

## ***Redraft***

An Act enabling cities and towns to stabilize rents and protect tenants.

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

SECTION 1. Chapter 40P of the General Laws, as appearing in the 2022 Official Edition, is repealed.

SECTION 2. The General Laws are hereby amended by inserting after chapter 40Y the following chapter:-

### CHAPTER 40Z

#### LIMITATION OF ANNUAL RENT INCREASES AND RELATED TENANT PROTECTIONS

Section 1. A city or town may accept this chapter in its entirety in the manner provided in section 4 of chapter 4 of the General Laws. The acceptance of this local option by a municipality shall take effect no later than 180 days after adoption. A municipality that accepts this section shall adopt an ordinance or bylaw which effectuates the provisions of this chapter no later than 180 days after acceptance.

Section 2. A city or town accepting this chapter may, by local charter provision, ordinance, by-law, majority vote of its governing body or through a local binding ballot measure impose a limit on the size of annual rent increases for certain dwelling units within the municipality, and related eviction protections for all housing accommodations in the municipality.

Section 3. Exemptions. (a) For the purposes of this chapter, covered dwelling units shall not include:

- (i) Dwelling units in owner-occupied buildings with four or fewer units.
- (ii) Dwelling units whose rent is subject to regulation by a public authority. Occupancy by a tenant with a mobile housing voucher does not exempt an otherwise covered dwelling unit.
- (iii) A unit in a licensed facility, for which the primary purpose is the diagnoses, cure, mitigation, and treatment of illnesses.
- (iv) A unit in an assisted living facility or nursing home.
- (v) A school dormitory.
- (vi) A facility operated solely for religious purposes.
- (vii) A unit primarily provided to transient guests for a period of less than 14 consecutive days.
- (viii) Units in facilities operated solely for non-profit purposes.
- (ix) Units currently under a binding affordable housing legal restriction, including deed restrictions, use agreements, subsidy contracts, or other legal covenants, that limit the rent to be paid or the income of the permitted occupants.
- (x) Projects financed through the federal or state Low Income Housing Tax Credit Program.
- (xi) Projects owned, operated, ground-leased, or financed, in whole or in part, by a public housing authority, the executive office of housing and livable communities, or a state or local housing finance agency, including mixed-income buildings, provided that at least one of the following two conditions are met:
  - (1) At least 60% of the units are deed-restricted, at an affordable rent determined

by the public financing source, and limited to households with incomes not exceeding an average of 60% of Area Median Income (AMI); or

(2) At least 40% of the units are deed-restricted, at an affordable rent determined by the public financing source, and limited to households with incomes not exceeding an average of 30% of Area Median Income (AMI).

(xii) Projects that are not owned or financed by a government agency, but are deed-restricted provided that, for the duration of the new construction exemption or the deed restriction, whichever is longer, at least one of the following two conditions are met:

(1) At least 60% of the units are deed-restricted, at an affordable rent, and limited to households with incomes not exceeding an average of 60% of Area Median Income (AMI); or

(2) At least 40% of the units are deed-restricted, at an affordable rent, and limited to households with incomes not exceeding 30% of Area Median Income (AMI).

(xiii) Newly-constructed dwelling units shall be exempt from this chapter for a period of 15 years from the date at which the first residential certificate of occupancy was issued.

(xiv) Dwelling units in an existing building for which no residential certificate of occupancy was in place for the prior 5 years, if the owner conducts substantial, permanent renovations that enhance the value of the building and cost an amount equal to at least 40% of the value of the building, as assessed by the municipal or state tax assessor, shall be exempt for a period of 15 years from the date at which such first residential certificate of occupancy was issued.

(b) Where dwelling units are exempt, a notice of exemption must be provided with the lease for all tenancies. If there is no written lease for such dwelling units, the tenants-at-will must

be provided with a written notice of exemption prior to the acceptance of the initial rent payment.

#### Section 4: Annual rent increase cap

(a) The municipality may, pursuant to section 1(b), impose a limit on annual rent increases for covered dwelling units not exempt by section 3(a), which shall be equal to the annual rent increase limit to be published annual by the executive office of housing and livable communities. The annual rent increase cap shall be calculated to be an amount equal to the annual change in the Consumer Price Index plus 5 per cent, or a cap of ten per cent, whichever is lower.

(b) Owners and landlords of covered dwellings may not impose annual rent increases above the allowable rent increase amount, but may impose rent increases below the allowable increase amount.

(c) For purposes of this chapter, for covered dwelling units with tenants under lease the rent amount in place six months prior to the date of municipal adoption shall serve as the base rent upon which any annual rent increase shall be applied. If no lease is in place for such dwelling unit the rent amount charged as of the date six months prior to the effective date of municipal adoption of such applicable rent increase cap shall serve as the base rent upon which any annual rent increase shall be applied.

(d) For a covered dwelling unit that becomes vacant, the base rent shall be determined pursuant to section 5.

