

SENATE No. 2530

The Commonwealth of Massachusetts

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

SENATE, February 5, 2020.

The committee on Housing to whom was referred the petition (accompanied by bill, Senate, No. 789) of Julian Cyr for legislation relative to attainable housing in seasonal communities, reports recommending that the accompanying bill (Senate, No. 2530) ought to pass.

For the committee,
Brendan P. Crighton

SENATE No. 2530

The Commonwealth of Massachusetts

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

An Act relative to attainable housing in seasonal communities.

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. Section 6 of chapter 44B is hereby amended by inserting after the word
2 “purpose”, in line X, the following words:- “; provided, however, that funds for open space or
3 historic preservation that have not been expended for not less than three consecutive fiscal years
4 may be transferred by the chief executive authority of the municipality for community housing,
5 waste water infrastructure or water infrastructure by a majority vote of the legislative body”

6 SECTION 2. Section 1A of chapter 40, as appearing in the 2016 Official Edition, is
7 hereby amended by adding the following definition:-

8 “Tiny house”, a detached structure containing a dwelling unit with no more than 600
9 square feet, excluding the area of any floor level located above the main floor, intended for year
10 round occupancy that meets the requirements of chapter 143, and may include single-room
11 structures, and which is built on either a permanent foundation or on a chassis that is suitable for
12 registration for transport on public highways of the state.

13 SECTION 3. Section 3 of chapter 40A, as appearing in the 2016 Official Edition, is
14 hereby amended by adding the following paragraph:-

15 “A municipality that permits accessory dwelling units pursuant to this section shall
16 permit a tiny house as a detached accessory dwelling unit; provided, however, that such land or
17 structures may be subject to reasonable regulations concerning dimensional setbacks, screening
18 and the bulk and height of structures; provided, however, that a tiny house used for habitation
19 shall be connected to a public water system or a private well, and to a public sewer system or a
20 subsurface wastewater disposal system that has been approved by the Massachusetts department
21 of environmental protection. A zoning ordinance or by-law may require that the principal
22 dwelling or the accessory dwelling unit be continuously owner-occupied and may limit the total
23 number of accessory dwelling units in the municipality to not less than 5 per cent of the total
24 non-seasonal single-family housing units in the municipality.”

25 SECTION 4. Chapter 40, as appearing in the 2016 Official Edition, is hereby amended by
26 inserting, after section 60B, the following section:-

27 60C. A city or town, by vote of its town meeting, town council or city council, with the
28 approval of the mayor where required by law, on its own behalf or in conjunction with one or
29 more cities or towns, may exempt from property taxation, under chapter 59, a dwelling unit that
30 is rented on a yearly basis, and occupied year-round, for an amount not to exceed 150 per cent
31 the fair market rent established by the United States Department of Housing and Urban
32 Development for the metropolitan statistical area. The owner of a dwelling qualifying for
33 exemption under this section shall submit to the municipality or its agent documentation,
34 including but not limited to a signed lease, necessary to confirm the eligibility of the rental.

35 The amount of the exemption shall be determined by the municipality, but shall not
36 exceed an amount equal to the tax otherwise owed on the property based on the assessed value of
37 the property, including accessory dwelling units, multiplied by the square feet of the living space
38 of all dwelling units on the property that qualify under this section, divided by the total square
39 feet of structures on the property.

40 SECTION 5. Section 3 of chapter 40A of the General Laws, as appearing in the 2016
41 Official Edition, is hereby amended by adding the following paragraph:-

42 No zoning ordinance or by-law shall prohibit or require a special permit for the use of
43 land or structures for an accessory dwelling unit located internally within a single-family
44 dwelling or the rental thereof on a lot not less than 5,000 square feet or on a lot of sufficient area
45 to meet the requirements of title 5 of the state environmental code established by section 13 of
46 chapter 21A, if applicable; provided, however, that such land or structures may be subject to
47 reasonable regulations concerning dimensional setbacks, screening and the bulk and height of
48 structures. The zoning ordinance or by-law may require that the principal dwelling or the
49 accessory dwelling unit be continuously owner-occupied and may limit the total number of
50 accessory dwelling units in the municipality to not less than 5 per cent of the total non-seasonal
51 single-family housing units in the municipality. Not more than 1 additional parking space shall
52 be required for an accessory dwelling unit; provided, however, that, if parking is required for the
53 principal dwelling, that parking shall be retained or replaced. Exterior alterations of the principal
54 dwelling to allow separate primary or emergency access to the accessory dwelling unit shall be
55 allowed without a special permit if such alterations are within applicable dimensional setback
56 requirements. Nothing in this paragraph shall authorize an accessory dwelling unit to violate or
57 avoid compliance with the building, fire, health or sanitary codes, historic or wetlands laws,

58 ordinances or by-laws or title 5 of the state environmental code established by said section 13 of
59 said chapter 21A, if applicable. This section shall not limit a city or town’s authority to prohibit
60 or restrict use of an accessory dwelling unit as a short-term rental.

