



The Commonwealth of Massachusetts

JOINT COMMITTEE ON HOUSING
STATE HOUSE, BOSTON 02133-1053

SUSAN C. TUCKER
SENATOR
SENATE CHAIR
ROOM 424, STATE HOUSE
TEL. (617) 722-1612

KEVIN G. HONAN
REPRESENTATIVE
HOUSE CHAIR
ROOM 38, STATE HOUSE
TEL. (617) 722-2470

May 5, 2009

TO: All interested parties

FROM: Representative Kevin G. Honan, Chair
Senator Susan C. Tucker, Chair

RE: Joint Committee on Housing Hearing

WHEN: Tuesday, May 5, 2009, 10:30 AM

WHERE: State House, Room A-1

The Joint Committee on Housing will hold a hearing on Tuesday, May 5, 2009 in Room A-1 at 10:30 AM. The committee will hear the following bills:

H 1201	An Act preserving publicly assisted affordable housing. Rep. Flynn
H 3463	An Act preserving publicly assisted affordable housing. Rep. Wolf
H 3573	An Act preserving publicly assisted affordable housing. Rep. Honan
H 3689	An Act authorizing municipalities to protect low and moderate income tenants and units of governmentally involved affordable housing. Rep. Smizik
H 3810	An Act for legislation to authorize the city of New Bedford to adopt regulations for the protection and control of public housing in said city. Rep. Cabral (Home Rule)
H 3812	An Act that the City of Boston be authorized to regulate the rents of certain governmentally-involved housing units. Rep. Rush (Home Rule)
S 617	An Act authorizing municipalities to protect low and moderate income tenants and units of governmentally involved housing. Sen. Berry
S 618	An Act to adopt protections for Salem's governmentally involved housing stock. Sen. Berry
S 655	An Act relative to governmentally involved housing in the City of Quincy. Sen. Morrissey
S 666	An Act preserving publicly assisted affordable housing. Sen. Tucker
HD 3776	An Act to restore Lowell's governmentally involved housing protection. Rep. Kevin Murphy

In an effort to conserve resources and save paper we will not be sending a hard copy unless requested. Please contact committee staff at 617-722-2470 with questions.

Massachusetts House of Representatives Bill Summary

Bill No: H 1201

Title: An Act preserving publicly assisted affordable housing.

Sponsor: Representative Flynn

Committee: Housing

Hearing Date: 5.05.09

Similar Matters:

Prior History:

Current Law:

Summary:

Emergency preamble.

Creates Chapter 40T for the Preservation of Publicly Assisted Housing

SECTION 1. Definitions.

SECTION 2. Notices.

Requires written notice of intent be given not less than 24 months prior to affordability termination.

Requires owner to give notice of intent to complete termination no less than 12 months before termination.

SECTION 3. Right of First Offer

As of the effective date of this chapter, publicly assisted housing not subject to a purchase contract and no longer receiving government assistance shall be subject to this provision for 4 years from the date of the last termination.

(a) Requires owner to offer the department an opportunity to purchase the publicly assisted property.

(b) The department may select a designee to act on its behalf. Upon written request, the department shall immediately designate the affected municipality its designee

unless the department determines that such request is not approvable for reasons set forth in the department's regulations.

(c) Requires municipality/designee to submit an offer within 30 days from receiving notice of the owner's intent to sell. If the owner and the department do not enter into an agreement, the owner is free to enter into an agreement to sell the property to a third party subject to the department's right of first refusal

(d) Requires owner to comply with any reasonable request for documents within 10 days of such a request.

(e) Within 30 days of submitting an offer to purchase the publicly assisted housing development, the department shall give the affected tenants a written notice of its intent to purchase the property and also meet with the tenants to discuss its plans

SECTION 4. Right of 1st Refusal

As of the effective date of this chapter, publicly assisted housing not subject to a purchase contract and no longer receiving government assistance shall be subject to this provision for 4 years from the date of the last termination.

- (a) The department or its designee shall have a right of first refusal to purchase any publicly assisted housing development.
- (b) The owner shall provide a copy of the third party purchase contract along with proposed purchase contract for execution by the department. The proposed purchase contract shall contain the same terms and conditions as the executed third party purchase contract.
- (c) If the department fails to execute the proposed purchase contract within 30 days or such other period, the owner shall have 24 months to execute the proposed purchase contract to any third party. Upon expiration of the 24 months, the owner shall be subject to all of the provisions of this statute.
- (d) If the department or its designee fails to timely execute the proposed purchase contract within the 30 day period provided or if the contract was executed but a sale is not completed or if the third party purchase contract is terminated by mutual agreement of the owner and the department, then the owner shall h
- (e) Third party purchase terms must be verified by DHCD

SECTION 5. or the purposes of this chapter, an affected municipality shall not be subject to the provisions of section 16 of chapter 30B.

Section 6. Exemptions:

- (a) The provisions of Section 3 of this chapter shall not apply to any of the following:
 - (1) a government taking by eminent domain
 - (2) a forced sale pursuant to foreclosure

- (3) a deed-in-lieu of foreclosure
- (4) a proposed sale that, as determined by the department, is to a qualified purchaser pursuant to terms and conditions that preserves affordability
- (5) a proposed sale of a publicly assisted development which the department has determined has a section 8 contract, for all of the units in the development and the buyer has agreed to renew project-based section 9 assistance
- (6) a proposed sale pursuant to a binding agreement in effect on the effective date of this chapter
- (7) purchase agreements entered prior to this Chapter
- (8) proposed sale of assisted properties with no restrictions set to expire within two years of sale
- (9) project is eligible to participate in HUD "markup to market" program.

(b) An owner seeking an exemption shall provide a copy of its request to the municipality, CEDAC, local legal services organization, and tenant organization

SECTION 7. Preserving Affordability

Any purchase by the department or its designee shall be subject to a regulatory agreement.

SECTION 8. Certificate of Compliance.

An owner who has complied with the provisions of sections 2 and 3, which has not resulted in a purchase by a municipality or its designee, may apply to the department for a certificate of compliance by submitting a written request in the form deemed necessary by the department to establish compliance. The department shall issue the certificate within 30 days of receipt of application. Upon issuance, the certificate shall be filed with the registry of deeds.

SECTION 9. Advisory Committee/Regulations

Within 45 days of the passage of this chapter, the department shall establish a 12-member advisory committee, to consist of the undersecretary of the department or her designee, the executive director of the Community Economic Development Assistance Corporation, 1 member selected by the Massachusetts Mayors Association, 1 member selected by the Massachusetts Municipal Association, 1 member selected by Citizens' Housing and Planning Association, 1 member selected by the Greater Boston Real Estate Board, 1 member selected by the Real Estate Bar Association for Massachusetts, 1 member selected by the Massachusetts Association of Community Development Corporations, 1 member selected by Massachusetts Legal Assistance Corporation, 1 member affiliated with the Affordable Housing Preservation Initiative of the Local Initiatives Support Corporation, and 2 additional members chosen by the department to provide advice and recommendations to the department regarding regulations to implement this act; provided further, that the department shall promulgate regulations to effectuate the purposes and to implement the provisions of this chapter within 150 days of the passage of this chapter.

Massachusetts House of Representatives Bill Summary

Bill No: H 3463

Title: An Act preserving publicly assisted affordable housing.

Sponsor: Representative Wolf

Committee: Housing

Hearing Date: 5.05.09

Similar Matters:

Prior History: H 1295 of 2007, H 3167 of 2005

Current Law:

Summary:

Emergency preamble.

SECTION 1: Creates Chapter 40T for the Preservation of Publicly Assisted Housing

Section 1. Definitions.

Section 2. Notices.

(a) Requires written notice of intent be given not less than 24 months prior to affordability termination.

(b) Requires owner to give notice of intent to complete termination no less than 12 months before termination.

Section 3. Right of First Offer

As of the effective date of this chapter, publicly assisted housing not subject to a purchase contract and no longer receiving government assistance shall be subject to this provision for 4 years from the date of the last termination.

(a) Requires owner to offer the department an opportunity to purchase the publicly assisted property.

(b) The department may select a designee to act on its behalf. Upon written request, the department shall immediately designate the affected municipality its

designee unless the department determines that such request is not approvable for reasons set forth in the department's regulations.

(c) Requires municipality/designee to submit an offer within 90 days from receiving notice of the owner's intent to sell. If the owner and the department do not enter into an agreement, the owner is free to enter into an agreement to sell the property to a third party subject to the department's right of first refusal

(d) Requires owner to comply with any reasonable request for documents within 10 days of such a request.

(e) Within 30 days of submitting an offer to purchase the publicly assisted housing development, the department shall give the affected tenants a written notice of its intent to purchase the property and also meet with the tenants to discuss its plans

Section 4. Right of 1st Refusal

As of the effective date of this chapter, publicly assisted housing not subject to a purchase contract and no longer receiving government assistance shall be subject to this provision for 4 years from the date of the last termination.

