

SENATE No. 655

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to governmentally involved housing in the city of quincy..

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. The City of Quincy finds and declares that: (a) a serious public emergency
2 exists with respect to the housing of a substantial number of persons in the City of Quincy
3 residing in governmentally involved housing, inasmuch as there is a threat that many low income
4 individuals and families residing in such housing, particularly those elderly and disabled, may be
5 threatened with displacement as a result of prepayment of mortgage financing, loss of use or rent
6 restrictions, expiring subsidy contracts, and expected increases in rent, and there is a threat that
7 affordable housing stock will be lost due to expiration of use or rent restrictions and such pre-
8 payment, further exacerbating an extreme housing shortage for low-income families and
9 individuals; (b) in adopting Chapter 40P of the General Laws, the voters expressly exempted
10 such housing; (c) it is the City of Quincy's and the commonwealth's policy to encourage owners
11 of this governmentally involved housing to accept incentives to keep such housing affordable
12 and avert displacement; (d) such emergency should be met by the city of Quincy and by the
13 commonwealth immediately; therefore, this act is declared to be in the public interest.

SECTION 2. The following words or phrases as used in this act shall have the following meanings:

(A) “governmentally involved housing,” housing units which the United States, the commonwealth, or any authority created under the laws thereof (i) owns, operates, finances, subsidizes, or insures the mortgage thereon and (ii) regulates the individual rents thereof, including without limitation housing units constructed or rehabilitated pursuant to section 202, of the Housing Act of 1959, 12, U.S.C. 1701q; section 221(d) and 236 of the National Housing Act, as amended (12 U.S.C. section 17151(d) or 1715z-1); or housing units financed or subsidized pursuant to project-based programs for low-income persons under section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, but not including the following:

(1) housing units owned or acquired by the city of Quincy through tax foreclosure;

(2) housing units in a one to four family building or structure which is not part of a larger housing development, whether on one or more sites;

(3) structures containing housing units subsidized with mobile tenant-based rental assistance that would not otherwise come with the definition of governmentally involved housing;

(4) any housing or housing program owned, operated, managed, subsidized or administered by or through the Quincy Housing Authority

(5) housing units which become governmentally involved after October 1, 1976, unless the city of Quincy enacts a different date; and

(6) housing units that the city of Quincy may exempt from section 3 for just cause; provided, however, that in no event shall more than 20 per cent of the total rental units, which are or could be governed under this act in the city of Quincy, be exempted under this clause.

(7) housing units where the sole governmental involvement is the owner's participation in federal, state or municipal funded programs for home repairs, energy conservation, or lead paint abatement.

"Formerly governmentally involved housing," housing which was governmentally involved as of July 1, 1994, or which becomes governmentally involved housing after July 1, 1994, but which may no longer be owned, operated, financed, subsidized, mortgage-insured, or rent regulated by the United States, the commonwealth, or any authority created under the laws thereof.

"Low-income," an annual income which is 80 per cent or less of the median income for the area as determined by the United States Department of Housing and Urban Development, with adjustments for smaller and larger families.

SECTION 3. (a) Notwithstanding the provisions of any general or special law to the contrary, including, without limitation, the provisions of chapter 282 of the acts of 1974 the city of Quincy shall regulate the rent for use or occupancy of governmentally involved or formerly governmentally involved housing to the extent such regulation is not preempted by federal law or by section 6 of chapter 708 of the acts of 1966 on the basis for federal or Massachusetts Housing Finance Agency rent preemption no longer exists.

(b) The city of Quincy shall establish as the maximum rent for governmentally involved and formerly governmentally involved housing units the rent in effect therefore on July 1, 1994

or six months before the basis for federal or Massachusetts Housing Finance Agency rent preemption lapsed, whichever is later, adjusted to insure such rent provides a fair net operating income as of the date of the loss or rent preemption.

SECTION 4. (a) In the city of Quincy no person shall bring an action to recover possession of a governmentally involved or formerly governmentally involved housing unit, to the extent that such regulation is not otherwise preempted by federal law or section 6 of chapter 708 of the acts of 1966, unless:

(1) the tenant has failed to pay the rent to which the owner is entitled;

(2) the tenant has violated an obligation or covenant of tenancy not inconsistent with chapter 93A of the General Laws or this act other than the obligation to surrender possession upon proper notice, and has failed to cure the violation after having received written notice thereof;

(3) the tenant is causing, committing or permitting a nuisance in, or substantial damage to, the housing unit, or is creating substantial interference with the comfort, safety or enjoyment of the owner or other occupants of the same or any adjacent unit;

(4) the tenant has used or permitted use of a housing unit for illegal purposes;

(5) the tenant, who had a written lease or rental agreement which has terminated, has refused, after written requests or demanded by the owner, to execute a written extension or renewal thereof for a further term of like duration on terms not inconsistent with or in violation of any provision of this act;

(6) the tenant has refused the owner reasonable access to the housing unit for the purpose of making necessary repairs or improvements required by law or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the housing unit to any prospective purchaser or mortgagee;

(7) the tenant holding at the end of a lease term is a subtenant not approved by the owner;

(8) the owner seeks to recover possession for any other just cause not in conflict with the provisions and purposes of this act or chapter 93A of the General Laws.

