

SENATE No. 655

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Michael W. Morrissey

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

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

An Act relative to governmentally involved housing in the city of quincy.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|----------------------|----------------------|
| Bruce J. Ayers | 1st Norfolk |
| Ronald Mariano | 3rd Norfolk |
| A. Stephen Tobin | 2nd Norfolk |
| Michael W. Morrissey | Norfolk and Plymouth |

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00770 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO GOVERNMENTALLY INVOLVED HOUSING IN THE CITY OF
QUINCY.

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

1 SECTION 1. The City of Quincy finds and declares that: (a) a serious public emergency
2 exists with respect to the housing of a substantial number of persons in the City of Quincy
3 residing in governmentally involved housing, inasmuch as there is a threat that many low income
4 individuals and families residing in such housing, particularly those elderly and disabled, may be
5 threatened with displacement as a result of prepayment of mortgage financing, loss of use or rent
6 restrictions, expiring subsidy contracts, and expected increases in rent, and there is a threat that
7 affordable housing stock will be lost due to expiration of use or rent restrictions and such pre-
8 payment, further exacerbating an extreme housing shortage for low-income families and
9 individuals; (b) in adopting Chapter 40P of the General Laws, the voters expressly exempted
10 such housing; (c) it is the City of Quincy's and the commonwealth's policy to encourage owners
11 of this governmentally involved housing to accept incentives to keep such housing affordable

12 and avert displacement; (d) such emergency should be met by the city of Quincy and by the
13 commonwealth immediately; therefore, this act is declared to be in the public interest.

14 SECTION 2. The following words or phrases as used in this act shall have the
15 following meanings:

16 (A) “governmentally involved housing,” housing units which the United States, the
17 commonwealth, or any authority created under the laws thereof (i) owns, operates, finances,
18 subsidizes, or insures the mortgage thereon and (ii) regulates the individual rents thereof,
19 including without limitation housing units constructed or rehabilitated pursuant to section 202, of
20 the Housing Act of 1959, 12, U.S.C. 1701q; section 221(d) and 236 of the National Housing Act,
21 as amended (12 U.S.C. section 17151(d) or 1715z-1); or housing units financed or subsidized
22 pursuant to project-based programs for low-income persons under section 8 of the United States
23 Housing Act of 1937, 42 U.S.C. section 1437f, but not including the following:

24 (1) housing units owned or acquired by the city of Quincy through tax foreclosure;

25 (2) housing units in a one to four family building or structure which is not part of a larger
26 housing development, whether on one or more sites;

27 (3) structures containing housing units subsidized with mobile tenant-based rental assistance
28 that would not otherwise come with the definition of governmentally involved housing;

29 (4) any housing or housing program owned, operated, managed, subsidized or administered by
30 or through the Quincy Housing Authority

31 (5) housing units which become governmentally involved after October 1, 1976, unless the city
32 of Quincy enacts a different date; and

33 (6) housing units that the city of Quincy may exempt from section 3 for just cause; provided,
34 however, that in no event shall more than 20 per cent of the total rental units, which are or could
35 be governed under this act in the city of Quincy, be exempted under this clause.

36 (7) housing units where the sole governmental involvement is the owner's participation in
37 federal, state or municipal funded programs for home repairs, energy conservation, or lead paint
38 abatement.

39 "Formerly governmentally involved housing," housing which was governmentally involved as of
40 July 1, 1994, or which becomes governmentally involved housing after July 1, 1994, but which
41 may no longer be owned, operated, financed, subsidized, mortgage-insured, or rent regulated by
42 the United States, the commonwealth, or any authority created under the laws thereof.

43 "Low-income," an annual income which is 80 per cent or less of the median income for the area
44 as determined by the United States Department of Housing and Urban Development, with
45 adjustments for smaller and larger families.

46 SECTION 3. (a) Notwithstanding the provisions of any general or special law to the contrary,
47 including, without limitation, the provisions of chapter 282 of the acts of 1974 the city of Quincy
48 shall regulate the rent for use or occupancy of governmentally involved or formerly
49 governmentally involved housing to the extent such regulation is not preempted by federal law or
50 by section 6 of chapter 708 of the acts of 1966 once the basis for federal or Massachusetts
51 Housing Finance Agency rent preemption no longer exists.

52 (b) The city of Quincy shall establish as the maximum rent for governmentally involved and
53 formerly governmentally involved housing units the rent in effect therefore on July 1, 1994 or six
54 months before the basis for federal or Massachusetts Housing Finance Agency rent preemption
55 lapsed, whichever is later, adjusted to insure such rent provides a fair net operating income as of
56 the date of the loss or rent preemption.