- (a) The department or its designee shall have a right of first refusal to purchase any publicly assisted housing development.
- (b) The owner shall provide a copy of the third party purchase contract along with proposed purchase contract for execution by the department. The proposed purchase contract shall contain the same terms and conditions as the executed third party purchase contract.
- (c) If the department fails to execute the proposed purchase contract within 30 days or such other period, the owner shall have 24 months to execute the proposed purchase contract to any third party. Upon expiration of the 24 months, the owner shall be subject to all of the provisions of this statute.
- (d) If the department or its designee fails to timely execute the proposed purchase contract within the 30 day period provided or if the contract was executed but a sale is not completed or if the third party purchase contract is terminated by mutual agreement of the owner and the department, then the owner shall h
- (e) Allows DHCD to make counter offers.
- (f) The owner shall within 7 days of execution, provide the department with a copy of any new or amended purchase contract executed with respect to the property during the 2 year period set forth in this section
- (g) Third party purchase terms must be verified by DHCD

Section 5. For the purposes of this chapter, an affected municipality shall not be subject to the provisions of section 16 of chapter 30B.

Section 6. Exemptions.

(a) The provisions of Section 3 of this chapter shall not apply to any of the following:

- (1) a government taking by eminent domain
- (2) a forced sale pursuant to foreclosure
- (3) a deed-in-lieu of foreclosure
- (4) a proposed sale that, as determined by the department, is to a qualified purchaser pursuant to terms and conditions that preserves affordability
- (5) a proposed sale of a publicly assisted development which the department has determined has a section 8 contract, for all of the units in the development and the buyer has agreed to renew project-based section 9 assistance
- (6) a proposed sale pursuant to a binding agreement in effect on the effective date of this chapter

(b) An owner seeking an exemption shall provide a copy of its request to the municipality, CEDAC, local legal services organization, and tenant organization

Section 7. Tenant Protections

For a period of 3 years after a termination, the rent for a low income tenant who does not receive an enhanced section 8 voucher may not be increased more than once annually by the consumer price index for the prior 12 months plus 3%.

Section 8. Preserving Affordability

Any purchase by the department or its designee shall be subject to a regulatory agreement.

Section 9. Certificate of Compliance.

An owner who has complied with the provisions of sections 2 and 3, which has not resulted in a purchase by a municipality or its designee, may apply to the department for a certificate of compliance by submitting a written request in the form deemed necessary by the department to establish compliance. The department shall issue the certificate within 30 days of receipt of application. Upon issuance, the certificate shall be filed with the registry of deeds.

SECTION 2. Advisory Committee/Regulations

Within 45 days of the passage of this chapter, the department shall establish a 12-member advisory committee, to consist of the undersecretary of the department or her designee, the executive director of the Community Economic

Development Assistance Corporation, 1 member selected by the Massachusetts Mayors Association, 1 member selected by the Massachusetts Municipal Association, 1 member selected by Citizens' Housing and Planning Association, 1 member selected by the Greater Boston Real Estate Board, 1 member selected by the Real Estate Bar Association for Massachusetts, 1 member selected by the Massachusetts Association of Community Development Corporations, 1 member selected by Massachusetts Legal Assistance Corporation, 1 member of MassNAHRO, 1 member affiliated with the Affordable Housing Preservation Initiative of the Local Initiatives Support Corporation, and 2 additional members chosen by the department to provide advice and *recommendations to the department regarding regulations to implement this act*; provided further, that the department shall promulgate regulations to effectuate the purposes and to implement the provisions of this chapter within 150 days of the passage of this chapter.

Massachusetts House of Representatives Bill Summary

Bill No: H 3573

Title: An Act preserving publicly assisted affordable housing.

Sponsor: Representative Honan

Committee: Housing

Hearing Date: 5.05.09

Similar Matters: S 666

Prior History: S 2799 (redraft of S 782) of 2007

Current Law:

Summary:

Summary:

Emergency preamble.

SECTION 1: Creates Chapter 40T for the Preservation of Publicly Assisted Housing.

Section 1. Definitions.

Section 2. Notices.

(a) Requires written notice of intent be given not less than 24 months prior to affordability termination.

(b) Requires owner to give notice of intent to complete termination no less than 12 months before termination.

Section 3: Right of First Offer

As of the effective date of this chapter, publicly assisted housing not subject to a purchase contract and no longer receiving government assistance shall be subject to this provision for 4 years from the date of the last termination.

(a) Requires owner to offer the department an opportunity to purchase the publicly assisted property.

(b) The department may select a designee to act on its behalf. Upon written request, the department shall immediately designate the affected municipality its designee unless the department determines that such request is not approvable for reasons set forth in the department's regulations.

(c) Requires municipality/designee to submit an offer within 90 days from receiving notice of the owner's intent to sell. If the owner and the department do not enter into an agreement, the owner is free to enter into an agreement to sell the property to a third party subject to the department's right of first refusal

(d) Requires owner to comply with any reasonable request for documents within 10 days of such a request.

(e) Within 30 days of submitting an offer to purchase the publicly assisted housing development, the department shall give the affected tenants a written notice of its intent to purchase the property and also meet with the tenants to discuss its plans

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As of the effective date of this chapter, publicly assisted housing not subject to a purchase contract and no longer receiving government assistance shall be subject to this provision for 4 years from the date of the last termination.

- (a) The department or its designee shall have a right of first refusal to purchase any publicly assisted housing development.
- (b) The owner shall provide a copy of the third party purchase contract along with proposed purchase contract for execution by the department. The proposed purchase contract shall contain the same terms and conditions as the executed third party purchase contract.
- (c) If the department fails to execute the proposed purchase contract within 30 days or such other period, the owner shall have 24 months to execute the proposed purchase contract to any third party. Upon expiration of the 24 months, the owner shall be subject to all of the provisions of this statute.
- (d) If the department or its designee fails to timely execute the proposed purchase contract within the 30 day period provided or if the contract was executed but a sale is not completed or if the third party purchase contract is terminated by mutual agreement of the owner and the department, then the owner shall h
- (e) Allows DHCD to make counter offers.
- (f) The owner shall within 7 days of execution, provide the department with a copy of any new or amended purchase contract executed with respect to the property during the 2 year period set forth in this section
- (g) Third party purchase terms must be verified by DHCD

Section 5.

For the purposes of this chapter, an affected municipality shall not be subject to the provisions of section 16 of chapter 30B.

Section 6. Exemptions.

(a) The provisions of Section 3 of this chapter shall not apply to any of the following:

- (1) a government taking by eminent domain
- (2) a forced sale pursuant to foreclosure
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- (5) a proposed sale of a publicly assisted development which the department has determined has a section 8 contract, for all of the units in the development and the buyer has agreed to renew project-based section 9 assistance
- (6) a proposed sale pursuant to a binding agreement in effect on the effective date of this chapter

(b) An owner seeking an exemption shall provide a copy of its request to the municipality, CEDAC, local legal services organization, and tenant organization

Section 7. Tenant Protections

For a period of 3 years after a termination, the rent for a low income tenant who does not receive an enhanced section 8 voucher may not be increased more than once annually by the consumer price index for the prior 12 months plus 3%.

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SECTION 3: Properties whose use restrictions have expired within four years of the passage of this act shall be subject to Chapter 40T

Massachusetts House of Representatives Bill Summary

Bill No: H 3689

Title: An Act authorizing municipalities to protect low and moderate income tenants and units of governmentally involved affordable housing

Sponsor: Representative Smizik

Committee: Housing

Hearing Date: 5.05.09

Similar Matters: S 617

Prior History: H 1284 of 2007, H 3213 of 2005, S 742 of 2003

Current Law: M.G.L. Chapter 40P (added by Chapter 368, Acts of 1994) The purpose of this law was to establish a "statewide policy which broadly prohibits any regulatory scheme based upon or implementing rent control."

Exceptions to this prohibition are made for the following categories:

- rent control schemes which are voluntary and uncoerced following an initial 6-month period
- publicly-owned housing
- publicly-subsidized housing
- mobile homes

Chapter 40P provides that cities or towns may adopt a rent control provision that provides the following:

- after 6 months the program is voluntary and uncoerced, if the owner declines to participate the property shall be unaffected by rent control
- the adopted policy may not regulate the following areas:
 - occupancy
 - services
 - evictions
 - condo conversion
- the policy may not regulate properties under 10 units or with a fair market value of over \$400.
- municipalities must compensate owners from the local general fund for each unit in the amount equal to the difference between fair market rent and rental contract amount

2. Chapter 282, Acts of 1994 (effective 1/1/95)

- The purpose of this law was to alleviate the impact of the ending of rent control for certain classes of vulnerable tenants.
- The statute extended rent control protections for the following categories of tenants currently (as of 11/8/94) living in a rent controlled apartment (a covered rental unit):
 - tenants occupying a covered rental unit whose incomes are 60% or less of median income (combined income of all residents considered)
 - households in which at least 1 member is age 62 or above living in a covered unit
 - or, households in which 1 member is physically or mentally disabled.
 - Households in which 1 member is physically or mentally disabled, or in which 1 member has reached the age of 62 as of 11/8/94, may earn up to 80% of the median income (combined household income)
 - full time student over the age of eighteen are not covered by the protections regardless of income.

According to the provisions of c. 282, rent control protections were extended for the above protected categories for 1 or 2 year periods based upon sizes of the developments. All other unit controls expired 1/1/95.

Protections extended 1 year, expiring 12/31/95

- 1-3 unit buildings
- 4-12 unit, owner-occupied building condominiums

Protections extended 2 years, expiring 12/31/96:

- developments with 4+ units with no owner-occupant

Chapter 282 allowed the continued control of rents for the above protected units as of 1/1/95 with the following provisions:

- allowed a yearly rent increase of 5%
- set rents at no less than 30% of the combined income of tenants

Summary:

Section 1.

