

# HOUSE . . . . . No. 3925

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## The Commonwealth of Massachusetts

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PRESENTED BY:

*Nika C. Elugardo*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act enabling municipal housing agencies to enter enforceable deed restriction agreements with small property owners in good standing as part of zoning variance approval.

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PETITION OF:

| NAME:                    | DISTRICT/ADDRESS:   | DATE ADDED:      |
|--------------------------|---------------------|------------------|
| <i>Nika C. Elugardo</i>  | <i>15th Suffolk</i> | <i>1/18/2019</i> |
| <i>Marcos A. Devers</i>  | <i>16th Essex</i>   | <i>6/17/2019</i> |
| <i>Russell E. Holmes</i> | <i>6th Suffolk</i>  | <i>1/31/2019</i> |
| <i>Liz Miranda</i>       | <i>5th Suffolk</i>  | <i>1/30/2019</i> |

# HOUSE . . . . . No. 3925

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By Ms. Elugardo of Boston, a petition (accompanied by bill, House, No. 3925) of Nika C. Elugardo and others relative to enabling municipal housing agencies to enter enforceable deed restriction agreements with small property owners in good standing as part of zoning variance approval. Housing.

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninety-First General Court  
(2019-2020)  
\_\_\_\_\_

An Act enabling municipal housing agencies to enter enforceable deed restriction agreements with small property owners in good standing as part of zoning variance approval.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           Chapter 40 of the General Laws is hereby amended by inserting after section 60B the  
2 following section:-

3           Section 60C. (a) As used in this section the following terms shall, unless the context  
4 clearly appears otherwise, have the following meanings:-

5           “Affordable housing”, a deed restricted unit affordable to and occupied by individuals  
6 and families whose annual income is less than 50 per cent of the area-wide median income as  
7 determined by the United States Department of Housing and Urban Development for the city or  
8 town in which the land lies and where rent or mortgage payments are not more than 35 percent of  
9 household income.

“Affordable housing restriction”, a right for 20 or more years, notwithstanding chapter 184A, whether or not stated in the form of a restriction, easement, covenant or condition in any deed, mortgage, will, agreement, or other instrument executed by or on behalf of the owner of the real property containing the deed restricted unit appropriate to limit the use of such dwelling unit for affordable housing and recorded in the registry of deeds in which the land lies. While under affordable housing restriction, deed restricted units under this section are eligible to be counted on the so called 40B subsidized housing inventory administered by the department of housing and community development.

“Deed restricted unit”, a newly renovated dwelling unit subject to an affordable housing restriction pursuant to an agreement executed by the municipality and the property owner under this section.

“Newly renovated”, a dwelling unit constructed, redeveloped, renovated or developed pursuant to a by law, ordinance or zoning variance by a city or town provided for in subsection (b).

(b) A city or town accepting this section in the manner provided in section 4 of chapter 4 may, notwithstanding any law to the contrary, provide through by-law, ordinance or zoning variance for the addition of newly renovated dwelling units in an existing building containing less than 10 dwelling units; provided, that such newly renovated dwelling units are subject to subsection (c).

(c) A property owner adding a newly renovated dwelling unit pursuant to subsection (b) shall enter into an affordable housing agreement with the municipality in which the land lies. Notwithstanding any law to the contrary, the agreement shall provide for an enforceable zoning

variance for additional newly renovated dwelling units. The agreement shall include: (i) a payment of a sum of money to be agreed upon by the municipality and the property owner based on the fair market value of the improved property, notwithstanding any affordability covenant, and deposited into the municipality's affordable housing trust fund adopted pursuant to section 55C of chapter 44;(ii) additional newly renovated deed restricted units with recorded affordable housing restrictions pursuant to this section; or (iii) both (i) and (ii).

(d) The chief executive officer of a city or town shall hold, monitor and enforce the affordable housing restriction on a deed restricted unit or, designate a nonprofit organization created pursuant to chapter 180 to hold, monitor or enforce such restrictions. In the case that a municipality designates a nonprofit, the nonprofit shall be compensated by the municipality.

(e) The municipality shall establish rules and guidelines for granting a variance under this section. The affordable housing agreement in subsection (c) shall also provide for, and explicitly state, penalties for its noncompliance.