

By Mr. Frye of Boston, petition of John K. Dineen for legislation to authorize leasehold condominiums. Urban Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT AUTHORIZING LEASEHOLD CONDOMINIUMS.

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 1 of chapter 183A of the General Laws
2 is hereby amended by striking out the definition of "Condo-
3 minium", as appearing in section 1 of chapter 493 of the acts of
4 1963, and inserting in place thereof the following definition:—

5 "Condominium", the land, whether leasehold or in fee simple,
6 to the extent of the interest held therein by the owner or owners
7 or lessee or lessees submitting such interest to the provisions
8 of this chapter, the building or buildings, all other improve-
9 ments and structures thereon, and all easements, rights and
10 appurtenances belonging thereto, which have been submitted
11 to the provisions of this chapter.

1 SECTION 2. Section 1 of said chapter 183A is hereby
2 amended by striking out the subparagraph containing the defi-
3 nition of "Master deed", as appearing in section 1 of chapter
4 493 of the acts of 1963, and inserting in place thereof the fol-
5 lowing paragraph:—

6 "Master deed" or "master lease", the instrument by which
7 the condominium is submitted to the provisions of this chapter,
8 as hereinafter provided, showing the extent of the interest of
9 the person or persons submitting the property to the provisions
10 of this chapter, and any amendment to said instrument.

1 SECTION 3. Section 1 of said chapter 183A is hereby amend-
2 ed by inserting in the third line of the definition of "Unit", as

3 appearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "deed", the words:—or lease.

1 SECTION 4. Section 1 of said chapter 183A is hereby amend-
2 ed by inserting in the third line of the definition of "Unit", as
3 appearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "owned", the words:—or leased.

1 SECTION 5. Section 1 of said chapter 183A is hereby amend-
2 ed by striking out the definition of "Unit owner", as appearing
3 in section 1 of chapter 493 of the acts of 1963, and inserting
4 in place thereof the following definition:—

5 "Unit owner", the person or persons owning in fee simple
6 or leasing as a lessee or lessees, under a lease having a term
7 of at least fifty years, a unit and an undivided interest in the
8 fee simple or leased estate of the common areas and facilities
9 in the percentage set forth in the master deed or lease.

1 SECTION 6. Said chapter 183A is hereby amended by strik-
2 ing out section 2 thereof, as appearing in section 1 of chapter
3 493 of the acts of 1963, and inserting in place thereof the fol-
4 lowing paragraph:—

5 This chapter shall apply only when the sole owner or all
6 of the owners of land or the sole lessee or all of the lessees
7 of land under a lease having an unexpired term of not less
8 than one hundred years, submit the land to the provisions
9 hereof by duly executing and recording a master deed or lease
10 containing a statement to the effect that the owner or owners
11 or lessee or lessees propose to create a condominium to be
12 governed by and subject to the provisions of the chapter. The
13 provisions of this chapter shall not be deemed to preclude or
14 regulate the creation or maintenance of other interests in real
15 property not expressly declared by the owner or owners or
16 the lessee or lessees to be subject hereto.

1 SECTION 7. Section 4 of said chapter 183A is hereby amend-
2 ed by striking out all but subparagraphs (1), (2), and (3) of
3 the first paragraph, as appearing in section 1 of chapter 493
4 of the acts of 1963, and inserting in place thereof the follow-
5 ing paragraph:—

6 Each unit owner shall be entitled to the exclusive possession
7 of his unit, and, if the unit owner holds an interest in fee
8 simple in his unit and in the common areas and facilities, to
9 the exclusive ownership of his unit, subject in each instance
10 to the provisions of this section and of sections seventeen,
11 eighteen and nineteen; provided, however, that:—

1 SECTION 8. Section 4 of said chapter 183A is hereby amend-
2 ed by inserting in clause (1), as appearing in section 1 of
3 chapter 493 of the acts of 1963, after the word “deed”, the
4 words:—or lease.

