

# SENATE . . . . . No. 2132

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court  
(2017-2018)  
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SENATE, July 31, 2017

The committee on Housing to whom was referred the petition (accompanied by bill, Senate, No. 729) of Barbara A. L'Italien, Jason M. Lewis, Jack Lewis, Denise Provost and other members of the General Court for legislation relative to accessory dwelling units,- reports the accompanying bill (Senate, No. 2132).

For the committee,  
Joseph A. Boncore

**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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An Act relative to accessory dwelling units.

*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 3 of chapter 40A of the General Laws, as appearing in the 2014  
2 Official Edition, is hereby amended by inserting after the last paragraph the following 3  
3 paragraphs:-

4           No zoning ordinance or by-law shall prohibit or require a special permit for the use of  
5 land or structures for an accessory dwelling unit, or the rental thereof, in a single-family  
6 residential zoning district on a lot with 5,000 square feet or more or on a lot of sufficient area to  
7 meet the requirements of title 5 of the state environmental code established by section 13 of  
8 chapter 21A, if applicable; provided, however, that the single-family dwelling or the accessory  
9 dwelling unit is occupied by at least 1 person with disabilities or 1 person who is elderly.

10           As used in this section, “accessory dwelling unit” shall mean a self-contained housing  
11 unit, inclusive of sleeping, cooking and sanitary facilities, incorporated within the same structure  
12 as a single-family dwelling or in a detached accessory structure and that: (i) maintains a separate  
13 entrance, either directly from the outside or through an entry hall or corridor shared with the

14 single dwelling; (ii) shall not be sold separately from the single family dwelling; (iii) is not  
15 smaller in floor area than 450 square feet; (iv) may include up to two bedrooms; and (v) is not  
16 larger in floor area than  $\frac{1}{2}$  the floor area of the single family dwelling or 900 square feet,  
17 whichever is smaller; “person with disabilities” shall mean a person who has been determined to  
18 be disabled (i) in accordance with criteria established by local by-law or ordinance, if any, or (ii)  
19 by the Social Security Administration or MassHealth, notwithstanding any local by-law or  
20 ordinance; and “elderly” shall mean a person sixty-five years of age or older.

21           The zoning ordinance or by-law may require that the single-family dwelling or the  
22 accessory dwelling unit be owner-occupied and may limit the total number of accessory dwelling  
23 units in the municipality to a percentage not lower than 5 percent of the total non-seasonal  
24 housing units in the municipality. The use of land or structures for an accessory dwelling unit  
25 may be subject to reasonable regulations concerning dimensional setbacks and the bulk and  
26 height of structures. Not more than 1 additional parking space shall be required for an accessory  
27 dwelling unit but, if parking is required for the single family dwelling, that parking shall either  
28 be retained or replaced. An accessory dwelling unit allowed under this section is considered  
29 owner-occupied upon transfer of title of the single-family dwelling in whole or in part to a trust  
30 in which at least 1 beneficiary is a person with disabilities or a person who is elderly; provided,  
31 however, that either the single-family dwelling or the accessory dwelling unit remains occupied  
32 by that beneficiary. Nothing in this paragraph shall authorize an accessory dwelling unit to  
33 violate the building, fire, health or sanitary codes, historic or wetlands laws, or ordinances or by-  
34 laws.