Acknowledges as a public emergency the threats to affordable housing stock which would result in an extreme housing shortage for low-income families and individuals and the Commonwealth's commitment to provide incentives to keep such housing affordable and avert displacement.

Section 2.

Defines terms and existing programs included and excluded.

- (a) "Governmentally involved housing" – Housing units owned, operated, financed, subsidized, or insured by federal, state, or local government which the authority regulates the individual rents thereof, including: Section 202, 221(d), or 236 of the National Housing Act or project based Section 8 units

financed pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, or properties which received mortgage insurance under section 207 or 220 of the National Housing Act.

The following categories are exempted from the definition of governmentally-involved housing:

- (1) housing units owned or acquired by the municipality through tax foreclosure
- (2) housing units in a one to ten family building or structure that is not part of a larger housing development, whether on one or more sites
- (3) structures containing housing units subsidized with mobile tenant-based rental assistance that would not otherwise come within the definition of governmentally involved housing
- (4) structures containing housing units which were subject to chapter 36 of the acts of 1976, chapter 797 of the acts of 1969, chapter 863 of the acts of 1970, chapter 843 of the acts of 1970, chapter 843 of the acts of 1971, chapter 45 of the acts of 1987, chapter 504 of the acts of 1987, or chapter 601 of the acts of 1981, but which would otherwise not come within the definition of governmentally involved housing
- (5) public housing owned or operated by a local housing authority under chapter 121B, the United States Housing Act of 1937, or any successor act or public housing programs formerly assisted under the United States Housing Act of 1937
- (6) housing units which first became governmentally involved after October 1, 1996; unless the municipality enacts a different date
- (7) housing units where the sole government involvement is the owner's participation in federal, state, or municipal funded programs for home repairs, energy conservation, or lead paint abatement.

(B) "Formerly governmentally involved housing" - Housing which was governmentally involved as of July 1, 1994, but which may no longer be governmentally involved

(C) "Low income" - Annual income is 80% or less of median income adjusted for family size

Section 3.

(a) Directs municipality to regulate the rent for use or occupancy of governmentally/formerly governmentally involved housing to the extent such regulation is not preempted by federal law or state law in relation to the Massachusetts Housing Finance Agency rent.

(b) Directs municipality to establish the maximum rent for governmentally/formerly governmentally involved housing units. Rent is to be set at the level in effect on July 1, 1994 or six months before rent preemption lapsed, whichever is later. Rents must be adjusted to insure it provides a fair net

operating income as of the date of the loss of preemption.

Section 4.

(a) Directs municipality not to take action to recover possession of a governmentally/formerly governmentally involved housing unit unless the following has occurred:

- (1) the tenant has failed to pay rent
- (2) the tenant has violated chapter 93A (consumer protection act) other than the obligation to surrender possession upon proper notice, and has failed to cure the violation
- (3) the tenant is causing or permitting a nuisance in or substantial damage to the unit
- (4) the tenant has used or permitted use of a housing unit for illegal purposes
- (5) the tenant has refused to execute a written extension or renewal of an expired lease
- (6) the tenant has refused the owner reasonable access to the housing unit for repairs, inspection, or to show the unit to any prospective purchaser
- (7) the tenant holding at the end of a lease term is an unapproved subtenant
- (8) the owner seeks to recover possession of a unit for the owner's own use and occupancy or for occupancy by the owner's spouse, children, or other family
- (9) the owner seeks to recover possession for any other just cause not in conflict with the provisions and purposes of this chapter or chapter 93A.

(B) The provisions of this section shall be construed as additional restrictions on the right to recover possession of such housing units.

Section 5.

No person shall remove any governmentally/formerly governmentally involved housing unit from low-income rental housing use, without first obtaining permission for that purpose from the municipality or its designee in accordance with federal and state law.

Such permission may be subject to the following conditions:

- (a) incentives to continue the low-income use restrictions
- (b) the right of the tenant association or other authority to negotiate for, acquire and operate such property on equivalent terms as offered or available to a bona-fide third-party purchaser.

Section 6.

Directs municipality to require an owner of governmentally/formerly governmentally involved housing to seek out and accept any prospective government housing resources to maximize affordability. They may be tenant or project based. Must be consistent with income character of the property and owner's right to fair net operating income. State and municipal agencies must help identify government housing resources.

Section 7.

Directs a municipality to establish local preferences, priorities, and income limits for admission to governmentally/formerly governmentally involved housing upon unit turnover. Must be consistent with the income profile of the property 12-months prior to the date of the loss of rent preemption or the decision to not renew an expiring subsidy contract. Owners are not required to create a tenancy involving any person with a history of conduct which would be grounds for eviction from such housing.

Section 8.

Allows municipalities to adopt ordinances as needed to enact this legislation and to grant exceptions to maintain or increase the supply of affordable housing, including the promotion of the sale of the property to a tenant organization or non-profit entity.

Section 9.

Directs municipality to hold hearings on rent regulation issues or to remove use restriction on the property in accordance with MGL Chapter 30A.

Section 10.

Appeals will be directed to the housing court if available, the district court, or the superior court in the jurisdiction within 30 calendar days after municipality decision. The court may enjoin or restrain the board's rules.

Section 11.

Violators of these provisions shall be fined no more than \$400 or imprisonment for not more than 90 days, or both. For subsequent offenses, no more than \$2,000 or imprisonment for not more than one year, or both.

Section 12.

The commonwealth shall not be liable for any claims or other legal action arising from the acceptance of or implementation of this act by any municipality.

Section 13.

The provisions of M.G.L. Ch 40P shall not apply to any ordinance adopted under this enabling authority.

Section 14.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Massachusetts House of Representatives Bill Summary

Bill No: H 3810

Title: An Act to authorize the City of New Bedford to adopt regulations for the protection and control of public housing in said city.

Sponsor: Representative Cabral

Committee: Housing

Hearing Date: 5.05.09

Similar Matters: Home rule

Prior History: H 4051 of 2007

Current Law:

M.G.L. Chapter 40P (added by Chapter 368, Acts of 1994) The purpose of this law was to establish a "statewide policy which broadly prohibits any regulatory scheme based upon or implementing rent control."

Exceptions to this prohibition are made for the following categories:

- rent control schemes which are voluntary and uncoerced following an initial 6-month period
- publicly-owned housing
- publicly-subsidized housing
- mobile homes

Chapter 40P provides that cities or towns may adopt a rent control provision that provides the following:

- after 6 months the program is voluntary and uncoerced, if the owner declines to participate the property shall be unaffected by rent control
- the adopted policy may not regulate the following areas:
 - occupancy
 - services
 - evictions
 - condo conversion
- the policy may not regulate properties under 10 units or with a fair market value of over \$400.
- municipalities must compensate owners from the local general fund for each unit in the amount equal to the difference between fair market rent and rental contract amount

2. Chapter 282, Acts of 1994 (effective 1/1/95)

- The purpose of this law was to alleviate the impact of the ending of rent control for certain classes of vulnerable tenants.
- The statute extended rent control protections for the following categories of tenants currently (as of 11/8/94) living in a rent controlled apartment (a covered rental unit):
 - tenants occupying a covered rental unit whose incomes are 60% or less of median income (combined income of all residents considered)
 - households in which at least 1 member is age 62 or above living in a covered unit
 - or, households in which 1 member is physically or mentally disabled.
 - Households in which 1 member is physically or mentally disabled, or in which 1 member has reached the age of 62 as of 11/8/94, may earn up to 80% of the median income (combined household income)
 - full time student over the age of eighteen are not covered by the protections regardless of income.

According to the provisions of c. 282, rent control protections were extended for the above protected categories for 1 or 2 year periods based upon sizes of the developments. All other unit controls expired 1/1/95.

Protections extended 1 year, expiring 12/31/95:

- 1-3 unit buildings
- 4-12 unit, owner-occupied building condominiums

Protections extended 2 years, expiring 12/31/96:

- developments with 4+ units with no owner-occupant

Chapter 282 allowed the continued control of rents for the above protected units as of 1/1/95 with the following provisions:

- allowed a yearly rent increase of 5%
- set rents at no less than 30% of the combined income of tenants

Summary:

SECTION 1.

New Bedford governmentally-involved housing stock is at risk due to prepayment of mortgage financing, loss of use restrictions, expiring subsidy contract, and expected increases in rent.

SECTION 2.

(A) Allows the City of New Bedford to regulate the rent for use or occupancy of governmentally/formerly governmentally involved housing to the extent such regulation is not preempted by state or federal laws.

Defines types of housing and existing programs included and excluded.

"Governmentally involved housing" – Housing units owned, operated, financed, subsidized, or insured by federal, state, or local government which the authority regulates the individual rents thereof, including: Section 202, 221(d), or 236 of the National Housing Act or project based Section 8 units financed pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, or properties which received mortgage insurance under section 207 or 220 of the National Housing Act.

The following categories are exempted from the definition of governmentally-involved housing:

- (1) housing units owned or acquired by the City of New Bedford through tax foreclosure
- (2) housing units in a family building or structure of fewer than 25 units that is not part of a larger housing development, whether on one or more sites
- (3) structures containing housing units subsidized with mobile tenant-based rental assistance that would not otherwise come within the definition of governmentally involved housing
- (4) public housing owned or operated by the New Bedford Housing Authority under chapter 121B, the United States Housing Act of 1937, or any successor act or public housing programs formerly assisted under the United States Housing Act of 1937
- (5) housing units where the sole government involvement is the owner's participation in federal, state, or municipal funded programs for home repairs, energy conservation, or lead paint abatement.
- (6) housing units which became governmentally involved after January 1, 2002

"Formerly governmentally involved housing" - Housing which was governmentally involved as of July 1, 1996, but which may no longer be governmentally involved

"Low income" - Annual income is 80% or less of median income adjusted for family size

Directs city to create an official body to establish maximum rent for governmentally/formerly governmentally involved housing units. Rent is to be set at the July 1, 1996 level or six months before rent preemption lapsed, whichever is later. Rents must be adjusted to insure it provides a fair net operating income. Allows body to make individual adjustments provided owners yield a fair net operating income.

