

SENATE No. 508

By Mr. Berry, a petition (accompanied by bill, Senate, No. 508) of Frederick E. Berry, John P. Burke, Thomas P. Walsh and Salvatore R. Albano for legislation to provide a housing bill of rights for persons with disabilities. Housing and Urban Development.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Seven.

AN ACT PROVIDING A HOUSING BILL OF RIGHTS FOR PERSONS WITH DISABILITIES.

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. Section 1 of chapter 151B of the General Laws
2 is hereby amended by adding the following subsections: —

3 18. The term “physical or mental disability” means a physical
4 or mental impairment which substantially limits one or more of
5 a person’s major life activities or which is regarded as substantially
6 limiting one or more of a person’s major life activities.

7 19. The term “major life activities” means functions such as,
8 but not limited to, caring for one’s self, performing manual tasks,
9 walking, seeing, hearing, speaking, breathing, learning and
10 working.

1 SECTION 2. Subsection 3B of section 4 of said chapter 151B
2 is hereby amended by inserting after the phrase “ancestry or age”
3 the following words: — or because of a physical or mental
4 disability.

1 SECTION 3. Subsection 6 of section 4 of said chapter 151B
2 is hereby amended by inserting at the end of clause (a) the
3 following words: — or has any other physical or mental disability.

1 SECTION 4. Subsection 6 of section 4 of said chapter 151B
2 is hereby further amended by inserting in clause (b) after the

3 phrase “blind or hearing impaired” the following words: — or has
4 any other physical or mental disability.

1 SECTION 5. Subsection 6 of section 4 of chapter 151B is
2 hereby further amended by inserting at the end of clause (c) the
3 following words: — or has any other physical or mental disability.

1 SECTION 6. Subsection 6 of section 4 of said chapter 151B
2 is hereby further amended by inserting at the end of the subsection
3 the following words: — with respect to the renting or leasing of
4 publicly assisted housing, multiple dwelling housing consisting of
5 ten or more units, or contiguously located housing consisting of
6 ten or more units, the owner or other person having the right of
7 ownership shall, upon the request of a person with a physical or
8 mental disability who is or will be occupying said housing, make
9 a reasonable accommodation to the person’s disability so that the
10 housing will be accessible to and usable by said person unless the
11 accommodation would impose an undue hardship upon
12 occupants of other housing or upon the owner or other person
13 having the right of ownership. An owner or other person having the
14 right of ownership shall not deny such housing to or otherwise
15 discriminate against a person with a physical or mental disability
16 on account of that person’s need for a reasonable accommodation.
17 Reasonable accommodation may include, but shall not be limited
18 to, making the housing accessible to and usable by hearing-
19 impaired and sight-impaired persons. In determining whether an
20 accommodation would impose an undue hardship upon the owner
21 or other person having the right of ownership, factors to be
22 considered include, but shall not be limited to, the nature and cost
23 of the accommodation needed, the extent to which the
24 accommodation would materially alter the marketability of the
25 housing, the overall size of the housing business of the owner or
26 other person having the right of ownership, including but not
27 limited to the number and type of housing units, size of budget
28 and available assets, and the ability of the owner or other person
29 having the right of ownership to recoup the cost of the
30 accommodation through a tax credit or tax deduction. In the
31 event that modification to make the housing accessible and usable

32 would result in an undue hardship pursuant to this subsection, the
33 owner or other person having the right of ownership shall make
34 the modification if the person requesting the modification agrees
35 to pay for the cost of the modification and agrees that, in the event
36 the modification materially alters the marketability of the
37 housing, he will pay for the cost of restoring the housing to the
38 condition which existed before such modification, reasonable
39 wear and tear excepted. Notwithstanding any law or ordinance
40 to the contrary, there shall not be established or imposed a rent
41 or other charge for the handicap-accessible housing which is
42 higher than the rent or other charge for comparable, nonaccessible
43 housing of the owner or other person having the right of
44 ownership.

1 SECTION 7. Subsection 7 of section 4 of said chapter 151B
2 is hereby amended by inserting after the phrase "armed services,
3 blindness, hearing impairment" as it appears in clause (a) the
4 following words: — or other physical or mental disability.

1 SECTION 8. Subsection 7 of section 4 of said chapter 151B
2 is hereby further amended by inserting after the phrase "armed
3 services, blindness, hearing impairment" as it appears in clause
4 (b) the following words: — or other physical or mental disability.

1 SECTION 9. Subsection 7 of section 4 of said chapter 151B
2 is hereby further amended by inserting after the phrase "armed
3 services, blindness, hearing impairment" as it appears in clause
4 (c) the following words: — or other physical or mental disability.

1 SECTION 10. Subsection 8 of section 4 of said chapter 151B
2 is hereby amended by inserting after the phrase "marital status"
3 as it appears in clause (1) the following words: — or physical or
4 mental disability.

1 SECTION 11. Subsection 8 of section 4 of said chapter 151B
2 is hereby further amended by inserting after the phrase "marital
3 status" as it appears in clause (2) the following words: — or
4 physical or mental disability.

