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sis of salaries for the same or similar types of positions paid by other governments and by private employers with which the commonwealth must compete in securing qualified applicants for such positions. The maximum shall not exceed one hundred and twenty-five per cent of the salary rate set forth at each step-in-range of the management job group to which the positions are allocated in section forty-six C of chapter thirty.

Approved November 30, 1983.

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Chap. 527. AN ACT ENABLING CITIES AND TOWNS TO REGULATE THE CONVERSION OF RESIDENTIAL PROPERTY TO THE CONDOMINIUM FORMS OF OWNERSHIP.

Be it enacted, etc., as follows:

SECTION 1. DECLARATION OF EMERGENCY. The general court finds and declares that a serious public emergency exists within the commonwealth with respect to the housing of a substantial number of the citizens of the commonwealth. This rental housing emergency has been created by the lack of sufficient new rental housing production, by prolonged increases in housing costs at a rate substantially exceeding increases in personal income, by housing abandonment, by increased costs of new housing construction and finance, and by increased residential mortgage interest rates. It has also been created by the effect of conversion of rental housing into condominiums or cooperatives. These forms of home ownership constitute an important and positive dimension in addressing the housing needs of the commonwealth. However, absent sufficient new rental housing production, such conversion necessarily reduces the stock of rental housing otherwise available. A substantial and increasing shortage of rental housing accommodations, especially for the elderly, the handicapped, and persons and families of low and moderate income, has been and will continue to be the result of this emergency. Unless the available stock of rental housing, and the tenants who reside therein, receive further protection from the consequences of conversion of said accommodations to condominiums and cooperatives than the law now affords, this rental housing shortage will generate serious threats to the public health, safety, and general welfare of the citizens of the commonwealth, particularly the elderly, the handicapped, and persons and families of low and moderate income. It is therefore necessary that such emergency be dealt with immediately.

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SECTION 2. The provisions of section four of this act shall be applicable to all housing accommodations in any city or town of the commonwealth, unless otherwise provided in this section.

Any city or town may, by ordinance or by-law, impose provisions or requirements to regulate for the protection of tenants with respect to the conversion of housing accommodations to the condominium or cooperative forms of ownership and evictions related thereto which differ from those set forth in this act, upon a two-thirds vote of the city council with the approval of the mayor, in the case of a city, or a two-thirds vote of a town meeting, or town council, in the case of a town; provided, however, that no such ordinance or by-law which imposes additional provisions or requirements than those set forth in this act shall be applicable to any of the following housing accommodations: (i) housing accommodations constructed or converted from a non-housing to a housing use after the effective date of this act; (ii) housing accommodations which were constructed or substantially rehabilitated pursuant to any federal mortgage insurance program, without any interest subsidy or tenant subsidy attached thereto; and (iii) housing accommodations financed through the Massachusetts Housing Finance Agency, with an interest subsidy attached thereto.

Any city or town, which has adopted an ordinance or by-law for the regulation of the conversion of housing accommodations to the condominium or cooperative forms of ownership and evictions related thereto pursuant to the authority conferred upon such city or town by special act, shall be exempt from the provisions of this act, and this act shall not be construed to restrict the authority of any such city or town to amend or repeal any ordinance or by-law in accordance with the provisions of such special act.

Local legislative action shall be accompanied by a declaration, in the form of findings, that local conditions constitute an acute rental housing emergency requiring local action, on account of the aggravating impact of the factors set forth in section one of this act.

SECTION 3. As used in this act, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Condominium unit", a unit in a housing condominium as that term is defined in chapter one hundred and eighty-three A.

"Cooperative unit", a unit in a housing cooperative as set forth in chapter one hundred and fifty-seven.