(B) Directs municipality not to take action to recover possession of a

governmentally/formerly governmentally involved housing unit unless the following has occurred:

- (1) the tenant has failed to pay rent
- (2) the tenant has violated chapter 93A (consumer protection act) other than the obligation to surrender possession upon proper notice, and has failed to cure the violation
- (3) the tenant is causing or permitting a nuisance in or substantial damage to the unit
- (4) the tenant has used or permitted use of a housing unit for illegal purposes
- (5) the tenant has refused to execute a written extension or renewal of an expired lease
- (6) the tenant has refused the owner reasonable access to the housing unit for the repairs, inspection, or to show the unit to any prospective purchaser
- (7) the tenant holding at the end of a lease term is an unapproved subtenant
- (8) the owner seeks to recover possession for any other just cause not in conflict with the provisions and purposes of this act or chapter 93A

The provisions of this section shall be construed as additional restrictions on the right to recover possession of such housing units.

(C) No person shall remove any governmentally/formerly governmentally involved housing unit from low-income rental housing use without first obtaining a permit for that purpose from the official body in accordance with federal and state law.

Such permission may be subject to the following conditions:

- (a) incentives to continue low-income use restrictions
- (b) the right of the tenant association or other authority to negotiate for, acquire, and operate such property on equivalent terms as offered or available to a bona fide third-party purchaser

(D) Directs the owners of governmentally/formerly governmentally involved housing to seek out and accept any prospective governmental housing resources to maximize affordability. Includes tenant-based or project-based resources. Must be consistent with income character of the property and owner's right to fair net operating income. City must help identify governmental housing resources.

(E) Allows City to establish local preferences, priorities, and income limits for admission to governmentally/formerly governmentally-involved housing upon unit turnover. Must be consistent with the income profile of the property 12-months prior to the date of the loss of rent preemption or the decision to not renew an expiring subsidy contract. The official body may approve an alternate plan requested by the owner consistent with this act. Owners are not required to create a tenancy involving any person with a history of conduct which would, if repeated, be grounds for eviction from such housing.

(F) Allows official body to grant exemptions and exceptions needed to maintain or increase the supply of affordable housing in New Bedford, including the promotion of the sale of property to tenant organizations or non-profit entities maintaining the income character of the property.

(G) Allows official body to adopt rules and regulations necessary to enact this ordinance. Allows board to hold hearings in accordance to MGL Chapter 30A.

(H) Appeals will be directed to the housing court department of the Southeast Division trial court within 30 calendar days after an official body's decision. The court may enjoin or intervene in any action brought forth.

SECTION 3.

Violators of this ordinance will be fined no more than \$400 or imprisonment for not more than 90 days or both. Subsequent or continuing offenders will be fined no more than \$2000 or imprisonment for not more than one year, or both.

SECTION 4.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 5.

The provisions of M.G.L. c.40P shall not apply to any ordinance adopted under this enabling authority.

SECTION 6.

This act shall take effect upon passage.

Massachusetts House of Representatives Bill Summary

Bill No: H 3812

Title: An Act that the City of Boston be authorized to regulate the rents of certain governmentally-involved housing units.

Sponsor: Representative Rush

Committee: Housing

Hearing Date: 5.05.09

Similar Matters:

Current Law:

M.G.L. Chapter 40P (added by Chapter 368, Acts of 1994) The purpose of this law was to establish a "statewide policy which broadly prohibits any regulatory scheme based upon or implementing rent control."

Exceptions to this prohibition are made for the following categories:

- rent control schemes which are voluntary and uncoerced following an initial 6-month period
- publicly-owned housing
- publicly-subsidized housing
- mobile homes

Chapter 40P provides that cities or towns may adopt a rent control provision that provides the following:

- after 6 months the program is voluntary and uncoerced, if the owner declines to participate the property shall be unaffected by rent control
- the adopted policy may not regulate the following areas:
 - occupancy
 - services
 - evictions
 - condo conversion
- the policy may not regulate properties under 10 units or with a fair market value of over \$400.
- municipalities must compensate owners from the local general fund for each unit in the amount equal to the difference between fair market rent and rental contract amount

2. Chapter 282, Acts of 1994 (effective 1/1/95)

- The purpose of this law was to alleviate the impact of the ending of rent control for certain classes of vulnerable tenants.
- The statute extended rent control protections for the following categories of tenants currently (as of 11/8/94) living in a rent controlled apartment (a covered rental unit):
 - tenants occupying a covered rental unit whose incomes are 60% or less of median income (combined income of all residents considered)
 - households in which at least 1 member is age 62 or above living in a covered unit
 - or, households in which 1 member is physically or mentally disabled.
 - Households in which 1 member is physically or mentally disabled, or in which 1 member has reached the age of 62 as of 11/8/94, may earn up to 80% of the median income (combined household income)
 - full time student over the age of eighteen are not covered by the protections regardless of income.

According to the provisions of c. 282, rent control protections were extended for the above protected categories for 1 or 2 year periods based upon sizes of the developments. All other unit controls expired 1/1/95.

Protections extended 1 year, expiring 12/31/95

- 1-3 unit buildings
- 4-12 unit, owner-occupied building condominiums

Protections extended 2 years, expiring 12/31/96:

- developments with 4+ units with no owner-occupant

Chapter 282 allowed the continued control of rents for the above protected units as of 1/1/95 with the following provisions:

- allowed a yearly rent increase of 5%
- set rents at no less than 30% of the combined income of tenants

Summary:

SECTION 1.

Boston's governmentally-involved housing stock is at risk due to prepayment of mortgage financing, loss of use restrictions, expiring subsidy contract, and expected increases in rent.

SECTION 2.

(A) Allows the City of Boston to regulate the rent for use or occupancy of governmentally/formerly governmentally involved housing to the extent such regulation is not preempted by state or federal laws.

Defines types of housing and existing programs included and excluded.

"Governmentally involved housing" – Housing units owned, operated, financed, subsidized, or insured by federal, state, or local government which the authority regulates the individual rents thereof, including: Section 202, 221(d), or 236 of the National Housing Act or project based Section 8 units financed pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, or properties which received mortgage insurance under section 207 or 220 of the National Housing Act.

The following categories are exempted from the definition of governmentally involved housing:

- (1) housing units owned or acquired by the City of Boston through tax foreclosure
- (2) housing units in a family building or structure of fewer than 25 units that is not part of a larger housing development, whether on one or more sites
- (3) structures containing housing units subsidized with mobile tenant-based rental assistance that would not otherwise come within the definition of governmentally involved housing
- (4) public housing owned or operated by the Boston Housing Authority under chapter 121B, the United States Housing Act of 1937, or any successor act or public housing programs formerly assisted under the United States Housing Act of 1937
- (5) housing units where the sole government involvement is the owner's participation in federal, state, or municipal funded programs for home repairs, energy conservation, or lead paint abatement.
- (6) housing units which became governmentally involved after January 1, 2002

"Formerly governmentally involved housing" - Housing which was governmentally involved as of July 1, 1996, but which may no longer be governmentally involved

"Low income" - Annual income is 80% or less of median income adjusted for family size

Directs city to create an official body to establish maximum rent for governmentally/formerly governmentally involved housing units. Rent is to be set at the July 1, 1996 level or six months before rent preemption lapsed, whichever is later. Rents must be adjusted to insure it provides a fair net operating income. Allows body to make individual adjustments provided owners yield a fair net operating income.

(B) Directs municipality not to take action to recover possession of a governmentally/formerly governmentally involved housing unit unless the following has occurred:

- (1) the tenant has failed to pay rent

- (2) the tenant has violated chapter 93A (consumer protection act) other than the obligation to surrender possession upon proper notice, and has failed to cure the violation
- (3) the tenant is causing or permitting a nuisance in or substantial damage to the unit
- (4) the tenant has used or permitted use of a housing unit for illegal purposes
- (5) the tenant has refused to execute a written extension or renewal of an expired lease
- (6) the tenant has refused the owner reasonable access to the housing unit for the repairs, inspection, or to show the unit to any prospective purchaser
- (7) the tenant holding at the end of a lease term is an unapproved subtenant
- (8) the owner seeks to recover possession for any other just cause not in conflict with the provisions and purposes of this act or chapter 93A

The provisions of this section shall be construed as additional restrictions on the right to recover possession of such housing units.

(C) No person shall remove any governmentally/formerly governmentally involved housing unit from low-income rental housing use without first obtaining a permit for that purpose from the official body in accordance with federal and state law.

Such permission may be subject to the following conditions:

- (a) incentives to continue low-income use restrictions
- (b) the right of the tenant association or other authority to negotiate for, acquire, and operate such property on equivalent terms as offered or available to a bona fide third-party purchaser

(D) Directs the owners of governmentally/formerly governmentally involved housing to seek out and accept any prospective governmental housing resources to maximize affordability. Includes tenant-based or project-based resources. Must be consistent with income character of the property and owner's right to fair net operating income. City must help identify governmental housing resources.

