

SENATE No. 1321

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

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 adoption of the accompanying bill:

An Act relative to planning boards and subdivision control laws.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Marc R. Pacheco</i>	<i>Third Bristol and Plymouth</i>	
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>2/24/2023</i>

SENATE No. 1321

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 1321) of Marc R. Pacheco and Steven S. Howitt for legislation relative to planning boards and subdivision control laws. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to planning boards and subdivision control laws.

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. Section 81L of chapter 41 of the General Laws, as so appearing in the 2020
2 official edition, is hereby amended, in line 72, by inserting after the word “thereon.” the
3 following new wording:-

4 (d) and provided that, not more than 3 new lots for development are being created by
5 such division.

6 SECTION 2. Section 81P of said chapter is hereby amended by striking out in each
7 occurrence the word “twenty-one” and inserting in place thereof the word “thirty”

8 SECTION 3. Section 81U of said chapter is hereby amended, by striking paragraph 7,
9 lines 80-85, and inserting in place thereof the following new paragraph 7:-

10 “Before endorsement of its approved plan, a planning board shall require that the
11 construction of ways and installation of municipal services be secured by one or in part by one

12 and in part by another, of the methods described in the following clauses (1), (2), (3), and (4)
13 which method or combination of methods may be selected and specifically approved by the
14 planning board and from time to time may be proposed to be varied or changed by the
15 applicant.”

16 Section 81U is further amended by striking paragraph 10, lines 98-112, and inserting in
17 place thereof the following new paragraph 10:-

18 (3) By a covenant, executed and duly recorded by the owner of record, running with the
19 land and including all parcels proposed for development as approved by the definitive plan,
20 whereby such ways and services shall be provided to serve any lot before such lot may be built
21 upon or conveyed, other than by mortgage deed; provided, that a mortgagee who acquires title to
22 the mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises
23 or part thereof may sell any such lot, subject to that portion of the covenant which provides that
24 no lot shall be built upon until such ways and services have been provided to serve such lot; and
25 provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed,
26 subject to such covenant, of either the entire parcel of land shown on the subdivision plan or of
27 all lots not previously released by the planning board. A deed of any part of the subdivision in
28 violation hereof shall be voidable by the grantee prior to the release of the covenant but not later
29 than three years from the date of such deed. Partial covenants over individual lots shall not be
30 permitted.

31 And further amended by striking paragraph 13, lines 130-137, and inserting in place
32 thereof the following new paragraph 13:-

33 “The penal sum of any such bond held under clause (1) or any deposit held under clause
34 (2) or any amount of funds retained pursuant to an agreement under clause (4) shall bear a direct
35 and reasonable relationship to the expected cost including the effects of inflation, necessary to
36 complete the subject work including the prevailing wage costs of labor that would be incurred by
37 the city or town to do so. Such amount or amounts shall from time to time be reduced so that
38 the amount bonded, deposited or retained continues to reflect the actual expected cost of work
39 remaining to be completed. However, in no way shall the approval of a definitive plan or
40 reduction of the penal sum held in surety be deemed to constitute the laying out or acceptance of
41 any roadway or improvement thus proposed.”

42 SECTION 4. Section 81Y of said chapter is hereby amended in by adding at the end
43 thereof the following new paragraph:-

44 “If a subdivision has been made in a city or town while the subdivision control law is in
45 effect in such city or town and the planning board has endorsed a plan showing the subdivision
46 or the subdivision has otherwise been recorded due to the planning board’s failure to act and
47 where ownership of any or all lots shown on such plan are to be subject to easements,
48 declarations or other legal encumbrances, such as legal restrictions and obligations related to
49 homeowner associations, drainage easements, recreation amenities or other legally granted or
50 placed easements, restrictions, or obligations; then the person who made the subdivision or any
51 successor in interest with notice, actual or record, of such legally recorded easements,
52 restrictions, or obligations shall inform any successors to their interest to any lot shown on such
53 approved subdivision plan of such easements, restrictions, or obligations, the details related
54 thereto and a copy of the documents from which such easements, restrictions, or obligations
55 originate no later than the execution of the final deed transferring ownership from person making

56 the subdivision or their successor in interest and the successor interest to whom the deed is being
57 granted.”