1 SECTION 9. Section 4 of said chapter 183A is hereby amend-
2 ed by inserting in the fourth and fifth lines of clause (3), as
3 appearing in section 1 of chapter 493 of the acts of 1963, after
4 the word “deed”, in each instance, the words:—or lease.

1 SECTION 10. Section 5 of said chapter 183A is hereby
2 amended by inserting in the third and fourth lines of clause
3 (a), as appearing in section 1 of chapter 493 of the acts of
4 1963, after the word “deed”, in each instance, the words:—or
5 lease.

1 SECTION 11. Section 5 of said chapter 183A is hereby
2 amended by inserting after the first sentence of clause (a), as
3 appearing in section 1 of chapter 493 of the acts of 1963, the
4 following sentence:—Such undivided interest shall be in lease-
5 hold or in fee simple, depending upon whether his interest in
6 his unit is in leasehold or in fee simple, respectively.

1 SECTION 12. Section 8 of said chapter 183A is hereby
2 amended by inserting in the first line of the first paragraph,
3 as appearing in section 1 of chapter 493 of the acts of 1963,
4 after the word “deed”, the words:—or lease.

1 SECTION 13. Section 8 of said chapter 183A is hereby
2 amended by striking out clause (b), as appearing in section
3 1 of chapter 493 of the acts of 1963, and inserting in place
4 thereof the following clause:—

5 (b) A description of the land, whether leased or in fee
6 simple, on which the building or buildings and improvements
7 are located.

1 SECTION 14. Section 8 of said chapter 183A is hereby
2 amended by inserting in clause (h), as appearing in section
3 1 of chapter 493 of the acts of 1963, after the word "deed", the
4 words:—or lease.

1 SECTION 15. Section 8 of said chapter 183A is hereby
2 amended by inserting in the fifth line of clause (i), as appear-
3 ing in section 1 of chapter 493 of the acts of 1963, after the
4 word "deed", the words:—or lease.

1 SECTION 16. Section 9 of said chapter 183A is hereby
2 amended by inserting in the first line of the first paragraph as
3 appearing in section 1 of chapter 493 of the acts of 1963,
4 after the word "deeds", the words:—or leases.

1 SECTION 17. Section 9 of said chapter 183A is hereby
2 amended by inserting in the first line of clause (a), as ap-
3 pearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "deed", the words:—or lease.

1 SECTION 18. Section 9 of said chapter 183A is hereby
2 amended by inserting in the third line of clause (b), as ap-
3 pearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "deed", the words:—or lease.

1 SECTION 19. Section 9 of said chapter 183A is hereby
2 amended by inserting in the first line of clause (c), as ap-
3 pearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "deed", the words:—or lease.

1 SECTION 20. Section 9 of said chapter 183A is hereby
2 amended by inserting in the first line of clause (f), as ap-
3 pearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "grantee", the words:—or the lessor and lessee.

1 SECTION 21. Section 9 of said chapter 183A is hereby
2 amended by inserting in the second line of clause (f), as ap-

3 pearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "deed", the words:—or lease.

1 SECTION 22. Section 9 of said chapter 183A is hereby
2 amended by inserting in the first line of the last paragraph,
3 as appearing in section 1 of chapter 493 of the acts of 1963,
4 after the word "deed", the words:—or lease.

1 SECTION 23. Section 9 of said chapter 183A is hereby
2 amended by inserting in the third line of the last paragraph,
3 as appearing in section 1 of chapter 493 of the acts of 1963,
4 after the word "deed", the words:—or lease.

1 SECTION 24. Section 10 of said chapter 183A is hereby
2 amended by inserting in the third line of clause (a), as ap-
3 pearing in section 1 of chapter 493 of th acts of 1963, after
4 the word "deed", the words:—or lease.