(E) Allows City to establish local preferences, priorities, and income limits for admission to governmentally/formerly governmentally-involved housing upon unit turnover. Must be consistent with the income profile of the property 12-months prior to the date of the loss of rent preemption or the decision to not renew an expiring subsidy contract. The official body may approve an alternate plan requested by the owner consistent with this act. Owners are not required to create a tenancy involving any person with a history of conduct which would, if repeated, be grounds for eviction from such housing.

(F) Allows official body to grant exemptions and exceptions needed to maintain or increase the supply of affordable housing in Boston, including the promotion of the sale of property to tenant organizations or non-profit entities maintaining the

income character of the property.

(G) Allows official body to adopt rules and regulations necessary to enact this ordinance. Allows board to hold hearings in accordance to MGL Chapter 30A.

(H) Appeals will be directed to the housing court department of the Southeast Division trial court within 30 calendar days after an official body's decision. The court may enjoin or intervene in any action brought forth.

SECTION 3.

Violators of this ordinance will be fined no more than \$400 or imprisonment for not more than 90 days or both. Subsequent or continuing offenders will be fined no more than \$2000 or imprisonment for not more than one year, or both.

SECTION 4.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 5.

The provisions of M.G.L. c.40P shall not apply to any ordinance adopted under this enabling authority.

SECTION 6. This act shall take effect upon passage.

Massachusetts House of Representatives Bill Summary

Bill No: HD 3776

Title: An Act to restore Lowell's governmentally involved housing protection.

Sponsor: Representative Murphy

Committee: Housing

Hearing Date: 5.05.09

Similar Matters:

Prior History:

Current Law:

M.G.L. Chapter 40P (added by Chapter 368, Acts of 1994) The purpose of this law was to establish a "statewide policy which broadly prohibits any regulatory scheme based upon or implementing rent control."

Exceptions to this prohibition are made for the following categories:

- rent control schemes which are voluntary and uncoerced following an initial 6-month period
- publicly-owned housing
- publicly-subsidized housing
- mobile homes

Chapter 40P provides that cities or towns may adopt a rent control provision that provides the following:

- after 6 months the program is voluntary and uncoerced, if the owner declines to participate the property shall be unaffected by rent control
- the adopted policy may not regulate the following areas:
 - occupancy
 - services
 - evictions
 - condo conversion
- the policy may not regulate properties under 10 units or with a fair market value of over \$400.
- municipalities must compensate owners from the local general fund for each unit in the amount equal to the difference between fair market rent and rental contract amount

2. Chapter 282, Acts of 1994 (effective 1/1/95)

- The purpose of this law was to alleviate the impact of the ending of rent control for certain classes of vulnerable tenants.
- The statute extended rent control protections for the following categories of tenants currently (as of 11/8/94) living in a rent controlled apartment (a covered rental unit):
 - tenants occupying a covered rental unit whose incomes are 60% or less of median income (combined income of all residents considered)
 - households in which at least 1 member is age 62 or above living in a covered unit
 - or, households in which 1 member is physically or mentally disabled.
 - Households in which 1 member is physically or mentally disabled, or in which 1 member has reached the age of 62 as of 11/8/94, may earn up to 80% of the median income (combined household income)
 - full time student over the age of eighteen are not covered by the protections, regardless of income.

According to the provisions of c. 282, rent control protections were extended for the above protected categories for 1 or 2 year periods based upon sizes of the developments. All other unit controls expired 1/1/95.

Protections extended 1 year, expiring 12/31/95

- 1-3 unit buildings
- 4-12 unit, owner-occupied building condominiums

Protections extended 2 years, expiring 12/31/96:

- developments with 4+ units with no owner-occupant

Chapter 282 allowed the continued control of rents for the above protected units as of 1/1/95 with the following provisions:

- allowed a yearly rent increase of 5%
- set rents at no less than 30% of the combined income of tenants

Summary:

SECTION 1.

Lowell governmentally-involved housing stock is at risk due to prepayment of mortgage financing, loss of use restrictions, expiring subsidy contract, and expected increases in rent.

SECTION 2.

(A) Allows the City of Lowell to regulate the rent for use or occupancy of governmentally/formerly governmentally involved housing to the extent such regulation is not preempted by state or federal laws.

Defines types of housing and existing programs included and excluded.

"Governmentally involved housing" – Housing units owned, operated, financed, subsidized, or insured by federal, state, or local government which the authority regulates the individual rents thereof, including: Section 202, 221(d), or 236 of the National Housing Act or project based Section 8 units financed pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, or properties which received mortgage insurance under section 207 or 220 of the National Housing Act.

The following categories are exempted from the definition of governmentally-involved housing:

- (1) housing units owned or acquired by the City of Lowell through tax foreclosure
- (2) housing units in a family building or structure of fewer than 25 units that is not part of a larger housing development, whether on one or more sites
- (3) structures containing housing units subsidized with mobile tenant-based rental assistance that would not otherwise come within the definition of governmentally involved housing
- (4) public housing owned or operated by the Lowell Housing Authority under chapter 121B, the United States Housing Act of 1937, or any successor act or public housing programs formerly assisted under the United States Housing Act of 1937
- (5) housing units where the sole government involvement is the owner's participation in federal, state, or municipal funded programs for home repairs, energy conservation, or lead paint abatement.
- (6) housing units which became governmentally involved after January 1, 2002

"Formerly governmentally involved housing" - Housing which was governmentally involved as of July 1, 1996, but which may no longer be governmentally involved

"Low income" - Annual income is 80% or less of median income adjusted for family size

Directs city to create an official body to establish maximum rent for governmentally/formerly governmentally involved housing units. Rent is to be set at the July 1, 1996 level or six months before rent preemption lapsed, whichever is later. Rents must be adjusted to insure it provides a fair net operating income. Allows body to make individual adjustments provided owners yield a fair net operating income.

(B) Directs municipality not to take action to recover possession of a governmentally/formerly governmentally involved housing unit unless the following has occurred:

- (1) the tenant has failed to pay rent
- (2) the tenant has violated chapter 93A (consumer protection act) other than the obligation to surrender possession upon proper notice, and has failed to cure the violation

- (3) the tenant is causing or permitting a nuisance or substantial damage to the unit
- (4) the tenant has used or permitted use of a housing unit for illegal purposes
- (5) the tenant has refused to execute a written extension or renewal of an expired lease
- (6) the tenant has refused the owner reasonable access to the housing unit for the repairs, inspection, or to show the unit to any prospective purchaser
- (7) the tenant holding at the end of a lease term is an unapproved subtenant
- (8) the owner seeks to recover possession for any other just cause not in conflict with the provisions and purposes of this act or chapter 93A

The provisions of this section shall be construed as additional restrictions on the right to recover possession of such housing units.

(C) No person shall remove any governmentally/formerly governmentally involved housing unit from low-income rental housing use without first obtaining a permit for that purpose from the official body in accordance with federal and state law.

Such permission may be subject to the following conditions:

- (a) incentives to continue low-income use restrictions
- (b) the right of the tenant association or other authority to negotiate for, acquire, and operate such property on equivalent terms as offered or available to a bona fide third-party purchaser

(D) Directs the owners of governmentally/formerly governmentally involved housing to seek out and accept any prospective governmental housing resources to maximize affordability. Includes tenant-based or project-based resources. Must be consistent with income character of the property and owner's right to fair net operating income. City must help identify governmental housing resources.

(E) Allows City to establish local preferences, priorities, and income limits for admission to governmentally/formerly governmentally-involved housing upon unit turnover. Must be consistent with the income profile of the property 12-months prior to the date of the loss of rent preemption or the decision to not renew an expiring subsidy contract. The official body may approve an alternate plan requested by the owner consistent with this act. Owners are not required to create a tenancy involving any person with a history of conduct which would, if repeated, be grounds for eviction from such housing.

(F) Allows official body to grant exemptions and exceptions needed to maintain or increase the supply of affordable housing in Lowell, including the promotion of the sale of property to tenant organizations or non-profit entities maintaining the income character of the property.

(G) Allows official body to adopt rules and regulations necessary to enact this ordinance. Allows board to hold hearings in accordance to MGL Chapter 30A.

(H) Appeals will be directed to the housing court department of the Southeast Division trial court within 30 calendar days after an official body's decision. The court may enjoin or intervene in any action brought forth.

SECTION 3.

Violators of this ordinance will be fined no more than \$400 or imprisonment for not more than 90 days or both. Subsequent or continuing offenders will be fined no more than \$2000 or imprisonment for not more than one year, or both.

SECTION 4.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 5.

The provisions of M.G.L. c.40P shall not apply to any ordinance adopted under this enabling authority.

SECTION 6.

This act shall take effect upon passage.

Massachusetts House of Representatives Bill Summary

Bill No: S 617

Title: An Act authorizing municipalities to protect low and moderate income tenants and units of governmentally involved affordable housing

Sponsor: Senator Berry

Committee: Housing

Hearing Date: 5.05.09

Similar Matters: H 3689

Prior History:

Current Law:

M.G.L. Chapter 40P (added by Chapter 368, Acts of 1994) The purpose of this law was to establish a "statewide policy which broadly prohibits any regulatory scheme based upon or implementing rent control."

