

By Mr. Bullock, a petition (accompanied by bill, Senate, No. 994) of John W. Bullock for legislation relative to the control of rents and evictions by certain cities and towns. Local Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Five.

AN ACT RELATIVE TO THE CONTROL OF RENTS AND EVICTIONS
BY CERTAIN CITIES AND TOWNS.

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 842 of the acts of 1970 is
2 hereby amended by inserting after paragraph (7) of clause (b)
3 the following paragraph: —

4 (8) rental units in rehabilitated property for which the cost
5 of rehabilitation exceeds one-third of the total value of the
6 rehabilitated property, including the cost of rehabilitation, of-
7 fered for rent in the newly rehabilitated condition for the first
8 time after the thirty-first day of August, nineteen hundred
9 and sixty-nine.

1 SECTION 2. Section 5 of chapter 842 of the acts of 1970 is
2 hereby amended by inserting after the last sentence of clause
3 (d) the following sentence: —

4 Landlords and tenants shall be accorded equal treatment and
5 be required to meet the same conditions with respect to con-
6 forming to all requirements for filing applications, petitions,
7 or complaints or to presenting statements or other evidence
8 in any proceeding undertaking pursuant to the provisions of
9 this act.

1 SECTION 3. Section 7 of chapter 842 of the acts of 1970 is
2 hereby amended by striking out clause (b) and inserting in
3 place thereof the following clause: —

4 (b) Fair net operating income shall be that income which
5 will yield a return, after all reasonable operating expenses, on

6 the fair market value of the property at least equal to the
7 debt service rate generally available from institutional first
8 mortgage lenders on a twenty year direct reduction loan. The
9 fair market value of the property shall be the value established
10 either by agreement between the owner and the board or ad-
11 ministrator or by generally accepted professional appraisal
12 techniques.

13 and further amended by inserting after the last clause there-
14 of the following four clauses: —

15 (f) A person may charge, offer to charge, or give notice of
16 intent to charge a rent in excess of the maximum rent only
17 to the extent that said rent does not exceed the sum of the
18 maximum rent for the controlled unit plus a proportional
19 share of the amount of any increase in property taxes levied
20 against the property of which the controlled unit is a part
21 after the acceptance of this act.

22 (g) The board or the administrator shall grant an increase
23 in the maximum rent for any controlled unit which has been
24 benefited by a capital improvement made after the accept-
25 ance of this act. The allowable increase in the base rent under
26 this clause may not be more than one and one half per cent
27 of that part of the cost of the capital improvement allocable
28 to the controlled rental unit unless the increase in the base
29 rent due to the allowable capital improvement is less than one
30 dollar per month, except in those cases in which a substantial
31 capital improvement has been made which directly benefits
32 all of the units in a controlled rental property taken as a
33 whole. For the purpose of this clause, the term "cost" shall
34 mean the adjustment basis of the improvement as determined
35 pursuant to chapter 1, subtitle of the United States Revenue
36 Code of 1954.

37 (h) The board or administrator shall grant an increase in
38 the maximum rent for any controlled unit in an amount equal
39 to a proportional share of any increase in the cost of electric
40 and gas or fuel oil service for the property of which the con-
41 trolled unit is a part after acceptance of this act.

42 (i) Any increase or decrease determined by the board or
43 administrator pursuant to the provisions of this section shall
44 be effective from the date of filing of the application therefor.

1 SECTION 4. Clause (a) of section 8 of chapter 842 of the acts
2 of 1970 is hereby amended by inserting after the last sentence
3 thereof the following sentence: —

4 If a landlord is in compliance with the provisions of this
5 act and no decision has been made on his petition for an in-
6 crease in the maximum rent within sixty days after receipt
7 of such petition, the increase in the maximum rent shall be
8 deemed to be granted.

9 and further amended by inserting after the last clause there-
10 of the following clause: —

11 (c) notwithstanding the provisions of this act, the board or
12 administrator shall grant any increase in the maximum rent
13 voluntarily agreed to by a landlord and his tenant or tenants,
14 provided such voluntary agreements are acknowledged as the
15 free act and deed of the parties thereto before a notary public.

