

By Mr. Dukakis of Brookline, petition of Edwin C. Hamada relative to the licensing of dwelling units which are in compliance with the provisions of the state sanitary code. Social Welfare.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Eight.

AN ACT RELATIVE TO THE LICENSING OF DWELLING UNITS WHICH ARE IN COMPLIANCE WITH THE PROVISIONS OF THE STATE SANITARY CODE.

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

1 The General Laws of the commonwealth are hereby
2 amended by inserting after chapter 145, the following new
3 chapter:

4 CHAPTER 145A

5 LICENSING OF DWELLING UNITS

6 *Section 1. Definitions.*—The following words as used in this
7 chapter shall have the following meanings:

8 “Board”, a local board of health or agency having like
9 powers of inspection relative to the fitness of premises for
10 human habitation or relative to conditions which may
11 endanger or materially impair the health or safety of persons
12 occupying premises for dwelling purposes, or, in the city of
13 Boston, the commissioner of housing inspection.

14 “Dwelling”, every building or shelter used or intended for
15 human habitation and every other structure or condition
16 located within the same lot line whose existence causes or is
17 likely to effect noncompliance with the provisions of the
18 State Sanitary Code, Article II, “Minimum Standards Of
19 Fitness For Human Habitation”.

20 "Dwelling Unit", a room or group of rooms within a
21 dwelling for which rent or charges for use and occupancy are
22 separately incurred or collected and which is occupied or
23 intended for occupancy as an habitable dwelling place by a
24 family or household for living, sleeping, cooking and
25 eating.

26 "Owner", means every person who alone or jointly or
27 severally with others (a) has legal title to any dwelling or
28 dwelling unit; or

29 (b) has care, charge, or control of any dwelling or dwelling
30 unit as agent, executor, executrix, administrator, adminis-
31 tratrix, trustee, or conservator or guardian, of the estate of
32 the holder of legal title.

33 *Section 2.* No owner shall lease, let or rent to another
34 person nor shall an owner permit the occupancy of any
35 dwelling unit within a dwelling unless an occupancy license
36 for such dwelling unit has been issued by the board. Provided,
37 that if the board of any city or town determines that the
38 requirements of this chapter would create an undue hardship
39 in that city or town, it may, prior to the effective date of this
40 chapter, file a written notice thereof with the commissioner of
41 public health of the commonwealth requesting a grace period
42 which in the case of a town shall be no longer than one year
43 and in case of a city shall be no longer than two years, from
44 the effective date of this chapter, during which extended
45 period, the board shall use all possible efforts to obtain
46 compliance with the provisions of this chapter.

47 *Section 3.* Each application for an occupancy license or for
48 a renewal thereof shall be made upon a form furnished by the
49 board and each shall be accompanied by an inspection fee of
50 five dollars. All applications shall be acted upon by the board
51 within fourteen days of receipt; provided, however, that if
52 the board shall have requested extension pursuant to section
53 two of this chapter, then during said period of extension the
54 board shall act upon applications in the order in which they
55 are received, with promptness. No application for renewal of
56 an issued license need be acted upon by the board prior to
57 thirty days before the expiration of an issued license.

58 *Section 4.* No occupancy license shall be issued or renewed

59 for any dwelling unit if such dwelling unit or the dwelling in
60 which it is located are found, upon inspection, to be in
61 violation of the minimum standards of fitness for human
62 habitation established under Article II of the state sanitary
63 code or any ordinance, by-law, rule or regulation and if such
64 violation may endanger or materially impair the health,
65 safety or well being of persons occupying the premises.

66 *Section 5.* In any case where the board has refused to issue
67 an occupancy license or to renew an issued license, it may
68 proceed in accordance with the applicable provisions of the
69 state sanitary code and, in addition, shall inform the appli-
70 cant of its action by sending to him, at the address shown on
71 the application, a written statement of the violations found to
72 exist. Such notice shall be sent within five days of the
73 inspection made pursuant to the application.

74 The notice shall also inform the applicant of his right to a
75 hearing, of his responsibility to request a hearing, and to
76 whom the request shall be made. The person or persons to
77 whom such notice was sent may request a hearing before the
78 board by filing, within three days after the day on which he
79 received such notice, a written petition requesting a hearing
80 on the matter with the board. Upon receipt of such petition
81 the board shall set a time and place for such hearing and shall
82 inform the applicant thereof in writing. The hearing shall be
83 commenced not later than ten days after the day on which
84 the petition was filed; provided, that upon application of the
85 petitioner the board may postpone the date of the hearing for
86 a reasonable time beyond such ten day period if in the
87 judgment of the board the petitioner has submitted a good
88 and sufficient reason for such postponement.