Exceptions to this prohibition are made for the following categories:

- rent control schemes which are voluntary and uncoerced following an initial 6-month period
- publicly-owned housing
- publicly-subsidized housing
- mobile homes

Chapter 40P provides that cities or towns may adopt a rent control provision that provides the following:

- after 6 months the program is voluntary and uncoerced, if the owner declines to participate the property shall be unaffected by rent control
- the adopted policy may not regulate the following areas:
 - occupancy
 - services
 - evictions
 - condo conversion
- the policy may not regulate properties under 10 units or with a fair market value of over \$400.
- municipalities must compensate owners from the local general fund for each unit in the amount equal to the difference between fair market rent and rental

contract amount

2. Chapter 282, Acts of 1994 (effective 1/1/95)

- The purpose of this law was to alleviate the impact of the ending of rent control for certain classes of vulnerable tenants.
- The statute extended rent control protections for the following categories of tenants currently (as of 11/8/94) living in a rent controlled apartment (a covered rental unit):
 - tenants occupying a covered rental unit whose incomes are 60% or less of median income (combined income of all residents considered)
 - households in which at least 1 member is age 62 or above living in a covered unit
 - or, households in which 1 member is physically or mentally disabled.
 - Households in which 1 member is physically or mentally disabled, or in which 1 member has reached the age of 62 as of 11/8/94, may earn up to 80% of the median income (combined household income)
 - full time student over the age of eighteen are not covered by the protections regardless of income.

According to the provisions of c. 282, rent control protections were extended for the above protected categories for 1 or 2 year periods based upon sizes of the developments. All other unit controls expired 1/1/95.

Protections extended 1 year, expiring 12/31/95

- 1-3 unit buildings
- 4-12 unit, owner-occupied building condominiums

Protections extended 2 years, expiring 12/31/96:

- developments with 4+ units with no owner-occupant

Chapter 282 allowed the continued control of rents for the above protected units as of 1/1/95 with the following provisions:

- allowed a yearly rent increase of 5%
- set rents at no less than 30% of the combined income of tenants

Summary:

Section 1.

Acknowledges as a public emergency the threats to affordable housing stock which would result in an extreme housing shortage for low-income families and individuals and the Commonwealth's commitment to provide incentives to keep such housing affordable and avert displacement.

Section 2.

Defines terms and existing programs included and excluded.

- (a) "Governmentally involved housing" – Housing units owned, operated, financed, subsidized, or insured by federal, state, or local government which the authority regulates the individual rents thereof, including: Section 202, 221(d), or 236 of the National Housing Act or project based Section 8 units financed pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, or properties which received mortgage insurance under section 207 or 220 of the National Housing Act.

The following categories are exempted from the definition of governmentally involved housing:

- (1) housing units owned or acquired by the municipality through tax foreclosure
- (2) housing units in a one to ten family building or structure that is not part of a larger housing development, whether on one or more sites
- (3) structures containing housing units subsidized with mobile tenant-based rental assistance that would not otherwise come within the definition of governmentally involved housing
- (4) structures containing housing units which were subject to chapter 36 of the acts of 1976, chapter 797 of the acts of 1969, chapter 863 of the acts of 1970, chapter 843 of the acts of 1970, chapter 843 of the acts of 1971, chapter 45 of the acts of 1987, chapter 504 of the acts of 1987, or chapter 601 of the acts of 1981, but which would otherwise not come within the definition of governmentally involved housing
- (5) public housing owned or operated by a local housing authority under chapter 121B, the United States Housing Act of 1937, or any successor act or public housing programs formerly assisted under the United States Housing Act of 1937
- (6) housing units which first became governmentally involved after October 1, 1996, unless the municipality enacts a different date
- (7) housing units where the sole government involvement is the owner's participation in federal, state, or municipal funded programs for home repairs, energy conservation, or lead paint abatement.

- (B) "Formerly governmentally involved housing" - Housing which was governmentally involved as of July 1, 1994, but which may no longer be governmentally involved

- (C) "Low income" - Annual income is 80% or less of median income adjusted for family size

Section 3.

- (a) Directs municipality to regulate the rent for use or occupancy of governmentally/formerly governmentally involved housing to the extent such regulation is not preempted by federal law or state law in relation to the Massachusetts Housing Finance Agency rent.

(b) Directs municipality to establish the maximum rent for governmentally/formerly governmentally involved housing units. Rent is to be set at the level in effect on July 1, 1994 or six months before rent preemption lapsed, whichever is later. Rents must be adjusted to insure it provides a fair net operating income as of the date of the loss of preemption.

Section 4.

(a) Directs municipality not to take action to recover possession of a governmentally/formerly governmentally involved housing unit unless the following has occurred:

- (1) the tenant has failed to pay rent
- (2) the tenant has violated chapter 93A (consumer protection act) other than the obligation to surrender possession upon proper notice, and has failed to cure the violation
- (3) the tenant is causing or permitting a nuisance in or substantial damage to the unit
- (4) the tenant has used or permitted use of a housing unit for illegal purposes
- (5) the tenant has refused to execute a written extension or renewal of an expired lease
- (6) the tenant has refused the owner reasonable access to the housing unit for repairs, inspection, or to show the unit to any prospective purchaser
- (7) the tenant holding at the end of a lease term is an unapproved subtenant
- (8) the owner seeks to recover possession of a unit for the owner's own use and occupancy or for occupancy by the owner's spouse, children, or other family
- (9) the owner seeks to recover possession for any other just cause not in conflict with the provisions and purposes of this chapter or chapter 93A.

(B) The provisions of this section shall be construed as additional restrictions on the right to recover possession of such housing units.

Section 5.

No person shall remove any governmentally/formerly governmentally involved housing unit from low-income rental housing use, without first obtaining permission for that purpose from the municipality or its designee in accordance with federal and state law.

Such permission may be subject to the following conditions:

- (a) incentives to continue the low-income use restrictions
- (b) the right of the tenant association or other authority to negotiate for, acquire and operate such property on equivalent terms as offered or available to a bona-fide third-party purchaser.

Section 6.

Directs municipality to require an owner of governmentally/formerly governmentally involved housing to seek out and accept any prospective

government housing resources to maximize affordability. They may be tenant or project based. Must be consistent with income character of the property and owner's right to fair net operating income. State and municipal agencies must help identify government housing resources.

Section 7.

Directs a municipality to establish local preferences, priorities, and income limits for admission to governmentally/formerly governmentally involved housing upon unit turnover. Must be consistent with the income profile of the property 12 months prior to the date of the loss of rent preemption or the decision to not renew an expiring subsidy contract. Owners are not required to create a tenancy involving any person with a history of conduct which would be grounds for eviction from such housing.

Section 8.

Allows municipalities to adopt ordinances as needed to enact this legislation and to grant exceptions to maintain or increase the supply of affordable housing, including the promotion of the sale of the property to a tenant organization or non-profit entity.

Section 9.

Directs municipality to hold hearings on rent regulation issues or to remove use restriction on the property in accordance with MGL Chapter 30A.

Section 10.

Appeals will be directed to the housing court if available, the district court, or the superior court in the jurisdiction within 30 calendar days after municipality decision. The court may enjoin or restrain the board's rules.

Section 11.

Violators of these provisions shall be fined no more than \$400 or imprisonment for not more than 90 days, or both. For subsequent offenses, no more than \$2,000 or imprisonment for not more than one year, or both.

Section 12.

The commonwealth shall not be liable for any claims or other legal action arising from the acceptance of or implementation of this act by any municipality.

Section 13.

The provisions of M.G.L. Ch 40P shall not apply to any ordinance adopted under this enabling authority.

Section 14.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Massachusetts House of Representatives Bill Summary

Bill No: S 618

Title: An Act to adopt protections for Salem's governmentally involved housing stock.

Sponsor: Senator Berry

Committee: Housing

Hearing Date: 5.05.09

Similar Matters: Home rule.

Prior History: S 2152 of 2007

Current Law: M.G.L. Chapter 40P (added by Chapter 368, Acts of 1994). The purpose of this law was to establish a "statewide policy which broadly prohibits any regulatory scheme based upon or implementing rent control."

Exceptions to this prohibition are made for the following categories:

- rent control schemes which are voluntary and uncoerced following an initial 6-month period.
- publicly-owned housing
- publicly-subsidized housing
- mobile homes

Chapter 40P provides that cities or towns may adopt a rent control provision that provides the following:

- after 6 months the program is voluntary and uncoerced, if the owner declines to participate the property shall be unaffected by rent control.
- the adopted policy may not regulate the following areas:
 - occupancy
 - services
 - evictions
 - condo conversion
- the policy may not regulate properties under 10 units or with a fair market value of over \$400.
 - municipalities must compensate owners from the local

general fund for each unit in the amount equal to the difference between fair market rent and rental contract amount.

2.

Chapter 282, Acts of 1994 (effective 1/1/95)

-The purpose of this law was to alleviate the impact of the ending of rent control for certain classes of vulnerable tenants.

-The statute extended rent control protections for the following categories of tenants currently (as of 11/8/94) living in a rent controlled apartment (a covered rental unit):

-tenants occupying a covered rental unit whose incomes are 60% or less of median income (combined income of all residents considered)

-households in which at least 1 member is age 62 or above living in a covered unit

-or, households in which 1 member is physically or mentally disabled.

-Households in which 1 member is physically or mentally disabled, or in which 1 member has reached the age of 62 as of 11/8/94, may earn up to 80% of the median income (combined household income)

-full time student over the age of eighteen are not covered by the protections regardless of income.