"Condominium or cooperative conversion eviction", an eviction of a tenant for the purpose of removing such tenant from a housing accommodation in order to facilitate the initial sale and

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transfer of legal title to that housing accommodation as a condominium or cooperative unit to a prospective purchaser or an eviction of a tenant by any other person who has purchased a housing accommodation as a condominium or cooperative unit when the tenant whose eviction is sought was a resident of the housing accommodation at the time the notice of intent to convert is given to convert the building or buildings to the condominium or cooperative form of ownership pursuant to section four; provided, however, that the eviction of a tenant for non-payment of rent or other violation of a rental agreement shall in no event be deemed a condominium or cooperative conversion eviction.

"Elderly tenant", a tenant who is a person or group of persons residing in the same housing accommodation any of whom has reached the age of sixty-two years or over as of the date of receipt of the notice provided for hereunder.

"Handicapped tenant", a person entitled to occupy a housing accommodation who is physically handicapped as defined in section thirteen A of chapter twenty-two as of the date of receipt of the notice provided for hereunder.

"Housing accommodation", any building, structure, or part thereof or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, together with all services connected with the use or occupancy of such property, but not including the following:

(i) housing accommodations which the United States or the commonwealth or any authority created under the laws thereof either owns or operates;

(ii) housing accommodations in any hospital, convent, monastery, asylum, public institution or college or school dormitory operated exclusively for charitable or educational purposes, or in any nursing or rest home for the aged;

(iii) buildings containing fewer than four housing accommodations;

(iv) housing accommodations in hotels, motels, inns, tourist homes, and rooming and boarding houses which are occupied by transient guests staying for a period of fewer than fourteen consecutive calendar days.

"Interest subsidy", any payment made by the federal or state government to reduce the effective interest rate payable by a mortgagor.

"Low or moderate income tenant", a tenant who is a person or group of persons residing in the same housing accommodation so long as the total income for all such tenants for the twelve months immediately preceding the date of notice provided for hereunder is less than eighty per cent of the median income for the area set forth in regulations promulgated from time to time by the Department of Housing and Urban Development pursuant

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to 42 USC 1437 et seq., and calculated pursuant to said regulations.

"Tenant", a person or group of persons collectively entitled to occupy a housing accommodation pursuant to a rental agreement written or implied.

"Tenant subsidy", any payment made by the federal or state government for or on behalf of any tenant to be applied toward the reduction of the tenant's rental payment.

SECTION 4. (a) If a building submitted to the provisions of chapter one hundred and eighty-three A or chapter one hundred and fifty-seven has been used in whole or in part for residential purposes within one year prior to the recording of a master deed creating a condominium or the filing of the articles of organization creating a housing cooperative, the owner thereof shall give each tenant of all housing accommodations in such building or buildings notice of intent to convert the building or buildings to the condominium or cooperative form of ownership. Such notice shall state in clear and conspicuous language the following:-

(i) that the owner has filed or intends to file a master deed at a registry of deeds whose location is stated in the notice or has filed or intends to file articles of organization with the secretary of the commonwealth;

(ii) that any tenant residing on the date the notice of intent is given in the building or buildings converted or to be converted to the condominium or cooperative forms of ownership shall have a period of time which shall be stated in the notice, from the date of receipt of such notice, as authorized by this act, before the tenant shall be required to vacate the housing accommodation occupied on the date the notice is received;

(iii) that any tenant residing on the date the notice of intent was given in the building or buildings to be converted shall have a period of time, which shall be stated in the notice, from the date of receipt of such notice, as authorized by this act, to purchase the unit occupied by the tenant on the date the notice is received on terms and conditions which are substantially the same as or more favorable than those which the owner extends to the public generally for the ninety days following the expiration of said tenant's right to purchase as may be required by paragraph (b).

All notices required under this section shall be deemed to have been given when a written notice is delivered in person or mailed by certified or registered mail, return receipt requested, to the party to whom the notice is being given.

Whenever an owner is required to give notice of intent provided for in this section, the period of notice shall not be less than the expiration of any written agreement between the owner and

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the tenant of the housing accommodation which governs the use and occupancy of said housing accommodation or one year from the date the tenant of such housing accommodation is given said notice of intent, whichever is greater; provided, however, that in the case of a housing accommodation occupied in whole or in part by a handicapped tenant or occupied by an elderly or low or moderate income tenant the period of notice shall not be less than two years from the date the tenant of such housing accommodation receives said notice of intent.