1 SECTION 5. Section 9 of chapter 842 of the acts of 1970 is
2 hereby amended by striking out clause (b) and inserting in
3 place thereof the following new clause: —

4 (b) A landlord seeking to recover possession of a housing
5 accommodation shall apply to the board or administrator for
6 a certificate of eviction. Such application shall be made on a
7 form approved by the board or administrator and a copy there-
8 of shall be sent, upon filing, to the tenant by registered mail,
9 return receipt requested, or be served by a constable. The
10 tenant may request a hearing on such application within five
11 business days after receipt by him of his copy thereof, and,
12 if requested, such hearing shall be scheduled within five bus-
13 iness days thereafter. Notice of the time, place, and purpose
14 of the hearing shall be furnished to the landlord and to the
15 tenant and the hearing shall be conducted before at least
16 one member of the board or the administrator for the pur-
17 pose of taking evidence with respect to granting or denying
18 the certificate of eviction, provided, however, that the hear-
19 ing may be conducted before a hearing officer without a board
20 member or the administrator present where no party to the
21 proceeding objects. If the board or administrator finds that
22 the facts attested to in the landlord's petition are valid and in
23 compliance with the provisions of clause (a) of this section,

24 the certificate of eviction shall be issued. Any application for
25 an eviction shall be deemed to have been granted unless denied
26 by the board or the administrator within fifteen business days
27 of the hearing on such application, provided, however, that an
28 application for an eviction based on non-payment of rent shall
29 be deemed to have been granted unless denied within five bus-
30 iness days of such hearing. If a tenant does not request a
31 hearing or if the hearing required by this section is not pro-
32 vided within ten business days from the date of filing, the ap-
33 plication shall be deemed to have been granted.

1 SECTION 6. *Costs of Compliance.* All reasonable expenses at-
2 tendant upon compliance with the provisions of chapter 842 of
3 the acts of 1970, including those reasonable necessary to pro-
4 cess rent adjustment applications and petitions for certificates
5 of eviction, shall be deemed to be reasonable operating ex-
6 penses.

1 SECTION 7. *Appeals to Superior Court.* Any person aggrieved
2 by the determination of a city council or board of selectmen
3 pursuant to the provisions of section 2 of chapter 842 of the
4 acts of 1970 or the provisions of section 8 of this act may
5 appeal to the superior court for the county in which the city
6 or town is located by filing a bill in equity within twenty days
7 after the determination has been filed in the office of the city
8 or town clerk. Notice of the filing with a copy of the bill in
9 equity shall be given to such city or town clerk so as to be re-
10 ceived within such twenty days. The bill shall allege that
11 the decision of the city council or board of selectmen has no
12 basis in fact, shall set forth any facts pertinent to that issue,
13 and shall contain a prayer that the determination be annulled.
14 There shall be attached to the bill a copy of the determination
15 appealed from, bearing the date of filing thereof, certified by
16 the city or town clerk with whom the determination was filed.
17 The mayor and the members of the city council or the mem-
18 bers of the board of selectmen and, if appointed, the members
19 of the board or administrator appointed pursuant to section 5
20 of chapter 842 of the acts of 1970 shall be named as parties
21 respondent with their addresses. To avoid delay in the pro-

22 ceedings, instead of the usual service of process on a bill in
23 equity, the plaintiff shall within fourteen days after the filing
24 of the bill in equity give written notice thereof, with a copy
25 of the bill by delivery or certified mail to all respondents and
26 shall, within twenty-one days after the entry of the bill file
27 with the clerk of the court an affidavit that such notice has
28 been given. If no such affidavit is filed within such time the
29 bill shall be dismissed. No answer shall be required but an
30 answer may be filed and notice with a copy and an affidavit of
31 such notice given to all parties as above provided within seven
32 days after the filing of the answer. Other interested persons
33 may be permitted to intervene, upon motion. The clerk of the
34 court shall give notice of the hearing as in other cases with-
35 out jury, to all parties, whether they have appeared or not.
36 The court shall hear all evidence pertinent to the determina-
37 tion that an emergency exists with respect to the availability
38 of rental housing accommodations within said city or town
39 and determine the facts, and, upon the facts so determined,
40 annul such decision if found not to have basis in fact or make
41 such other decree as justice and equity may require. The
42 foregoing remedy shall be exclusive, but the parties shall have
43 all rights of appeal and exception as in other equity cases.

44 A city or town may provide any municipal officer with legal
45 counsel for appealing, as provided in this section, a determina-
46 tion of the city council or board of selectmen and for taking
47 such other action as parties in other equity cases are per-
48 mitted to take with respect to appeals taken pursuant to this
49 section.

50 Costs shall not be allowed against the city or town unless it
51 shall appear to the court that the city council or board of
52 selectmen in making the determination appealed from acted
53 in bad faith or with malice.

54 Costs shall not be allowed against the party appealing from
55 the determination of the city council or board of selectmen un-
56 less it shall appear to the court that the appellant or appel-
57 lants acted in bad faith or with malice in making the appeal
58 to the court.

The Government of the State of New York

IN SENATE, January 10, 1911.

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE
IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE
ON JANUARY 10, 1911.
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