

SENATE No. 2285

Senate, May 5, 2016 -- Text of the Senate amendment to the House Bill relative to non-conforming structures (House, No. 3611) (being the text of Senate, No. 2259, printed as amended)

The Commonwealth of Massachusetts

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

1 SECTION 1. Section 7 of chapter 40A of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out the second paragraph and inserting in place
3 thereof the following 3 paragraphs:-

4 No local zoning by-law or ordinance may assess a penalty of more than \$300 per
5 violation; provided, however, that nothing in this section shall be construed to prohibit local
6 zoning by-laws or ordinances from providing that each day the violation continues shall
7 constitute a separate offense. No action, suit or proceeding shall be maintained in a court, nor an
8 administrative action or other action taken to recover a fine or damages or to compel the
9 removal, alteration or relocation of a structure or part of a structure because of a violation of a
10 zoning by-law or ordinance except in accordance with this section and sections 8 and 17. If real
11 property has been improved and used in accordance with the terms of the original building
12 permit, no criminal or civil action intended to compel the abandonment, limitation or
13 modification of the use allowed by the permit or the removal, alteration or relocation of a
14 structure erected in reliance upon the permit by reason of an alleged violation of this chapter or
15 of an ordinance or by-law adopted under this chapter shall be maintained unless the action, suit

16 or proceeding is commenced and notice of the action, suit or proceeding is recorded in the
17 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 within 6 years of the
19 commencement of the alleged violation. No criminal or civil action intended to compel the
20 removal, alteration, or relocation of a structure by reason of an alleged violation of this chapter
21 or of an ordinance or by-law adopted under this chapter or the conditions of a variance or special
22 permit shall be maintained unless the action, suit or proceeding is commenced 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 within 10 years of the commencement of the alleged violation..

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

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

38 SECTION 2. The third paragraph of section 7 of chapter 40A of the General Laws, as
39 appearing in section 1, shall be applicable regardless of whether the structure was erected prior to
40 or after the effective date of this act.

41 SECTION 3. Notwithstanding this act, for any structure erected or altered not more than
42 10 and not less than 9 years before the effective date of this act, no criminal or civil action
43 intended to compel the removal, alteration or relocation of a structure by reason of an alleged
44 violation of chapter 40A of the General Laws or any ordinance or by-law adopted under said
45 chapter 40A or the conditions of a variance or special permit shall be maintained unless the
46 action, suit or proceeding is commenced and notice of the action, suit or proceeding is recorded
47 in the registry of deeds for each county or district in which the land lies or, in the case of
48 registered land, the notice is filed in the registry district in which the land lies within 10 years
49 and 6 months after the erection or alteration of the structure.