No person shall bring any action seeking a condominium or cooperative eviction until the expiration of the periods of time for notice to tenants specified in this act.

The burden of proving qualifications with respect to age, handicap, and income shall rest with the tenant.

(b) Any owner of residential property who converts such property to the condominium or cooperative form of ownership shall give to any tenant who is entitled to receive notice pursuant to this section the right to purchase the housing accommodation occupied by such tenant at the time such notice is delivered on terms and conditions which are substantially the same as or more favorable than those which the owner extends to the public generally for the ninety days following the expiration of said tenant's right to purchase. Such tenant may exercise a right to purchase such housing accommodations by executing a purchase and sale agreement prior to the expiration of ninety days after the date of receiving a copy of the purchase and sale agreement properly executed by the person offering the housing accommodation for sale.

(c) The owner of residential property converted to the condominium or cooperative form of ownership shall pay to any tenant who is entitled to receive a notice pursuant to this section and who does not purchase the housing accommodation which he occupies or another housing accommodation in the same building or buildings relocation benefits for the actual, documented costs of moving, not to exceed seven hundred and fifty dollars per housing accommodation; provided, that if such housing accommodation is occupied in whole or in part by a handicapped tenant or is occupied by an elderly or low or moderate income tenant, the maximum relocation benefit shall not exceed one thousand dollars per housing accommodation. Such relocation benefits shall be payable within ten days after the date on which the tenant vacates the housing accommodation occupied by him; provided, however, that no tenant shall be eligible for such relocation benefits unless all rent due and payable for said unit under the rental agreement or extension of such agreement, if any, has been paid by the tenant prior to the date on which the housing accommodation is vacated and only as long as the tenant

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voluntarily vacates the housing accommodation for which recovery of possession is sought on or before the expiration of the notice period.

(d) Any owner of residential property converted to the condominium or cooperative form of ownership shall assist elderly, handicapped and low or moderate income tenants who qualified as such as of the date of receipt of the notice authorized pursuant to this section locating, within the period of the notice to such tenants, comparable rental housing within the same city or town in which such tenant resides which rents for a sum which is equal to or less than the sum which such tenant had been paying for the housing accommodation occupied at the time of receipt of the notice authorized by this section. The failure of the owner of such residential property to find such substitute housing accommodation shall extend the period of notice for up to an additional two years.

(e) Any owner of residential property converted to the condominium or cooperative form of ownership shall give to any tenant who is entitled to receive a notice pursuant to this section an extension of the rental agreement at the expiration thereof. Such extension, where required, shall be for such period or periods of one year or such fraction thereof as shall equal the period of notice to which such tenant is entitled pursuant to the provisions of this section. The provisions of such rental agreement may not otherwise be modified by the property owner except with respect to the amount of annual rent, any increase in which shall not exceed an amount equal to the sum which would result by multiplying said rent by the percentage increase in the consumer price index for all urban consumers as published by the United States Department of Labor, Bureau of Labor Statistics, during the calendar year immediately preceding the date upon which such rental agreement is commenced, or ten per cent, whichever is less; provided, however, nothing herein shall limit the right of a property owner to any amounts which may be due under a valid tax escalation clause.

SECTION 5. Any owner who converts residential property in violation of any provisions of this act, or any ordinance or by-law adopted pursuant to this act, shall be punished by a fine of not less than one thousand dollars, or by imprisonment of not less than sixty days. Each unit converted in violation of this act constitutes a separate offense.

Any violation of this act, or any ordinance or by-law adopted pursuant to this act, by an owner of residential property shall not affect the validity of a conveyance of a condominium unit or an interest in a housing cooperative to a purchaser for value who has no knowledge of the violation.