(9) The provisions of this section shall be construed as additional restrictions on the right to recover possessions of such housing units.

SECTION 5. In the city of Quincy no person shall remove any governmentally involved or formerly governmentally involved housing units for low-income rental housing use, without first obtaining permission for that purpose from the city of Quincy or its designee, to the extent that such provision is not preempted by federal law or section 6 of chapter 708 of the acts of 1966. Such permission may be subject to terms and conditions not inconsistent with the purposes and provisions of this act, including, without limitation, (a) incentives to continue in effect the low-income use restrictions previously in place for the property and (b) where sale, lease or disposition of the property may result in the loss of all or a portion of the property for low-income rental housing use, the right of an incorporated tenant association in such housing, the municipality, the local housing authority, or non-profit community development corporations to negotiate for, acquire and operate such property on substantially equivalent terms and conditions as offered or available to a bona fide third party purchaser.

SECTION 6. To the extent preempted by federal law or section 6 of chapter 708 of the acts of 1966, the city of Quincy shall require an owner of governmentally involved housing or formerly governmentally involved housing, to affirmatively seek out and accept any prospective government housing resources, whether tenant-based or project-based, which maximize affordability of the housing units consistent with the income character of the property and the owner's right to obtain a fair net operating income for the housing accommodations.

SECTION 7. To extent not preempted by federal law or section 6 of chapter 708 of the acts of 1966, and so long as such regulation is consistent with the owner's right to obtain a fair net operating income and the municipality's housing policy, the city of Quincy shall establish local preferences, priorities and income limits for admission to governmentally involved housing or former governmentally involved housing upon unit turnover consistent, to the extent practicable, with the income profile of the property 12 months before the date of the loss of rent preemption or the decision to not renew an expiring subsidy contract. No ordinance, by-law, or regulation shall require an owner to create a tenancy involving any person with a history of conduct which would, if repeated, be grounds for eviction from such housing.

SECTION 8. The city of Quincy may adopt such ordinances and promulgate such rules, regulations and orders as it may deem necessary to effectuate the purposes of this act and may grant exceptions thereto when such action would tend to maintain or increase the supply of affordable housing in the city of Quincy including, without limitation, to promote the sale of the property to the Quincy Housing Authority, to a bona fide tenant organization or non-profit community development corporation under terms and conditions which would tend to maintain the income character of the property.

SECTION 9. Any hearings regarding matters related to regulation of rents or removal permits for governmentally involved or formerly governmentally involved housing or regarding compliance with other provisions of this act, or any ordinance, by-law, rule or regulation adopted hereunder, shall be conducted by the city of Quincy or its designee in accordance with the provisions of section 11 or chapter 30A of the General Laws.

SECTION 10. All decisions of the city of Quincy or its designee may be appealed to the Quincy division of the district court or the superior court for Norfolk County (if available) by any person aggrieved thereby, whether or no previously a party in the matter, within 30 calendar days after receipt of notice of such decision. Judicial review of adjudicatory decisions shall be conducted in accordance with section 14 of chapter 30A of the General Laws. The district and superior courts shall have jurisdiction to enforce the provisions of this act and any ordinance, by-law, rule or regulation adopted under this act and on application of the city of Quincy or its designee or any aggrieved person may restrain or enjoin violations of any such ordinance, rule or regulation. In the interests of justice, the court may allow any necessary parties to be joined in or to intervene in any action brought hereunder and may in its discretion allow or require an action to proceed as a class action.

SECTION 11. It shall be unlawful for any person to do or omit to do any action in violation of this act or any order, ordinance, rule or regulation adopted or promulgated under this act. Whoever willfully violates any provision of this act or any order, ordinance, rule or regulation adopted or promulgated under this act or whoever makes a false statement in any testimony before the municipality or its designee, or whoever knowingly supplies the city of Quincy or its designee with false information in connection with a proceeding under this act, shall be punished by a fine of not more than \$400 or by imprisonment for not more than 90 days,

143 or both. In the case of a second or subsequent offense, or where the violation continues after
144 notice thereof, such person shall be punished by a fine of not more than \$2,000 or imprisonment
145 for not more than one year or both.

146 SECTION 12. The provisions of this act are severable, and if any of its provisions shall
147 be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision
148 of such court shall not affect or impair any of the remaining provisions.

149 SECTION 13. The provisions of M.G.L. c. 40P shall not apply to any ordinance adopted
150 under this authority.