57 SECTION 4. (a) In the city of Quincy no person shall bring an action to recover possession of a
58 governmentally involved or formerly governmentally involved housing unit, to the extent that
59 such regulation is not otherwise preempted by federal law or section 6 of chapter 708 of the acts
60 of 1966, unless:

61 (1) the tenant has failed to pay the rent to which the owner is entitled;

62 (2) the tenant has violated an obligation or covenant of tenancy not inconsistent with chapter
63 93A of the General Laws or this act other than the obligation to surrender possession upon
64 proper notice, and has failed to cure the violation after having received written notice thereof;

65 (3) the tenant is causing, committing or permitting a nuisance in, or substantial damage to, the
66 housing unit, or is creating substantial interference with the comfort, safety or enjoyment of the
67 owner or other occupants of the same or any adjacent unit;

68 (4) the tenant has used or permitted use of a housing unit for illegal purposes;

69 (5) the tenant, who had a written lease or rental agreement which has terminated, has refused,
70 after written requests or demanded by the owner, to execute a written extension or renewal

71 thereof for a further term of like duration on terms not inconsistent with or in violation of any
72 provision of this act;

73 (6) the tenant has refused the owner reasonable access to the housing unit for the purpose of
74 making necessary repairs or improvements required by law or for the purpose of inspection as
75 permitted or required by the lease or by law, or for the purpose of showing the housing unit to
76 any prospective purchaser or mortgagee;

77 (7) the tenant holding at the end of a lease term is a subtenant not approved by the owner;

78 (8) the owner seeks to recover possession for any other just cause not in conflict with the
79 provisions and purposes of this act or chapter 93A of the General Laws.

80 (9) The provisions of this section shall be construed as additional restrictions on the right to
81 recover possessions of such housing units.

82 SECTION 5. In the city of Quincy no person shall remove any governmentally involved or
83 formerly governmentally involved housing units for low-income rental housing use, without first
84 obtaining permission for that purpose from the city of Quincy or its designee, to the extent that
85 such provision is not preempted by federal law or section 6 of chapter 708 of the acts of
86 1966. Such permission may be subject to terms and conditions not inconsistent with the
87 purposes and provisions of this act, including, without limitation, (a) incentives to continue in
88 effect the low-income use restrictions previously in place for the property and (b) where sale,
89 lease or disposition of the property may result in the loss of all or a portion of the property for
90 low-income rental housing use, the right of an incorporated tenant association in such housing,
91 the municipality, the local housing authority, or non-profit community development corporations

92 to negotiate for, acquire and operate such property on substantially equivalent terms and
93 conditions as offered or available to a bona fide third party purchaser.

94 SECTION 6. To the extent preempted by federal law or section 6 of chapter 708 of the acts of
95 1966, the city of Quincy shall require an owner of governmentally involved housing or formerly
96 governmentally involved housing, to affirmatively seek out and accept any prospective
97 government housing resources, whether tenant-based or project-based, which maximize
98 affordability of the housing units consistent with the income character of the property and the
99 owner's right to obtain a fair net operating income for the housing accommodations.

100 SECTION 7. To extent not preempted by federal law or section 6 of chapter 708 of the acts of
101 1966, and so long as such regulation is consistent with the owner's right to obtain a fair net
102 operating income and the municipality's housing policy, the city of Quincy shall establish local
103 preferences, priorities and income limits for admission to governmentally involved housing or
104 former governmentally involved housing upon unit turnover consistent, to the extent practicable,
105 with the income profile of the property 12 months before the date of the loss of rent preemption
106 or the decision to not renew an expiring subsidy contract. No ordinance, by-law, or regulation
107 shall require an owner to create a tenancy involving any person with a history of conduct which
108 would, if repeated, be grounds for eviction from such housing.

109 SECTION 8. The city of Quincy my adopt such ordinances and promulgate such rules,
110 regulations and orders as it may deem necessary to effectuate the purposes of this act and may
111 grant exceptions thereto when such action would tend to maintain or increase the supply of
112 affordable housing in the city of Quincy including, without limitation, to promote the sale of the
113 property to the Quincy Housing Authority, to a bona fide tenant organization or non-profit

114 community development corporation under terms and conditions which would tend to maintain
115 the income character of the property.

116 SECTION 9. Any hearings regarding matters related to regulation of rents or removal permits for
117 governmentally involved or formerly governmentally involved housing or regarding compliance
118 with other provisions of this act, or any ordinance, by-law, rule or regulation adopted hereunder,
119 shall be conducted by the city of Quincy or its designee in accordance with the provisions of
120 section 11 or chapter 30A of the General Laws.

121 SECTION 10. All decisions of the city of Quincy or its designee may be appealed to the Quincy
122 division of the district court or the superior court for Norfolk County (if available) by any person
123 aggrieved thereby, whether or no previously a party in the matter, within 30 calendar days after
124 receipt of notice of such decision. Judicial review of adjudicatory decisions shall be conducted
125 in accordance with section 14 of chapter 30A of the General Laws. The district and superior
126 courts shall have jurisdiction to enforce the provisions of this act and any ordinance, by-law, rule
127 or regulation adopted under this act and on application of the city of Quincy or its designee or
128 any aggrieved person may restrain or enjoin violations of any such ordinance, rule or
129 regulation. In the interests of justice, the court may allow any necessary parties to be joined in or
130 to intervene in any action brought hereunder and may in its discretion allow or require an action
131 to proceed as a class action.

132 SECTION 11. It shall be unlawful for any person to do or omit to do any action in violation of
133 this act or any order, ordinance, rule or regulation adopted or promulgated under this act.
134 Whoever willfully violates any provision of this act or any order, ordinance, rule or regulation
135 adopted or promulgated under this act or whoever makes a false statement in any testimony

136 before the municipality or its designee, or whoever knowingly supplies the city of Quincy or its
137 designee with false information in connection with a proceeding under this act, shall be punished
138 by a fine of not more than \$400 or by imprisonment for not more than 90 days, or both. In the
139 case of a second or subsequent offense, or where the violation continues after notice thereof,
140 such person shall be punished by a fine of not more than \$2,000 or imprisonment for not more
141 than one year or both.

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

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