistance Trust Fund, established in section 6.

### Section 5. Low income rental assistance committee; members; recommendations.

Section 4. (a) A city or town may establish by ordinance or by-law a low income rental assistance committee. The committee shall consist of not less than three and no more than

five members. The ordinance or by-law shall determine the composition of the committee, the length of its term and the method of selecting its members, whether by election or appointment or by a combination thereof. The committee shall include, but not be limited to, one member of the planning board established under section 81A of chapter 41 as designated by the board and one member of the housing authority established under section 3 of chapter 121B as designated by the authority, a local or municipal administrator, commissioner, or appointed chair of homelessness planning or continuum of care planning entity, or persons, as determined by the ordinance or by-law, acting in the capacity of or performing like duties of the commissions, board or authority if they have not been established in the city or town. If there are no persons acting in the capacity of or performing like duties of any such commission, board or authority, the ordinance or by-law shall designate those persons.

(b) Any city or town which establishes a low income rental assistance committee shall establish a separate account to be known as the Low Income Rental Assistance Fund of which the municipal treasurer shall be the custodian. The authority to approve expenditures from the fund shall be limited to the legislative body and the municipal treasurer shall pay such expenses in accordance with chapter 41.

(c)(1) The low income rental assistance committee shall study the needs, possibilities and resources of the city or town regarding low income rental assistance. The committee shall consult with existing municipal boards, including the planning board, the housing authority, and the homelessness planning or continuum of care planning entity, or persons acting in those capacities or performing like duties, in conducting such studies. As part of

its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the city or town regarding low income rental assistance possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city or town.

(2) The low income rental assistance committee shall make recommendations to the legislative body for the acquisition, creation and preservation and support of low income rental housing.

(3) The low income rental assistance committee may include in its recommendation to the legislative body a recommendation to set aside for later spending funds for specific purposes that are consistent with low income rental assistance but for which sufficient revenues are not then available in the low income rental assistance Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with low income rental assistance.

(d) The low income rental assistance committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the low income rental assistance committee shall constitute a quorum. The low income rental assistance committee shall approve its actions by majority vote. Recommendations to the legislative body shall include their anticipated costs.

(e) After receiving such recommendations from the low income rental assistance committee, the legislative body shall then take such action and approve such

appropriations from the low income rental assistance Fund as set forth in section 8, and such additional appropriations as it deems appropriate to carry out the recommendations of the low income rental assistance committee.

(f) For the purposes of low income rental assistance and upon the recommendation of the low income rental assistance committee, a city or town may take by eminent domain under chapter 79, the fee or any lesser interest in real property or waters located in such city or town if such taking has first been approved by a two-thirds vote of the legislative body. Upon a like recommendation and vote, a city or town may expend monies in the low income rental assistance Fund, if any, for the purpose of paying, in whole or in part, any damages for which a city or town may be liable by reason of a taking for the purposes of low income rental assistance.

(g) Section 16 of chapter 30B shall not apply to the acquisition by a city or town, of real property or an interest therein, as authorized by this chapter for the purposes of low income rental assistance and upon recommendation of the low income rental assistance committee and, notwithstanding section 14 of chapter 40, for purposes of this chapter, no such real property, or interest therein, shall be acquired by any city or town for a price exceeding the value of the property as determined by such city or town through procedures customarily accepted by the appraising profession as valid.

A city or town may appropriate money in any year from the low income rental assistance Fund to an affordable housing trust fund.

Section 6. Massachusetts low income rental assistance trust fund; distribution of funds.

(a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Massachusetts low income rental assistance Trust Fund, for the benefit of cities and towns that have accepted sections 3 to 5, inclusive. The fund shall consist of all revenues received by the commonwealth: (1) under the provisions of section 4; (2) from public and private sources as gifts, grants and donations to further low income rental assistance programs; or (3) all other monies credited to or transferred to from any other fund or source pursuant to law.

(b) The state treasurer shall deposit the fund in accordance with the provisions of section 8 in such manner as will secure the highest interest rate available consistent with the safety of the fund and with the requirement that all amounts on deposit be available for withdrawal without penalty for such withdrawal at any time. All interest accrued and earnings shall be deposited into the fund. The fund shall be expended solely for the administration and implementation of this chapter. Any unexpended balances shall be redeposited for future use consistent with the provisions of this chapter.

(c) The state treasurer shall make all disbursements and expenditures from the fund without further appropriation, as directed by the commissioner of revenue in accordance with said section 8. The department of revenue shall report by source all amounts credited to said fund and all expenditures from said fund. The commissioner of revenue shall assign personnel of the department as it may need to administer and manage the fund disbursements and any expense incurred by the department shall be deemed an operating and administrative expense of the program. The operating and administrative

expenses shall not exceed 5 per cent of the annual total revenue received under the provisions of said section 8.

(d) The state treasurer shall disburse funds to local administering agencies according to a formula based on U.S. Census data. The formula shall determine percentages of funds to be distributed to municipal low income rental assistance funds. A municipal low income rental assistance fund's percentage share shall be determined by the total number of households within that municipality that have an annual income of less than 30 per cent of AMI, and that are paying more than 50 per cent of their income for rent. Additionally, fifty percent of funds shall be distributed to households that have an annual income below 15 per cent of AMI, provided that such household need is determined to exist by the municipal low income rental assistance committee. Such distribution shall be re-determined by the state treasurer each time new U.S. Census data becomes available. The state treasurer shall phase in any changes to the formula to prevent a large withdrawal of resources from one county that could negatively impact households receiving rental housing support.

Section 7. Accurate account of recommendations and actions; records of appropriations and expenditures and of real property interests.

The low income rental assistance committee shall keep a full and accurate account of all of its actions, including its recommendations and the action taken on them and records of all appropriations or expenditures made from the low income rental assistance Fund. The committee shall also keep records of any real property interests acquired, disposed of or improved by the city or town upon its recommendation, including the names and

addresses of the grantors or grantees and the nature of the consideration. The records and accounts shall be public records.

#### Section 8. Rules and regulations.

The commissioner of revenue shall have the authority to promulgate rules and regulations to effect the purposes of this chapter.