According to the provisions of c. 282, rent control protections were extended for the above protected categories for 1 or 2 year periods based upon sizes of the developments. All other unit controls expired 1/1/95.

-Protections extended 1 year, expiring 12/31/95:

1-3 unit buildings

4-12 unit, owner-occupied buildings

condominiums

-Protections extended 2 years, expiring 12/31/96:

-developments with 4+ units with no owner-occupant

Chapter 282 allowed the continued control of rents for the above protected units as of 1/1/95 with the following provisions:

-allowed a yearly rent increase of 5%

-set rents at no less than 30% of the combined income of tenants

Summary:

SECTION 1.

City of Salem has a public emergency with respect to governmentally-involved housing due to prepayment of mortgage financing, loss of use or rent restrictions, expiring subsidy contracts, and expected increases in rent. Incentives are needed to keep such housing affordable and avert displacement.

SECTION 2.

(A) Allows the City of Salem to regulate the rent for use of governmentally/formerly governmentally involved housing to the extent such regulation is not preempted by the state or federal laws.

Defines "governmentally involved housing" – Housing units owned, operated, financed, subsidized, or insured by federal, state, or local government which the authority regulates the individual rents thereof, including: Section 202, 221(d), or 236 of the National Housing Act or project based Section 8 units financed pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, or properties which received mortgage insurance under section 207 or 220 of the National Housing Act and are subject to a 121A with the Boston Redevelopment Authority.

The following categories are exempted from the definition of governmentally-involved housing:

- (1) housing units owned or acquired by the City of Salem through tax foreclosure
- (2) housing units a building or structure of fewer than 100 units which are not part of a larger housing development, whether on one or more sites
- (3) structures containing housing units subsidized with mobile tenant-based rental assistance that would not otherwise come within the definition of governmentally involved housing
- (4) public housing owned or operated by the Salem Housing Authority under chapter 121Bf of the General Laws, the United States Housing Act of 1937 (42 U.S.C. §§ 1437a et seq.), or any successor act or public housing programs formerly assisted under the United States Housing Act of 1937
- (5) housing units where the sole government involvement is the owners participation in federal, state, or municipal funded programs for home repairs, energy conservation, or lead paint abatement.
- (6) housing units which become governmentally involved after January 1, 2002

"Formerly governmentally involved housing" – Housing which was governmentally involved as of July 1, 1996 but which may no longer be owned, operated, financed, subsidized, mortgage-insured, or rent-regulated.

"Low-income" – Annual income is 80% or less of median income adjusted for family size

Directs the City of Salem to establish maximum rents for governmentally/formerly governmentally involved housing units. Rent is to be set at the level in effect on July 1, 1996 or six months before rent preemption lapsed, whichever is later. Rents must be adjusted to ensure it provides a fair net operating income as of the date of the loss of preemption.

Adjustments to remove hardships or other inequities shall give consideration to the following factors:

- (1) increases in property taxes
- (2) unavoidable increases in operating and maintenance expenses
- (3) major capital improvement of the housing units, distinguished from ordinary repair, replacement, and maintenance
- (4) increases or decreases in living space, services, furniture, furnishings or equipment
- (5) substantial deterioration of the housing units, other than ordinary wear and tear, or failure to perform ordinary repair, replacement, or maintenance.

(B) Directs municipality not to take an action to recover possession of a governmentally/formerly governmentally involved housing unit unless the following has occurred:

- (1) the tenant has failed to pay the rent
- (2) the tenant has violated chapter 93A (consumer protection act) other than the obligation to surrender possession upon proper notice, and has failed to cure the violation
- (3) the tenant is causing or permitting a nuisance in or substantial damage to the unit
- (4) the tenant has used or permitted use of a housing unit for illegal purposes
- (5) the tenant has refused to execute a written extension or renewal of an expired lease
- (6) the tenant has refused the owner reasonable access to the housing unit for repairs, inspection, or to show the unit to any prospective purchaser
- (7) the tenant holding at the end of a lease term an unapproved subtenant
- (8) the owner seeks to recover possession of a unit for the owner's own use and occupancy or for occupancy by the owner's spouse, children, or other family

The provisions of this section shall be construed as additional restrictions on the right to recover possession of such housing units.

(C) No person shall remove any governmentally/formerly governmentally involved housing unit from low-income rental housing use, without first obtaining permission for that purpose from the municipality or its designee in accordance with state and federal law.

Such permission may be subject to the following conditions:

- (a) incentives to continue in the low income use restrictions previously in place

for the property
(b) the right of an incorporated tenants association or other authority to negotiate for, acquire and operate such property on equivalent terms as offered or available to a bona fide third-party purchaser

(D) Directs municipality to require an owner of governmentally/formerly governmentally involved housing to seek out and accept any prospective government housing resources to maximize affordability. They may be tenant or project based. Must be consistent with income character of the property and the owner's right to a fair net operating income. The City must help identify governmental housing resources.

(E) Allows City to establish local preferences, priorities, and income limits for admission to governmentally/formerly governmentally involved housing upon unit turnover. Must be consistent with the income profile of the property 12-months prior to the date of the loss of rent preemption or the decision to not renew an expiring subsidy contract. Owners are not required to create a tenancy involving any person with a history of conduct which would, if repeated, be grounds for eviction from such housing.

(F) Allows official body to grant exemptions when such action would maintain or increase the supply of affordable housing in Salem, including the promotion of the sale of properties to tenant organizations or non-profit entities maintaining the income character of the property.

(G) Allows official body to adopt rules and regulations necessary to enact this ordinance. Allows board to hold hearings in accordance to MGL Chapter 30A.

(H) Appeals will be directed to the housing court department of the Northeast Division trial court within thirty calendar days of the official body's decision. The court may enjoin or intervene in any action brought forth.

SECTION 3.

Violators of this ordinance will be fined not more than \$400 or imprisonment for not more than 90 days or both. Subsequent or continuing offenders will be fined not more than \$2000 or imprisonment for not more than one year or both.

SECTION 4.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 5.

The provisions of M.G.L. c. 40P shall not apply to any ordinance adopted under this enabling authority.

SECTION 6. This act shall take effect upon its passage.

Summary:

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Massachusetts House of Representatives Bill Summary

Bill No: S 655

Title: An Act relative to governmentally involved housing stock in the City of Quincy.

Sponsor: Senator Morrissey

Committee: Housing

Hearing Date: 5.05.09

Similar Matters:

Prior History: S 700 of 2007

Current law:

M.G.L. Chapter 40P (added by Chapter 368, Acts of 1994) The purpose of this law was to establish a "statewide policy which broadly prohibits any regulatory scheme based upon or implementing rent control."

Exceptions to this prohibition are made for the following categories:

- rent control schemes which are voluntary and uncoerced following an initial 6-month period
- *publicly-owned housing*
- publicly-subsidized housing
- mobile homes

Chapter 40P provides that cities or towns may adopt a rent control provision that provides the following:

- after 6 months the program is voluntary and uncoerced, if the owner declines to participate the property shall be unaffected by rent control
- the adopted policy may not regulate the following areas:
 - occupancy
 - services
 - evictions
 - condo conversion
- the policy may not regulate properties under 10 units or with a fair market value of over \$400.
- municipalities must compensate owners from the local general fund for each unit in the amount equal to the difference between fair market rent and rental

contract amount

2. Chapter 282, Acts of 1994 (effective 1/1/95).
 - The purpose of this law was to alleviate the impact of the ending of rent control for certain classes of vulnerable tenants.
 - The statute extended rent control protections for the following categories of tenants currently (as of 11/8/94) living in a rent controlled apartment (a covered rental unit):
 - tenants occupying a covered rental unit whose incomes are 60% or less of median income (combined income of all residents considered)
 - households in which at least 1 member is age 62 or above living in a covered unit
 - or, households in which 1 member is physically or mentally disabled.
 - Households in which 1 member is physically or mentally disabled, or in which 1 member has reached the age of 62 as of 11/8/94, may earn up to 80% of the median income (combined household income)
 - full time student over the age of eighteen are not covered by the protections regardless of income.

According to the provisions of c. 282, rent control protections were extended for the above protected categories for 1 or 2 year periods based upon sizes of the developments. All other unit controls expired 1/1/95.

Protections extended 1 year, expiring 12/31/95

- 1-3 unit buildings
- 4-12 unit, owner-occupied building condominiums

Protections extended 2 years, expiring 12/31/96:

- developments with 4+ units with no owner-occupant

Chapter 282 allowed the continued control of rents for the above protected units as of 1/1/95 with the following provisions:

- allowed a yearly rent increase of 5%
- set rents at no less than 30% of the combined income of tenants

Summary:

SECTION 1.

Emergency preamble and statement of public purpose for the City of Quincy.

SECTION 2.

Defines types of housing and existing programs included and excluded.

- (a) "Governmentally involved housing" – Housing units owned, operated, financed, subsidized, or insured by federal, state, or local government which the authority regulates the individual rents thereof, including: Section 202, 221(d), or 236 of the

National Housing Act or project based Section 8 units financed pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, or properties which received mortgage insurance under section 207 or 220 of the National Housing Act.

