

# SENATE NO. 1157

## **AN ACT** LEGITIMIZING STRUCTURES AFTER SIX OR TEN YEARS OF CONTINUOUS USE

*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. Chapter 40A of the General Laws is hereby amended by striking out the second  
2 paragraph of section 7 and inserting in place thereof the following paragraph:-

3 No local zoning law shall provide penalty of more than three hundred dollars per violation; provided,  
4 however, that nothing herein shall be construed to prohibit such laws from providing that each day  
5 such violation continues shall constitute a separate offense. No action, suit or proceeding shall be  
6 maintained in any court, nor any administrative or other action taken to recover a fine or damages or to  
7 compel the removal, alteration, or relocation of any structure or part of a structure or alteration of a  
8 structure by reason of any violation of any zoning by-law or ordinance except in accordance with the  
9 provisions of this section, section eight and section seventeen; provided, further, that if real property  
10 has been improved and used in accordance with the terms of the original building permit issued by a  
11 person duly authorized to issue such permits, no action, criminal or civil, the effect or purpose of  
12 which is to compel the abandonment, limitation or modification of the use allowed by said permit or

13 the removal, alteration or relocation of any structure erected in reliance upon said permit by reason of  
14 any alleged violation of the provisions of this chapter or of any ordinance or by-law adopted  
15 thereunder, shall be maintained, unless such action, suit or proceeding is commenced and notice  
16 thereof recorded in the registry of deeds for each county or district in which the land lies, or, in the  
17 case of registered land such notice is filed in the registry district in which the land lies, within six years  
18 next after the commencement of the alleged violation of law; and provided, further that no action,  
19 criminal or civil, the effect or purpose of which is to compel the removal, alteration, or relocation of  
20 any structure by reason of any alleged violation of the provisions of this chapter, or any ordinance or  
21 by-law adopted thereunder, or the conditions of any variance or special permit, shall be maintained,  
22 unless such action, suit or proceeding is commenced and notice thereof recorded in the registry of  
23 deeds for each county or district in which the land lies, or, in the case of registered land such notice is  
24 filed in the registry district in which the land lies, within ten years next after the commencement of the  
25 alleged violation; and provided further that if (a) real property has been improved by the erection of  
26 one or more structures (which word shall include the singular thereof) thereon and such structures  
27 have been in existence for a period of at least ten years and (b) no notice of any action, suit or  
28 proceeding as to any alleged violation of this chapter or of any ordinance or by-law adopted thereunder  
29 as to such structures has been recorded in the registry of deeds for the county or district in which the  
30 real estate is located, or, in the case of registered land such notice is filed in the registry district in  
31 which the land is located, within a period of ten years from the date such structures were erected, such  
32 structures erected thereon shall, for zoning purposes, be deemed (x) to be in compliance with the  
33 provisions of this chapter and any ordinance or by-law adopted thereunder as they existed on the date  
34 such structures were erected or (y) to be valid, legally nonconforming structures, as the case may be.

35 Such notice shall include names of one or more of the owners of record, the name of the person  
36 initiating the action, and adequate identification of the structure and the alleged violation.