1 SECTION 12. Subsection 8 of section 4 of said chapter 151B
2 is hereby further amended by inserting after the phrase “marital
3 status” as it appears in clause (3) the following words: — or
4 physical or mental disability.

1 SECTION 13. Subsection 13 of section 4 of said chapter 151B
2 is hereby amended by inserting after the phrase “economic level”
3 as it appears in paragraph (a) the following words: — or physical
4 or mental disability.

1 SECTION 14. Subsection 13 of section 4 of said chapter 151B
2 is hereby further amended by inserting at the end of clause (b)
3 the following words: — or physical or mental disability.

1 SECTION 15. Section 6 of chapter 62 of the General Laws is
2 hereby amended by adding at the end of said section the following
3 paragraph: —

4 (e) Any owner or other person having the right of ownership
5 of publicly assisted housing, multiple dwelling housing consisting
6 of ten or more units or contiguously located housing consisting
7 of ten or more units shall be allowed a credit for expenses paid
8 or incurred in order to make rental housing accessible to and
9 usable by a disabled person so as to comply with subsection 6 of
10 section 4 of chapter 151B. The amount of the credit shall be set
11 forth in regulations of the Commissioner and shall be established
12 at an amount sufficient to allow the owner or other person having
13 the right of ownership to recoup the actual, net cost to the owner
14 or person having the right of ownership. If the amount of credit
15 provided hereunder exceeds the amount of the taxpayer’s tax
16 liability for any taxable year, the excess amount of the credit may
17 be carried over and applied against the tax liability of the taxpayer
18 for any succeeding taxable year until the full amount of the credit
19 has been exhausted.

1 SECTION 16. Chapter 63 of the General Laws is hereby
2 amended by adding at the end of said chapter the following
3 section: —

4 Section 31D. Credit for making housing accessible.

5 Any corporation which owns or has the right of ownership of

6 publicly assisted housing, multiple dwelling housing consisting of
7 ten or more units or contiguously located housing consisting of
8 ten or more units shall be allowed a credit for expenses paid or
9 incurred in order to make rental housing accessible to and usable
10 by a disabled person so as to comply with subsection 6 of section
11 4 of chapter 151B. The amount of the credit shall be set forth in
12 regulations of the Commissioner and shall be established at an
13 amount sufficient to allow the corporation to recoup the actual,
14 net cost to the corporation. If the amount of credit provided
15 hereunder exceeds the amount of the corporation's tax liability
16 for any taxable year, the excess amount of the credit may be
17 carried over and applied against the tax liability of the corporation
18 for any succeeding taxable year until the full amount of the credit
19 has been exhausted.

1 SECTION 17. Section 1 of chapter 121B of the General Laws
2 is hereby amended by striking out the definition of "Handicapped
3 persons of low income" and inserting in its place the following
4 definition: — "Handicapped person of low income", person whose
5 annual net income is less than the amount necessary to enable him
6 or her to maintain decent, safe and sanitary housing and who has
7 a physical or mental impairment which substantially limits one
8 or more major life activities, such as, but not limited to, caring
9 for one's self, performing manual tasks, walking, seeing, hearing,
10 speaking, breathing, learning and working.

1 SECTION 18. Section 32 of chapter 121B of the General Laws
2 is hereby amended by inserting after paragraph (g) the following
3 paragraph: —
4 (h) Such steps as may be necessary shall be taken to maximize
5 the utilization of handicap-accessible units by persons whose
6 disability requires the accessibility features of the particular unit.
7 Such steps shall include, but shall not be limited to, (1) assuring
8 that timely and appropriate information regarding the availability
9 of handicap-accessible units reaches persons who may be
10 interested in and eligible for such units; (2) making available a
11 vacant handicap-accessible unit to a person whose disability
12 requires the accessibility features of the particular unit even
13 though another person or persons not requiring the accessibility
14 features of the particular unit would otherwise be offered the unit

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6 the modifications or adaptation of existing housing in order to make
7 such housing accessible to and usable by handicapped persons and
8 in conjunction therewith and to further the purpose of this
9 program (i) to make low interest loans, including but not limited
10 to home improvement loans, to low income persons or families
11 and to moderate income persons or families, (ii) to purchase,
12 participate in the purchase of, or contract to purchase loans, (iii)
13 to enter into advance commitments for the purchase of or
14 participation in the purchase of loans, (iv) to make loans to lenders
15 who have entered into commitments to make loans and to fund
16 and operate an interest subsidy program.

1 SECTION 23. Chapter 708 of the Acts of 1966 is hereby
2 further amended by inserting at the end of said chapter the
3 following section: —

4 Section 17. Accessible Housing

5 At least ten percent of housing which is financed by a mortgage
6 loan from MHFA or by other financial assistance from MHFA
7 and for which construction is initiated on or after January 1, 1988
8 shall be accessible to and usable by handicapped persons.