

**HOUSE . . . . . No. 1245**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act relative to private subdivision fees..

*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 40B of the General Laws is hereby amended by adding at the end  
2 thereof the following new section:

3 Section XXX. Homeowner association fees or assessments in affordable housing  
4 developments that contain mixed affordable and market rate housing units shall not increase  
5 more than 3 per cent per year for any unit in such mixed occupancy development that is  
6 maintained as an affordable home under Chapter 40B of the General Laws.

7 (a) Any vote taken by the owners association that raises the association fee above 3 per  
8 cent in any calendar year shall not be binding on the owner of the affordable units.

9 (b) Any vote taken by the owners or owners' association that proposes to add an amenity  
10 to the subdivision common areas that is not an essential amenity shall not require the owners of  
11 the affordable units within the complex to contribute to the construction or maintenance of such  
12 amenities. Nothing in this section shall prevent any owner of an affordable unit within such

13 development from voluntarily participating in the construction and maintenance fees for non  
14 essential amenities.

15 (c) No owner of an affordable unit in a mixed occupancy development shall be required  
16 to pay attorney's fees to the owners' association or other owners for challenging or defending  
17 against the actions of an owners' association unless the affordable owner loses the challenge and  
18 the rule, regulation or by-law attempting to be enforced against the affordable owner addresses  
19 the health, safety or welfare of the development as a whole.

20 The purpose of this section is to ensure that units, including the costs and fees related to  
21 such units do not increase to a level that would cause such unit ownership to be unaffordable.