

HOUSE No. 4168

The Commonwealth of Massachusetts

PRESENTED BY:

David Henry Argosky LeBoeuf and Patricia A. Duffy

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 relative to problem properties and enhancing fire safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/19/2021</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>2/19/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/9/2022</i>

HOUSE No. 4168

By Representatives LeBoeuf of Worcester and Duffy of Holyoke, a petition (accompanied by bill, House, No. 4168) of David Henry Argosky LeBoeuf and Patricia A. Duffy relative to establishing and administering a program to assist landlords and lessors with providing fire safety education and fire prevention measures in multi-unit residential properties. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to problem properties and enhancing fire safety.

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. Chapter 22D of the General Laws is hereby amended by adding the
2 following section:-

3 Section 7. (a) There shall be established and set up on the books of the commonwealth a
4 Tenant Fire Safety Trust Fund to be expended, without further appropriation, by the state fire
5 marshal for the purposes of establishing and administering a program to assist landlords and
6 lessors with providing fire safety education and fire prevention measures in multi-unit residential
7 properties. There shall be credited to the trust fund: (i) any funds deposited in the trust fund
8 pursuant to paragraphs (2) and (3) of subsection (b) of section 101 of chapter 143; (ii) any funds
9 that may be appropriated or transferred for deposit into the trust fund; and (iii) any income
10 derived from investment of amounts credited to the trust fund. Any balance in the fund at end of
11 the fiscal year shall not revert to the General Fund, but shall remain available for expenditure in

12 subsequent fiscal years. No expenditure made from the fund shall cause the fund to become
13 deficient at any point during a fiscal year.

14 (b) Annually, not later than October 1, a report shall be filed with the clerks of the house
15 of representatives and the senate and the house and senate committees on ways and means that
16 shall include expenditures made and income received by the fund.

17 SECTION 2. Chapter 143 of the General Laws is hereby amended by adding the
18 following section:-

19 Section 101. (a) An apartment or dwelling unit in any structure containing 3 or more
20 dwelling units in any municipality that accepts this section in the manner provided in section 4 of
21 chapter 4 shall not be occupied for human habitation, after a vacancy, until a certificate of
22 occupancy has been issued by the building inspector, certifying that such apartment or dwelling
23 unit: (i) conforms to the requirements of the applicable housing ordinances of the municipality;
24 (ii) the state building code, as codified in 780 CMR, and (iii) until necessary fire safety
25 inspections have been completed pursuant to chapter 148; provided, however, that this section
26 shall not apply to any structure occupied by the owner thereof and containing 3 or less dwelling
27 units; provided, further, that this section shall not prohibit human occupancy of such apartment
28 or dwelling unit during the pendency of an application for a certificate of occupancy.

29 The state fire marshal, head of the fire department as defined in section 1 of said chapter
30 148, or any person to whom the marshal or head of the fire department may delegate the
31 authority to perform fire safety inspections pursuant to section 4 of said chapter 148 shall notify
32 the building inspector of the completion of necessary fire inspections pursuant to this subsection.

33 (b) (1) Any owner or lessor who recovers rent for the occupation of any apartment or
34 dwelling unit for which a certificate of occupancy has not been obtained or for which necessary
35 fire safety inspections have not been completed prior to the rental thereof in violation of
36 subsection (a) shall be subject to a civil fine of not more than \$20 per day per violation for not
37 more than 200 days for such period of unlawful occupation.

38 (2) Notwithstanding 105 CMR 410.900 of the state sanitary code, any owner or lessor of
39 a structure not occupied by the owner or lessor who refuses entry to any apartment or dwelling
40 unit for the purposes of completing an inspection for the issuance of a certificate of occupancy or
41 fire safety inspection shall receive a warning for the first offense and be subject to a civil fine of
42 not more than \$250 for the second offense and \$500 for a third or subsequent offense; provided,
43 however, that an owner or lessor may not be subject to an escalated penalty if the owner or lessor
44 has shown good faith in complying with this section. All fines imposed pursuant to this
45 paragraph and unpaid after 45 days shall become a lien upon the property, which shall have
46 priority over all other liens.

47 (3) Notwithstanding 105 CMR 410.900 of the state sanitary code, any owner or lessor of
48 a structure who refuses entry to any apartment or dwelling unit of a structure that is occupied by
49 the owner or lessor for the purposes of completing an inspection for the issuance of a certificate
50 of occupancy or fire safety inspection shall receive a warning for the first offense and be subject
51 to a civil fine of not more than \$100 for the second offense and \$250 for a third or subsequent
52 offense; provided, however, that an owner or lessor may not be subject to an escalated penalty if
53 the owner or lessor has shown good faith in complying with this section. All fines imposed
54 pursuant to this paragraph and unpaid after 45 days shall become a lien upon the property, which
55 shall have priority over all other liens.

56 (4) Fifty per cent of any fine collected pursuant to this subsection shall be deposited in a
57 fund established for each municipality collecting such fine to be used for inspections for the
58 issuance of a certificate of occupancy or fire safety inspection and the remaining 50 per cent of
59 any fine collected shall be deposited in the tenant fire safety trust fund established pursuant to
60 section 7 of section 22D.

61 SECTION 3. Section 99 of chapter 175 of the General Laws, as so appearing in the 2018
62 Official Edition, is hereby amended by striking out clause fifteenth A and inserting in place
63 thereof the following clause:- Fifteenth A, Every policy which insures multi-unit residential
64 property against loss or damage by fire shall provide additional benefits, by endorsement
65 attached to the policy, up to a limit of \$750, without deductible, for each rental unit to cover the
66 actual costs of relocation of any tenant or lawful occupant displaced by fire or by damage
67 resulting from fire; provided, however, that every policy which insures a multi-unit residential
68 property containing 6 or more units against loss or damage by fire shall provide additional
69 benefits, by endorsement attached to the policy, of not less than \$1,500, without deductible, for
70 each rental unit to cover the actual costs of relocation of any tenant or lawful occupant displaced
71 by fire or by damage resulting from fire.

72 The actual costs of relocation shall include, but not be limited to, hotel room rental, a
73 security deposit and first month's rent for a new rental unit if the security deposit or last month's
74 rent is not already due and owing from the landlord to the tenant, clothing replacement, furniture
75 replacement and other reasonable costs and living expenses as a result of being displaced or
76 damaged by fire. Benefits under this clause shall be paid by the insurer to the tenant or lawful
77 occupant after taking into account benefits available under any other policy. The terms and
78 conditions of such clause shall be approved or prescribed by the commissioner. The landlord or

79 lessor of the property shall notify each tenant or lawful occupant in writing of the benefits
80 payable under this clause at the beginning of the lease or tenancy period. A waiver of this
81 provision in any lease or other rental agreement shall be void and unenforceable.