

# SENATE . . . . No. 146

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To accompany the petition of Mark Temple Dowling relative to hearings and appeals on orders for the enforcement of building laws. Joint Judiciary.

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## The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Eighteen.

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### AN ACT

To provide for Hearings and Appeals on Orders for the Enforcement of Building Laws.

*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. No rule or order requiring the  
2 demolition of or additions to or alterations in  
3 any existing building shall be made or issued by  
4 any officer, board or commission without first  
5 giving to the owner of such building and to any  
6 occupant of such building known to such officer,  
7 board or commission to be affected thereby an  
8 opportunity to be heard thereon and ten days  
9 notice thereof.

1 SECTION 2. No rule or order requiring the de-  
2 molition of or additions to or alterations in any

3 existing building shall be made or issued by any  
4 officer, board or commission if in his opinion the  
5 conditions of business are such that enforcing  
6 the rule or order would work undue hardship or  
7 cause undue expense to or upon the owner or  
8 occupant of such building or would unduly tend  
9 to divert labor or materials from more useful  
10 employment, the mandatory provisions of any  
11 statute, ordinance, law or regulation to the  
12 contrary notwithstanding. Any such rule or  
13 order heretofore made or issued and not fully  
14 complied with may be revoked in the discretion  
15 of the officer, board or commission that made or  
16 issued it or by the successors in office of such  
17 officer, board or commission.

1 SECTION 3. Any board of appeal or similar  
2 tribunal having authority to review or correct the  
3 action of any officer, board or commission shall  
4 have full power and authority and it shall be its  
5 duty to disapprove, cancel, suspend or disallow  
6 any rule or order of such officer, board or com-  
7 mission, if in its opinion such rule or order would  
8 work undue hardship or cause undue expense to  
9 or upon the owner or occupant of any building  
10 or would unduly tend to divert labor or materials  
11 from more useful employment, the mandatory  
12 provisions of, any statute, ordinance, law or  
13 regulation to the contrary notwithstanding. And  
14 any such rule or order heretofore made or issued  
15 and not fully complied with may be revoked in  
16 the discretion of such board of appeal.

1 SECTION 4. In every case where no right of  
2 appeal to a board of appeal now exists any owner  
3 or occupant of any building who is affected by  
4 any rule or order requiring the demolition of or  
5 additions to or alterations in such building shall  
6 have a right within ten days after he is notified  
7 of such rule or order to appeal from such rule or  
8 order to any municipal, district or police court  
9 or trial justice, having jurisdiction in the place  
10 where such building is situated, by a petition  
11 filed with such court or trial justice. Such court  
12 or trial justice shall thereupon fix a time and  
13 place for a hearing upon such petition and shall  
14 order such owner or occupant to serve a copy  
15 thereof and a notice of the time and place so  
16 fixed upon the officer, board or commission that  
17 made or issued the rule or order, and shall hear  
18 the parties and their witnesses, and if such rule  
19 or order appear to such court or justice to be  
20 illegal or unreasonable or unnecessary or to  
21 work undue hardship or cause undue expense to  
22 or upon the owner or occupant of such building  
23 or to tend unduly to divert labor or materials  
24 from more useful employment, such court or  
25 justice shall declare the same and it shall there-  
26 upon be null and void, the mandatory provisions  
27 of any statute, ordinance, law or regulation to the  
28 contrary notwithstanding.

1 SECTION 5. Pending any appeal to a court,  
2 trial justice or board of appeal any rule or order  
3 which is the subject of such appeal shall be  
4 inoperative and of no effect.

1 SECTION 6. Nothing herein contained shall  
2 prevent the demolition of buildings to stop the  
3 spread of actual conflagrations in the manner now  
4 authorized by law.

1 SECTION 7. This act shall take effect upon its  
2 passage, and it shall relate back to all such rules  
3 and orders issued before its passage and since  
4 January first, nineteen hundred and seventeen,  
5 which had not been fully complied with at the  
6 time it took effect.