

By Mr. Businger of Brookline, petition of John A. Businger that cities and towns be authorized to establish housing review boards. Housing and Urban Development.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Five.

AN ACT PROVIDING FOR THE ESTABLISHMENT OF HOUSING REVIEW BOARDS.

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. DECLARATION OF EMERGENCY. The general
2 court finds and declares that a serious public emergency exists in
3 the Commonwealth with respect to the housing of a substantial
4 number of residents of said city, which emergency has been cre-
5 ated by housing demolition, a substantially elderly population,
6 deterioration within the existing housing stock, and national and
7 area economic conditions which have resulted in insufficient new
8 housing construction, and placing housing above the means of
9 low and moderate income residents. The general court further
10 finds that because of the substantial and increasing shortage of
11 rental housing accommodatitons, abnormally high rents have
12 resulted and, that unless residential rents become subject to
13 review and control on a case by case basis, such emergency and
14 the further inflationary pressures resulting therefrom will produce
15 serious threats to the public health, safety and general welfare of
16 the citizens of the Commonwealth. It is therefore necessary that
17 such emergency be dealt with immediately.

1 SECTION 2. ENABLING AUTHORITY TO CITIES AND
2 TOWNS. Notwithstanding any general or special law, a cite or
3 town may adopt ordinances or by-laws to establish Housing
4 Review Boards to regulate individual cases affecting rental
5 housing accommodations, to control evictions, and to determine
6 when rent charges appear, the judgement of said Boards, to be
7 excessive and unreasonable.

1 SECTION 3. HOUSING REVIEW BOARDS. Each city or
2 town, acting under the provisions of Section 2 of this Act, shall
3 be empowered to establish a Housing Review Board, which shall
4 consist of no less than three and no more than seven members,
5 appointed by the mayor and confirmed by the city council in the
6 case of a city and appointed by a board of selectmen or town
7 council in the case of a town, to serve without compensation for a
8 term of no less than one year and no more than three years. Said
9 board shall consist of one tenant, and one owner of residential
10 property, and other such members who own one and no more than
11 one single family residence.

12 Said Boards shall have jurisdiction over all rental units in their
13 respective city or town except:

14 a. rental units in motels, inns, and tourist homes, and rental
15 units in rooming or boarding houses which are rented primarily to
16 transient guests for a period of less than fourteen consecutive
17 days.

18 b. rental units which a government unit, agency, or authority
19 either owns, operates, finances, or subsidizes.

20 c. rental units in any hospital, convent, monastery, asylum,
21 public institution, college or school dormitory operated exclu-
22 sively for charitable or educational purposes.

23 d. rental units in nursing homes for the aged.

24 e. rental units in owner occupied two and three family houses.

25 Said Boards shall secure such information, make such investi-
26 gations, and conduct such studies, either directly or through other
27 municipal agencies, and may summon such persons, papers or
28 documents as it finds necessary for the performance of its duties.

1 SECTION 4. Board Authorities. Any Board established under
2 this Act shall conduct hearings for the purpose of settling disputes
3 between landlords and tenants in a fair and equitable manner and
4 adjust rents of rental units not exempted pursuant to Section 3 of
5 this Act in a fair and reasonable manner, allowing the landlord in
6 each case a fair net operating income, in accordance with such
7 standards as it shall establish with the approval of the city council
8 in the case of a city and the board of selectmen in the case of a
9 town.

10 Said Board may regulate and modify:

11 a. Rent increases which it finds unreasonable after a hearing
12 and which affect buildings wherein violations of the building
13 code, sanitary code or any other applicable local laws, ordinances,
14 bylaws, rules or regulations governing the condition of residential
15 premises exist.

16 b. Any unreasonable rent increase intended to take effect six
17 months prior to the effective date of any ordinance or by-law
18 adopted pursuant to this Act.

1 SECTION 5. Any aggrieved party may file a civil action
2 against any Board established under this Act in a district court or
3 in any housing court having jurisdiction thereof. The Court shall
4 have jurisdiction to enjoin any violation of this Act.

1 SECTION 6. Any person who demands, accepts, receives or
2 retains any payment of rent in excess of the amount authorized by
3 said Board, shall be liable to the person from whom such payment
4 is demanded, accepted, received or retained, or to the municipi-
5 pality for reasonable attorney's fees and costs as determined by
6 the court, plus liquidated damages in the amount of one thousand
7 dollars.

1 SECTION 7. No owner of residential property in any city or
2 town which adopts the provisions of this Act not exempted under
3 Section three of this Act may bring eviction proceedings against a
4 tenant who has utilized this law for a period of one year after the
5 filing, in writing or otherwise, of a complaint with the Board,
6 unless:

7 a. The tenant has failed to pay the rent to which the landlord is
8 entitled;

9 b. The tenant has violated an obligation or covenant of his
10 tenancy other than the obligation to surrender possession upon
11 proper notice and has failed to cure such violation after having
12 received written notice thereof from the landlord;

13 c. The tenant is committing or permitting to exist a nuisance in
14 or is causing substantial interference with the comfort, safety, or
15 enjoyment of the landlord or other occupants of the same or any
16 adjacent accommodation;

17 d. The tenant is convicted of using or permitting the rental unit
18 to be used for any illegal purpose;

19 e. The tenant, who has a written lease or rental agreement
20 which terminated after any ordinance or by-law took effect under
21 this Act, has refused, after written request or demand by the land-
22 lord, to execute a written extension or renewal thereof for a
23 further term of like duration and in such terms that are not incon-
24 sistent with or violative of any provisions of law;

25 f. The tenant has refused the landlord reasonable access to the
26 unit for the purpose of making necessary repairs or improvements
27 required by the laws of the United States, the Commonwealth, or
28 the local municipality, or for the purpose of inspection as per-
29 mitted or required by law, or for the purpose of showing the rental
30 unit to any prospective purchaser or mortgagor;

31 g. The person holding at the end of the lease term is a sub-
32 tenant not approved by the landlord;

33 h. The landlord seeks to recover possession in good faith for
34 the use and occupancy of himself, or his children, parents,
35 brother, sister, father-in-law, mother-in-law, or daughter-in-law.

36 i. The landlord seeks to recover possession to demolish or
37 otherwise remove the unit from rental housing use.

1 SECTION 8. Board Administration. Any city or town which
2 adopts an ordinance or by-law pursuant to this Act shall have the
3 authority to establish administrative procedures and regulations
4 consistent with the purpose of this Act, including, but not limited
5 to requiring notices to tenants in connection with any proposed
6 rent increase, and joining together the cases of tenants who reside
7 in the same building.