#### Section 5: Tenant protections

(a) Cities and towns adopting this chapter shall require that any landlord initiating eviction or not renewing a lease may do so only for the following reasons:

(i) Nonpayment of rent

(ii) Refusal to accept a rent increase permitted under this chapter

(iii) Owner seeks to remove the unit from the rental market to convert to cooperative or condominium, provided that owner demonstrate compliance with G.L. ch. 183A, Chapter 527 of the Acts of 1983, or locally-enacted ordinance governing conversions to cooperative or condominiums

(iv) Owner seeks to demolish or convert to non-residential use, or to occupy the unit as the owner's or immediate family member's principal residence

(v) Tenant commits a substantial violation of a material lease term or material term of the tenancy

(vi) Tenant engages in criminal activity or behavior that threatens the health and safety of other residents, or persons lawfully on the premises

(vii) Tenant creates a public nuisance in the unit or the building

(viii) Tenant causes substantial damage to the unit or the building

(b) Upon the commencement of a new tenancy in a dwelling unit and where no prior tenant or occupant remains, the owner may establish an initial rent without restriction only after certifying that the prior tenancy ended due to:

(i) Voluntary termination of the tenancy and departure by the prior tenant.

The definition of Voluntary Termination shall include departure by tenant following the serving of a notice to quit by landlord, or commencement of a summary process action, before a judgement enters or a vacate agreement is reached so long as the reason for such landlord initiated action is for a reason listed in 5(a).

(ii) Termination of the tenancy pursuant to a court judgment, court agreement or stipulation, or where a landlord otherwise prevails in a the summary process case, for a reason listed in Section 5(a).

(c) Owner shall provide the new tenant with a sworn certification that the prior tenancy ended due to voluntary departure by the previous tenant, or for a reason listed in Section 5(a), and that an initial rent may be set without restriction.

(d) Where a tenancy ended due to a reason not listed in Section 5(a), the most recent lawful rent plus any applicable rent increase in compliance with Section 4, shall be established as the base rent for the new tenancy. Any subsequent rent increase shall comply with this chapter.

#### Section 6: Boards; extraordinary capital improvements and tax increases

(a) Cities and towns may establish boards to implement this section in accordance with state regulations and standards established by the executive office of housing and livable communities, in consultation with the attorney general.

(b) The executive office of housing and livable communities, in consultation with the attorney general, shall establish a process and related guidelines to allow owners to apply for surcharges or rent increases that exceed the allowable annual cap for certain extraordinary capital improvements or tax increases to covered dwelling units or buildings. Any process shall include:

(i) owner to file an application accompanied by documentation to support each request, based on commercially reasonable terms;

(ii) clear standard of review;

(iii) review by a neutral person or persons prior to determination;

(iv) timely processing of applications.

(c) All cities and towns adopting this measure may implement policies and procedures established by the executive office.

(d) Cities and towns may set tenant notification and rental registry requirements as necessary to implement this chapter.

#### Section 7: Reauthorization upon material amendment

(a) Notwithstanding section 1, if the General Court enacts amendments to this chapter that materially alter the terms or operation of the chapter, the previously-adopted ordinance or bylaw shall remain in effect with original terms unchanged, until and unless the city or town adopts the amended provision or provisions pursuant to section 2; provided, however, that the adoption of the amended provision or provisions shall require a super-majority vote of its governing body.

(b) Notwithstanding this provision, any city or town adopting this chapter for the first time shall be required to comply with sections 1 and 2, and no super-majority shall be required for initial adoption.

#### Section 8: Reporting

Cities and towns adopting this chapter shall provide annual reports to the executive office of housing and livable communities which shall include but not be limited to: the text of the ordinance or bylaw adopting this chapter; any studies undertaken in informing adoption of the ordinance or bylaw; the number of units affected by the ordinance or bylaw; and any other relevant data as determined by the executive office of housing and livable communities.

#### Section 9: Penalties for violation

(a) Any violation of this Chapter shall be deemed an unfair and deceptive act under chapter 93A of the General Laws. Any person claiming a violation of this section may pursue

remedies under section 9 of chapter 93A. The attorney general is hereby authorized to bring an action under section 4 of chapter 93A to enforce this provision and to obtain restitution, civil penalties, injunctive relief, and any other relief awarded pursuant to said chapter 93A;

(b) If a landlord is found to have violated section (4) subsections (a) or (b), the tenant or former tenant, upon proof of the same, shall be awarded actual damages or three times the rent amount, whichever is greater, and attorneys' fees;

(c) If a landlord initiates summary process proceedings or otherwise requests that a tenant vacate for a reason not enumerated in section (5), the tenant shall recover possession and shall be awarded actual damages or three times the rent amount, whichever is larger, and attorneys' fees.

#### Section 10: Interference with existing laws

Nothing in this section shall be construed to interfere with any existing rights or protections afforded to tenants under current state or federal law.