

Alert | Massachusetts Government Law & Policy



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Massachusetts Gov. Proposes Reorganization Plan for Housing Development Under Article 87

Massachusetts Gov. Maura Healey recently [filed legislation](#) under Article 87 of the Massachusetts Constitution that would make organizational changes to the Commonwealth’s oversight of housing development. This GT Alert reviews the legislative procedures that will govern the Legislature’s deliberations and describes the changes the legislation proposes.

Article 87 is the provision of the Massachusetts Constitution that allows expedited consideration and approval of proposals by governors to reorganize Executive Branch agencies (Article 87 refers to these proposals as “reorganization plans”). Unlike other legislation, reorganization plans take effect within 60 days of filing unless disapproved by the Legislature (by a majority vote of the members present and voting) within that time. Article 87 reorganization plans take effect even if the Legislature does nothing with the Governor’s filing. Article 87 does require the Legislature to hold a hearing on the plan within 30 days of filing, and to issue a report within 10 days after the hearing. That report is merely informational and does not determine whether the proposal will pass or fail. Article 87 also provides that reorganization plans are not “subject to amendment” during that 60-day period.

Gov. Healey’s reorganization plan for housing development, [House 43](#), proposes to create a new, Cabinet-level Executive Office of Housing and Livable Communities, which would be the principal office dedicated to creating and carrying out housing policy. The plan would accomplish this, in part, by having the Office of Housing and Livable Communities assume all responsibilities of the present Department of Housing

and Community Development (DHCD), which currently is part of the Cabinet-level Executive Office of Housing and Economic Development (EOHED). The “stripped-down” EOHED would be renamed the Executive Office of Economic Development and refocus on economic development and employment. Notably, EOHED itself was created via a reorganization plan filed by Gov. Deval Patrick soon after he was sworn in as governor in 2007, partly to elevate issues relating to housing development to Cabinet-level considerations.

Many of the provisions in Gov. Healey’s 76-page proposal address technical issues the new structure would create. Additionally, the legislation proposes placing the state authorities who actually do much of the work in housing within the Executive Office of Housing and Livable Communities. For example, the Massachusetts Housing Finance Agency would stay within the Executive Office of Housing and Livable Communities. Conversely, departments and programs that are not focused on housing, such as the Massachusetts Technology Collaborative, would stay a part of the renamed Executive Office of Economic Development. Where current legislation prescribes that an authority is chaired *ex officio* by a Cabinet-level secretary, that official would remain the chair. For instance, the Secretary of the renamed Executive Office of Economic Development would remain a co-chair of the board of the Massachusetts Life Sciences Center.

The following are other noteworthy aspects of the reorganization plan:

- The Massachusetts Development Finance Agency would remain within the Executive Office of Economic Development, despite its broad developmental mandate that can encompass housing development.
- The legislation proposes that business improvement districts be reviewed by the Executive Office of Economic Development.
- Urban renewal proposals would be reviewed by the Executive Office of Housing and Livable Communities unless the proposal included only commercial development, in which case it would be reviewed by the Executive Office of Economic Development (see sections 250 and 263 of H.43).
- The reorganization plan proposes to amend existing law to authorize the Commonwealth to provide financial assistance for rental housing projects while striking the current statutory requirement that such projects be financed by MassHousing (section 116 of H.43). Section 116 would also eliminate prescriptive existing statutory language governing the terms of such loans and allow the new Executive Office of Housing and Livable Communities to issue loans for rental housing projects in such amounts as it “determines appropriate.”

Gov Healey included a provision that would put this legislation into effect 30 days after it becomes effective under Article 87. She filed the legislation March 1, 2023. As a result, the reorganization plan will become effective May 1, 2023, unless the Legislature affirmatively disapproves it prior to that date, or approves it earlier than that date. The changes the bill describes will take effect 30 days later, not later than May 31, 2023. While no hearing is scheduled as of this writing, interested customers of affected organizations should prepare to provide feedback on this proposal to the Legislature within the next three weeks.

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