

# **HOUSE . . . . . No. 3611**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, June 22, 2015.

The committee on the Judiciary to whom was referred petition (accompanied by bill, House, No. 1284) of John V. Fernandes and Michael O. Moore relative to the statute of limitations in certain court actions involving zoning violations, reports recommending that the accompanying bill (House, No. 3611) ought to pass.

For the committee,

JOHN V. FERNANDES.

**HOUSE . . . . . No. 3611**

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**The Commonwealth of Massachusetts**

**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**

An Act to legitimize structures after six or ten years of continuous use.

*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 40A of the General Laws is hereby amended by striking out the  
2 second paragraph of section 7 and inserting in place thereof the following paragraph:-

3           No local zoning law shall provide penalty of more than three hundred dollars per  
4 violation; provided, however, that nothing herein shall be construed to prohibit such laws from  
5 providing that each day such violation continues shall constitute a separate offense. No action,  
6 suit or proceeding shall be maintained in any court, nor any administrative or other action taken  
7 to recover a fine or damages or to compel the removal, alteration, or relocation of any structure  
8 or part of a structure or alteration of a structure by reason of any violation of any zoning by-law  
9 or ordinance except in accordance with the provisions of this section, section eight and section  
10 seventeen; provided, further, that if real property has been improved and used in accordance with  
11 the terms of the original building permit issued by a person duly authorized to issue such  
12 permits, no action, criminal or civil, the effect or purpose of which is to compel the  
13 abandonment, limitation or modification of the use allowed by said permit or the removal,  
14 alteration or relocation of any structure erected in reliance upon said permit by reason of any

15 alleged violation of the provisions of this chapter or of any ordinance or by-law adopted  
16 thereunder, shall be maintained, unless such action, suit or proceeding is commenced and notice  
17 thereof recorded in the registry of deeds for each county or district in which the land lies, or, in  
18 the case of registered land such notice is filed in the registry district in which the land lies, within  
19 six years next after the commencement of the alleged violation of law; and provided, further that  
20 no action, criminal or civil, the effect or purpose of which is to compel the removal, alteration, or  
21 relocation of any structure by reason of any alleged violation of the provisions of this chapter, or  
22 any ordinance or by-law adopted thereunder, or the conditions of any variance or special permit,  
23 shall be maintained, unless such action, suit or proceeding is commenced and notice thereof  
24 recorded in the registry of deeds for each county or district in which the land lies, or, in the case  
25 of registered land such notice is filed in the registry district in which the land lies, within ten  
26 years next after the commencement of the alleged violation; and provided further that if (a) real  
27 property has been improved by the erection of one or more structures (which word shall include  
28 the singular thereof) thereon and such structures have been in existence for a period of at least  
29 ten years and (b) no notice of any action, suit or proceeding as to any alleged violation of this  
30 chapter or of any ordinance or by-law adopted thereunder as to such structures has been recorded  
31 in the registry of deeds for the county or district in which the real estate is located, or, in the case  
32 of registered land such notice is filed in the registry district in which the land is located, within a  
33 period of ten years from the date such structures were erected, such structures erected thereon  
34 shall, for zoning purposes, be deemed to be legally non-conforming structures subject to the  
35 provisions of G.L. c. 40A § 6 and any provisions of a local ordinance or By-Law relating to non-  
36 conforming structures. Such notice shall include names of one or more of the owners of record,

- 37 the name of the person initiating the action, and adequate identification of the structure and the
- 38 alleged violation.