61 SECTION 6. Chapter 23B is hereby amended by adding the following section:-

62 Section 31. (a) For purposes of this section:

63 “Affordable rental housing” means housing that serves persons with a household income
64 of less than 120 per cent of median income for a municipality; and

65 “Qualified developer” means a developer that has partnered with a school district or
66 municipality to create affordable rental housing for school district or municipal employees.

67 (b)The department, or any division within the department, may enter into long-term
68 financing agreements with school districts, municipalities and qualified developers for the
69 creation of affordable rental housing for municipal employees.

70 (c) Payment on a finance agreement under this section shall be deferred until the
71 affordable rental housing that is financed is put into service and the school district or
72 municipality begins collecting rent from the occupants of that affordable rental housing.

73 SECTION 7. Chapter 60 of the General Laws is hereby amended by inserting, after
74 section 37B, the following section:-

75 Section 37C. A property subject to sale under section 37 of this chapter that contains
76 three (3) or less units, the department of housing and community development, shall have a right
77 of first refusal to acquire the tax lien at tax sale, and may assist the owner to discharge the lien or
78 take title and acquire the property in its own name pursuant to regulations to be developed by the

79 corporation, consistent with its purposes. The corporation shall notify the collector of its
80 intention to exercise this right no later than 10 days before the date of sale or any adjournment of
81 the sale. Failure of the corporation to notify the collector as provided herein shall extinguish the
82 right of first refusal under this section.

83 SECTION 8. Chapter 59 of the General Laws is hereby amended by inserting after
84 section 5N the following section:-

85 Section 5O. In any city or town which accepts this section, the board of selectmen of a
86 town, or in a municipality having a town council form of government, the town council or the
87 mayor, with the approval of the city council in a city, may establish a property tax exemption for
88 low- or moderate-income households.

89 For purposes of this section: (a) a low-income shall mean a household income of less
90 than 80 per cent of the median household income in the municipality, as established by the
91 published income guidelines for the United States Department of Housing and Urban
92 Development for the metropolitan statistical area; (b) a moderate-income shall mean an income
93 between 80 per cent and 120 per cent of the median household income, as established by the
94 published income guidelines United States Department of Housing and Urban Development for
95 the metropolitan statistical area.

96 A municipality shall have the power to create local rules and procedures for
97 implementing this section in a way that is consistent with the intent of this section.

98 SECTION 9. Notwithstanding any general or special law to the contrary, a special
99 commission is hereby established for the purposes of making an investigation and study relative
100 to the impact of the state building code, fire code, health code, and sanitary code on the

101 availability of affordable housing in the Commonwealth and to whether or not the building code,
102 fire code, health code, or sanitary code may be amended to promote the development of housing
103 that is affordable for a majority of residents. The commission shall consist of: 2 members of the
104 senate to be appointed by the president of the senate; 2 members of the house to be appointed by
105 the speaker of the house; and 6 persons appointed by the governor, 1 of whom shall be a
106 representative of the Home Builders and Remodeler's Association of Massachusetts, 1 of whom
107 shall be a representative of the Massachusetts Association of Realtors, 1 of whom shall be a
108 representative of MassHousing, 1 of whom shall be a representative of the department of housing
109 and community development, 1 of who shall be a representative of the Building Code
110 Coordinating Council, 1 of whom shall be Massachusetts Association of Community
111 Development Corporations.

112 All appointments shall be made not later than 30 days after the effective date of this act.
113 Members shall not receive compensation for their services but may receive reimbursement for
114 the reasonable expenses incurred in carrying out their responsibilities as members of the
115 commission.

116 Not later than July 1, 2021, the commission shall report to the general court the result of
117 its investigation and study and its recommendations, if any, together with drafts of legislation
118 necessary to carry its recommendations into effect by filing the same with the clerk of the house
119 of representatives who shall forward the same to the joint committee on housing and the joint
120 committee on community development and small businesses.