HOUSE DOCKET, NO. 1219 FILED ON: 1/20/2011

# HOUSE . . . . . No. 1366

## The Commonwealth of Massachusetts

PRESENTED BY:

***Christopher N. Speranzo***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to legitimize structures after six or ten years of continuous use.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Christopher N. Speranzo* | *3rd Berkshire* |

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# HOUSE . . . . . No. 1366

By Mr. Speranzo of Pittsfield, a petition (accompanied by bill, House, No. 1366) of Christopher N. Speranzo relative to the statute of limitations in certain court actions involving zoning violations. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1568* OF 2009-2010.]

## The Commonwealth of Massachusetts

An Act to legitimize 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:*

SECTION 1. Chapter 40A of the General Laws is hereby amended by striking out the second paragraph of section 7 and inserting in place thereof the following paragraph:-

No local zoning law shall provide penalty of more than three hundred dollars per violation; provided, however, that nothing herein shall be construed to prohibit such laws from providing that each day such violation continues shall constitute a separate offense. No action, suit or proceeding shall be maintained in any court, nor any administrative or other action taken to recover a fine or damages or to compel the removal, alteration, or relocation of any structure or part of a structure or alteration of a structure by reason of any violation of any zoning by-law or ordinance except in accordance with the provisions of this section, section eight and section seventeen; provided, further, that if real property has been improved and used in accordance with the terms of the original building permit issued by a person duly authorized to issue such permits, no action, criminal or civil, the effect or purpose of which is to compel the abandonment, limitation or modification of the use allowed by said permit or the removal, alteration or relocation of any structure erected in reliance upon said permit by reason of any alleged violation of the provisions of this chapter or of any ordinance or by-law adopted thereunder, shall be maintained, unless such action, suit or proceeding is commenced and notice thereof recorded in the registry of deeds for each county or district in which the land lies, or, in the case of registered land such notice is filed in the registry district in which the land lies, within

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