89 At the hearing the petitioner shall be given an opportunity
90 to be heard and to show why the occupancy license should
91 issue. Where appropriate, the board may consolidate hearings
92 involving different dwelling units owned by the same person
93 or persons.

94 After the hearing the board shall sustain, modify or with-
95 draw its previous decision. The board may modify its pre-
96 vious decision by issuance of a temporary occupancy license
97 or an extension of an issued license which shall be valid for

98 the period of time set forth therein which, in all events, shall
99 not be longer than ninety days. In any case in which the
100 board shall withdraw its previous decision, an occupancy
101 license shall be issued by the board, forthwith.

102 *Section 6.* Any person aggrieved by a final decision of the
103 board may seek relief therefrom in any court of competent
104 jurisdiction. In no event shall any proceeding of the board
105 pursuant to section five of this chapter or any proceeding by
106 the applicant in a court of competent jurisdiction operate to
107 extend the expiration date of any license including a tempo-
108 rary license beyond the date which appears thereon.

109 *Section 7.* The expiration date of each license shall be
110 stated thereon and shall be determined by the board in
111 accordance with licensing regulations duly promulgated by
112 the board. In no event shall any board establish regulations
113 which provide for expirations later than two years from the
114 effective date of the original license. In the discretion of the
115 board it may establish similar expiration dates among dwell-
116 ing units in the same neighborhoods or areas of the city or
117 town.

118 *Section 8.* No occupancy license required by this chapter
119 shall be transferred unless the transferee shall give written
120 notice to the board within ten days following the transfer of
121 ownership in fact, and whether or not said transfer is
122 recorded in the appropriate registry of deeds. Such notice
123 shall include the true name and residential address of the
124 transferee, and the giving of a postal box number shall not
125 be deemed to constitute compliance with this section. If the
126 transferee shall fail to comply with the provisions of this
127 section, then as to each dwelling unit the ownership of which
128 has been transferred, in fact, the transferee shall be deemed
129 to be unlicensed and the license then outstanding shall be
130 deemed revoked.

131 *Section 9.* Every licensee shall have each current license
132 framed under clear glass or plastic lamination and shall cause
133 each such license to be posted in a conspicuous place in the
134 dwelling or within the dwelling unit for which such license
135 has been issued.

136 *Section 10.* Whenever, upon inspection of any dwelling or

137 dwelling unit the board finds that said premises are in
138 violation of the standards of fitness for human habitation
139 established under the state sanitary code or any ordinance,
140 by-law, rule or regulation, and that such violation may
141 endanger or materially impair the health, safety or well being
142 of persons occupying the premises, the board shall forthwith
143 notify the licensee in writing of the existence of such viola-
144 tions and shall advise him that unless the violations so found
145 are corrected within a stated period of time, which period
146 shall be reasonable and related to the nature of the conditions
147 found to exist, the license for each such dwelling unit as may
148 contain said violations or be affected thereby shall be sus-
149 pended. After the period of time in which corrections are to
150 be made has elapsed the board shall reinspect said dwelling
151 unit and if such conditions shall not have been corrected, the
152 license for each such dwelling unit as may contain or be
153 affected by said violations shall be suspended, upon sending
154 of written notice to the licensee. After suspension of any
155 license, the licensee shall have the right to automatic rein-
156 statement thereof provided he has fully corrected the condi-
157 tions which constituted the violations and has done so within
158 such period of time as the board may prescribe in its notice of
159 suspension, which period shall be reasonably related to the
160 nature of the conditions to be corrected but which in no event
161 shall exceed ninety days.

162 In the event that the licensee shall not have corrected the
163 conditions which constituted the violations within the period
164 of suspension, he shall thereafter be deemed to be unlicensed
165 and the suspended license shall be deemed revoked.

166 *Section 11.* No rent or other payment or payments for use
167 and occupation of a dwelling or dwelling unit shall be
168 recovered in any action at law or in any action of summary
169 process under chapter two hundred thirty-nine of the
170 General Laws, for any period of occupancy in said dwelling or
171 dwelling unit, unless the owner or one of his predecessors was
172 issued an occupancy license which was unrevoked during the
173 period of time for which claim is made. And no judgment and
174 execution for possession for the plaintiff shall issue or be
175 entered under the provisions of chapter two hundred

176 thirty-nine, where the tenancy or occupancy has been ter-
177 minated without fault of the occupant or by a notice to quit
178 for nonpayment of rent alleged to have accrued during a
179 period in which the dwelling or dwelling unit was unlicensed,
180 unless the plaintiff was licensed as required by this chapter at
181 the time of termination of the tenancy or occupancy and on
182 the date of the hearing upon the merits in such action.

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

THE CRYSTALLINITY OF POLYMER SOLUTIONS

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Summary

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