The following categories are exempted from the definition of governmentally-involved housing:

- (1) housing units owned or acquired by the City of Quincy through tax foreclosure
- (2) housing units in a one to four family building or structure units that is not part of a larger housing development, whether on one or more sites
- (3) structures containing housing units subsidized with mobile tenant-based rental assistance that would not otherwise come within the definition of governmentally involved housing
- (4) public housing owned or operated by the Quincy Housing Authority
- (5) housing units which became governmentally involved after October 1, 1976, unless Quincy decides otherwise
- (6) housing units Quincy may exempt from section 3 for just cause that in no event shall more than 20-percent of the total rental units be exempted
- (7) housing units where the sole government involvement is the owner's participation in federal, state, or municipal funded programs for home repairs, energy conservation, or lead paint abatement.

"Formerly governmentally involved housing" - Housing which was governmentally involved as of July 1, 1994, but which may no longer be governmentally involved

"Low income" - Annual income is 80% or less of median income adjusted for family size

SECTION 3.

(a) Allows the City of Quincy to regulate the rent for use of governmentally/formerly governmentally involved housing to the extent such regulation is not preempted by the state or federal laws.

(b) Directs City to establish the maximum rent for governmentally/formerly governmentally involved housing units. Rent is to be set at the level in effect on July 1, 1994 or six-months before rent preemption lapsed, whichever is later. Rents must be adjusted to insure it provides a fair net operating income as of the date of the loss of preemption.

SECTION 4.

(a) Directs City not to take action to recover possession of a governmentally/formerly governmentally involved housing unit unless the following has occurred:

- (1) the tenant has failed to pay the rent
- (2) the tenant has violated chapter 93A (consumer protection act) other than the obligation to surrender possession upon proper notice, and has failed to cure the violation
- (3) the tenant is causing or permitting a nuisance in or substantial damage to the unit

- (4) the tenant has used or permitted use of a housing unit for illegal purposes;
- (5) the tenant has refused to execute a written extension or renewal of an expired lease
- (6) the tenant has refused the owner reasonable access to the housing unit for the repairs, inspection, or for to show the housing unit to any prospective purchaser
- (7) the tenant holding at the end of a lease term is an unapproved subtenant
- (8) the owner seeks to recover possession for any other just cause not in conflict with the provisions and purposes of this act or chapter 93A
- (9) The provisions of this section shall be construed as additional restrictions on the right to recover possessions of such housing units.

SECTION 5.

No person shall remove any governmentally/formerly governmentally involved housing unit from low-income rental housing use without first obtaining permission for that purpose from the city of Quincy or its designee in accordance with federal and state law.

Such permission may be subject the following conditions:

- (a) incentives to continue the low-income use restrictions
- (b) the right of a tenant association or other authority to negotiate for, acquire and operate such property on equivalent terms as offered or available to a bona fide third party purchaser.

SECTION 6.

Directs city to require an owner of governmentally/formerly involved housing to affirmatively seek out and accept any prospective government housing resources to maximize affordability. May be tenant or project based. Must be consistent with character of the property and owner's right to fair net operating income.

SECTION 7.

Directs city to establish local preferences, priorities, and income limits for admission to governmentally/formerly governmentally involved housing upon unit turnover. Must be consistent with the income profile of the property 12-months prior to the date of the loss of rent preemption or the decision to not renew an expiring subsidy contract. Owners are not required to create a tenancy involving any person with a history of conduct which would, if repeated, be grounds for eviction from such housing.

SECTION 8.

Allows City of Quincy to adopt ordinances as needed to enact this legislation and to grant exceptions to maintain or increase the supply of affordable housing, including the promotion of the sale of the property to a tenant organization or non-profit entity.

SECTION 9.

Directs City to conduct hearings regarding matters related to regulation of rents or removal permits for governmentally/formerly governmentally involved housing or regarding compliance of this act.

SECTION 10.

Appeals will be directed to the Quincy division of the district court or the superior court for Norfolk County (if available) within 30 calendar days of a decision. The court may enforce the decision, or enjoin or restrain the rules.

SECTION 11.

Violators of these provisions shall be fined not more than \$400 or imprisonment for not more than 90 days, or both. Subsequent or continued offenses shall be fined by not more than \$2,000 or imprisonment for not more than one year or both.

SECTION 12. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 13. The provisions of M.G.L. c. 40P shall not apply to any ordinance adopted under this authority.

Massachusetts House of Representatives Bill Summary

Bill No: S 666

Title: An Act preserving publicly assisted affordable housing.

Sponsor: Senator Tucker

Committee: Housing

Hearing Date: 5.05.09

Similar Matters: H 3573

Prior History: S 2799 (redraft of S 782) of 2007

Current Law:

Summary:

Emergency preamble.

SECTION 1: Creates Chapter 40T for the Preservation of Publicly Assisted Housing

Section 1. Definitions.

Section 2. Notices.

(a) Requires written notice of intent be given not less than 24 months prior to affordability termination.

(b) Requires owner to give notice of intent to complete termination no less than 12 months before termination.

Section 3. Right of First Offer

As of the effective date of this chapter, publicly assisted housing not subject to a purchase contract and no longer receiving government assistance shall be subject to this provision for 4 years from the date of the last termination.

(a) Requires owner to offer the department an opportunity to purchase the publicly assisted property.

(b) The department may select a designee to act on its behalf. Upon written request, the department shall immediately designate the affected municipality its designee unless the department determines that such request is not approvable for reasons set forth in the department's regulations.

(c) Requires municipality/designee to submit an offer within 90 days from receiving notice of the owner's intent to sell. If the owner and the department do not enter into an agreement, the owner is free to enter into an agreement to sell the property to a third party subject to the department's right of first refusal.

(d) Requires owner to comply with any reasonable request for documents within 10 days of such a request.

(e) Within 30 days of submitting an offer to purchase the publicly assisted housing development, the department shall give the affected tenants a written notice of its intent to purchase the property and also meet with the tenants to discuss its plans.

Section 4. Right of 1st Refusal

As of the effective date of this chapter, publicly assisted housing not subject to a purchase contract and no longer receiving government assistance shall be subject to this provision for 4 years from the date of the last termination.

- (a) The department or its designee shall have a right of first refusal to purchase any publicly assisted housing development.
- (b) The owner shall provide a copy of the third party purchase contract along with proposed purchase contract for execution by the department. The proposed purchase contract shall contain the same terms and conditions as the executed third party purchase contract.
- (c) If the department fails to execute the proposed purchase contract within 30 days or such other period, the owner shall have 24 months to execute the proposed purchase contract to any third party. Upon expiration of the 24 months, the owner shall be subject to all of the provisions of this statute.
- (d) If the department or its designee fails to timely execute the proposed purchase contract within the 30 day period provided or if the contract was executed but a sale is not completed or if the third party purchase contract is terminated by mutual agreement of the owner and the department, then the owner shall have the right to sell the property to a third party.
- (e) Allows DHCD to make counter offers.
- (f) The owner shall within 7 days of execution, provide the department with a copy of any new or amended purchase contract executed with respect to the property during the 2 year period set forth in this section.
- (g) Third party purchase terms must be verified by DHCD.

Section 5.

For the purposes of this chapter, an affected municipality shall not be subject to the provisions of section 16 of chapter 30B.

Section 6. Exemptions.

(a) The provisions of Section 3 of this chapter shall not apply to any of the following:

- (1) a government taking by eminent domain
- (2) a forced sale pursuant to foreclosure
- (3) a deed-in-lieu of foreclosure
- (4) a proposed sale that, as determined by the department, is to a qualified purchaser pursuant to terms and conditions that preserves affordability
- (5) a proposed sale of a publicly assisted development which the department has determined has a section 8 contract, for all of the units in the development and the buyer has agreed to renew project-based section 9 assistance
- (6) a proposed sale pursuant to a binding agreement in effect on the effective date of this chapter

(b) An owner seeking an exemption shall provide a copy of its request to the municipality, CEDAC, local legal services organization, and tenant organization

Section 7. Tenant Protections

For a period of 3 years after a termination, the rent for a low income tenant who does not receive an enhanced section 8 voucher may not be increased more than once annually by the consumer price index for the prior 12 months plus 3%.

Section 8. Preserving Affordability

Any purchase by the department or its designee shall be subject to a regulatory agreement.

Section 9. Certificate of Compliance.

An owner who has complied with the provisions of sections 2 and 3, which has not resulted in a purchase by a municipality or its designee, may apply to the department for a certificate of compliance by submitting a written request in the form deemed necessary by the department to establish compliance. The department shall issue the certificate within 30 days of receipt of application. Upon issuance, the certificate shall be filed with the registry of deeds.

SECTION 2. Advisory Committee/Regulations

Within 45 days of the passage of this chapter, the department shall establish a 12-member advisory committee, to consist of the undersecretary of the department or her designee, the executive director of the Community Economic Development Assistance Corporation, 1 member selected by the Massachusetts Mayors Association, 1 member selected by the Massachusetts Municipal Association, 1 member selected by Citizens' Housing and Planning Association, 1 member selected by the Greater Boston Real Estate Board, 1 member selected by the Real Estate Bar Association for Massachusetts, 1 member selected by the Massachusetts Association of Community Development Corporations, 1 member selected by Massachusetts Legal Assistance Corporation, 1 member of MassNAHRO, 1 member affiliated with the Affordable Housing Preservation Initiative of the Local Initiatives Support Corporation, and 2 additional members chosen by the department to provide advice and recommendations to the department regarding regulations to implement this act; provided further, that the department shall promulgate regulations to effectuate the purposes and to implement the provisions of this chapter within 150 days of the passage of this chapter.

SECTION 3: Properties whose use restrictions have expired within four years of the passage of this act shall be subject to Chapter 40T