SENATE . . . . . No. 2259

The Commonwealth of Massachusetts

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

SENATE, Thursday, April 28, 2016

The committee on Ways and Means, to whom was referred the House Bill relative to non-conforming structures (House, No. 3611),-- reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2259.

For the committee,
Karen E. Spilka

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Section 7 of chapter 40A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following 3 paragraphs:-

No local zoning by-law may assess a penalty of more than $300 per violation; provided, however, that nothing in this section shall be construed to prohibit local zoning by-laws from providing that each day the violation continues shall constitute a separate offense. No action, suit or proceeding shall be maintained in a court, nor an administrative action or other action taken to recover a fine or damages or to compel the removal, alteration or relocation of a structure or part of a structure because of a violation of a zoning by-law or ordinance except in accordance with this section and sections 8 and 17. If real property has been improved and used in accordance with the terms of the original building permit, no criminal or civil action intended to compel the abandonment, limitation or modification of the use allowed by the permit or the removal, alteration or relocation of a structure erected in reliance upon the permit by reason of an alleged violation of this chapter or of an ordinance or by-law adopted under this chapter shall be maintained unless the action, suit or proceeding is commenced within 6 years of the commencement of the alleged violation and notice of the action, suit or proceeding is recorded in the registry of deeds for each county or district in which the land lies or, in the case of registered

18 land, the notice is filed in the registry district in which the land lies. No criminal or civil action
19 intended to compel the removal, alteration, or relocation of a structure by reason of an alleged
20 violation of this chapter or of an ordinance or by-law adopted under this chapter or the conditions
21 of a variance or special permit shall be maintained unless the action, suit or proceeding is
22 commenced within 10 years of the commencement of the alleged violation and notice of the
23 action, suit or proceeding is recorded in the registry of deeds for each county or district in which
24 the land lies or, in the case of registered land, the notice is filed in the registry district in which
25 the land lies.

26 If real property has been improved by the erection of 1 or more structures and the
27 structures have been in existence for a period of at least 10 years and no notice of an action, suit
28 or proceeding as to an alleged violation of this chapter or of an ordinance or by-law adopted
29 under this chapter has been recorded in the registry of deeds for the county or district in which
30 the real estate is located or, in the case of registered land, has been filed in the registry district in
31 which the land is located within a period of 10 years from the date the structures were erected,
32 then the structures shall be deemed, for zoning purposes, to be legally non-conforming structures
33 subject to section 6 and any local ordinance or by-law relating to non-conforming structures.

34 Notice of an action, suit or proceeding shall include the name of not less than 1 of the
35 owners of record, the name of the person initiating the action and adequate identification of the
36 structure and the alleged violation.