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The district and superior courts, and the housing courts in the city of Boston and Hampden county, shall have jurisdiction over an action arising from any violation of this act, or any ordinance or by-law adopted pursuant to this act, and shall have jurisdiction in equity to restrain any such violation.

SECTION 5A. In the case of any housing accommodation for which sufficient notice, as hereinafter defined, was given subsequent to April first, nineteen hundred and eighty-three, the period of notice required pursuant to section four of this act shall be deemed to have commenced on the date such sufficient notice was received by the tenant. Provided that sufficient notice for purposes of this section shall be defined as written notice to the tenant informing him, in substance, that said housing accommodation was being or had been converted to a condominium or cooperative form of ownership and that the tenant would be required to vacate not earlier than one year from the date of receipt of such notice. Sufficient notice given on or prior to April first, nineteen hundred and eighty-three, shall be deemed to have been given on April second, nineteen hundred and eighty-three.

SECTION 5B. The provisions of this act shall not be applicable to any unit in a building or buildings converted to the condominium or cooperative forms of ownership for which on the effective date of this act a master deed has been recorded or articles of organization filed and: (i) a deed or, in the case of a cooperative a proprietary lease, conveying the unit to a bona fide purchaser for value, who intends to occupy such unit as a principal residence, recorded, in the case of such deed, in the registry of deeds for the county in which such unit is located on or before October fifteenth, nineteen hundred and eighty-three; or (ii) a purchase and sale agreement was entered into on or before October fifteenth, nineteen hundred and eighty-three, with a bona fide purchaser for value who intends to occupy such unit as a principal residence. Proof of payment of a reasonable deposit or down payment shall be evidenced by a canceled check or its equivalent establishing said value.

SECTION 5C. The provisions of any ordinance or by-law adopted pursuant to this act shall not be applicable to any unit in a building or buildings converted to the condominium or cooperative forms of ownership for which, on or before the date of adoption of said ordinance or by-law, a master deed has been recorded or articles of organization filed, and a deed or, in the case of a cooperative, a proprietary lease, conveying the unit to a bona fide purchaser for value who intends to occupy such unit

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as a principal residence has been recorded, in the case of such deed, in the registry of deeds for the county in which such unit is located.

SECTION 5D. Any ordinance or by-law adopted pursuant to the provisions of this act shall not be applicable to any building or buildings converted to the condominium or cooperative forms of ownership for which, on or prior to the effective date of this act, a master deed has been recorded, or articles of organization filed, and prior to the adoption of such ordinance or by-law, for not less than one-third of the units in such building or buildings: either (i) purchase and sale agreements were entered into prior to October fifteenth, nineteen hundred and eighty-three, with bona fide purchasers for value who intend to occupy such units as a principal residence as evidenced by a canceled check or its equivalent establishing said value; or (ii) deeds, or in the case of cooperatives, proprietary leases, conveying units in such building or buildings to bona fide purchasers for value, who intend to occupy such units as a principal residence were recorded, in the case of such deed, in the registry of deeds for the county in which such building or buildings are located, on or before October fifteenth, nineteen hundred and eighty-three.

SECTION 6. Chapter 183A of the General Laws is hereby amended by adding the following section:-

Section 22. In the event of a foreclosure upon a condominium development, the lender taking over the project shall succeed to any obligations the developer has with the unit owners, except that the developers shall remain liable for any misrepresentation already made and for warranties on work done prior to the transfer.

SECTION 7. There is hereby established a special commission, to consist of three members of the senate, five members of the house of representatives and the secretary of communities and development for the purpose of making an investigation and study relative to the establishment of a fund to provide low interest loans or subsidies to enable elderly tenants affected by condominium conversion to purchase or obtain joint equity in the condominiums thereby created.

Said commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation to carry said recommendations into effect, by filing the same with the clerk of the house of representatives on or before the last Wednesday in December, nineteen hundred and eighty-four.

Approved November 30, 1983.

EMERGENCY LETTER - November 30, 1983 @ 4:03 P.M.