1 SECTION 25. Section 10 of said chapter 183A is hereby
2 amended by inserting in the second line of clause (b) (1), as
3 appearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "deed", the words:—or lease.

1 SECTION 26. Section 10 of said chapter 183A is hereby
2 amended by inserting in the third line of clause (b) (3), as
3 appearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "owner", the words:—or any lessor of any part of
5 the condominium.

1 SECTION 27. Section 10 of said chapter 183A is hereby
2 amended by inserting in the fourth line of clause (b) (3), as
3 appearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "unit", the words:—or interest.

1 SECTION 28. Section 10 of said chapter 183A is hereby
2 amended by inserting in the third line of clause (e), as ap-
3 pearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "deed", the words:—or lease.

1 SECTION 29. Section 11 of said chapter 183A is hereby
2 amended by inserting in the third line of clause (e), as ap-

3 pearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "deed", the words:—or lease.

1 SECTION 30. Section 12 of said chapter 183A is hereby
2 amended by inserting in the third line of clause (d), as ap-
3 pearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "deed", the words:—or lease.

1 SECTION 31. Section 14 of said chapter 183A is hereby
2 amended by inserting after the first sentence thereof, as ap-
3 pearing in section 1 of chapter 493 of the acts of 1963, the
4 following sentence:—In the event the unit owner is a lessee
5 under a lease which provides that the lessee shall pay all real
6 estate taxes, such leased unit and its percentage of undivided
7 interest in the common areas and facilities shall be deemed
8 to be an individual parcel of real estate owned by such lessee
9 for the assessment and collection of real estate taxes.

1 SECTION 32. Section 14 of said chapter 183A is hereby
2 amended by inserting in the twelfth line, as appearing in sec-
3 tion 1 of chapter 493 of the acts of 1963, after the word "deed",
4 the words:—or lease.

1 SECTION 33. Section 17 of said chapter 183A is hereby
2 amended by striking out the third sentence of clause (b) (1),
3 as appearing in section 1 of chapter 493 of the acts of 1963,
4 and inserting in place thereof the following sentence:—The
5 net proceeds of a partition sale together with any common
6 funds shall be divided in proportion to the unit owners'
7 respective undivided ownership in the common areas and fa-
8 cilities; provided, however, that in the event the unit owner
9 did not hold an interest in fee simple to his unit and in the
10 common areas and facilities immediately prior to the parti-
11 tion sale, the share of such proceeds to which he would be
12 entitled had he held such a fee simple interest at such time
13 shall be paid over to the owner or owners of the land consti-
14 tuting a part of the condominium.

1 SECTION 34. Section 17 of said chapter 183A is hereby
2 amended by inserting in the ninth line of paragraph (b) (2),

3 as appearing in section 1 of chapter 493 of the acts of 1963,
4 after the word "directing", the following:—the termination
5 by his lessor of such unit owner's lease if such unit owner is
6 a lessee, upon such terms as shall be approved by the court,
7 or in any other case,

1 SECTION 35. Section 18 of said chapter 183A is hereby
2 amended by inserting in the eighth line of clause (b), as
3 appearing in section 1 of chapter 493 of the acts of 1963, after
4 the word "directing", the following:—the termination by his
5 lessor of such unit owner's lease if such unit owner is a lessee,
6 upon such terms as shall be approved by the court, or in any
7 other case,

1 SECTION 36. Section 19 of said chapter 183A is hereby
2 amended by striking out paragraph (a), as appearing in sec-
3 tion 1 of chapter 493 of the acts of 1963, and inserting in place
4 thereof the following paragraph:—

5 (a) Seventy-five per cent of the unit owners or such greater
6 percentage as is stipulated in the by-laws, may remove all of
7 a condominium or a portion of the common areas and facili-
8 ties thereof, from the provisions of this chapter by an instru-
9 ment to that effect, duly recorded, provided that the holders
10 of all liens upon any of the units affected consent thereto by
11 instruments duly recorded. Upon a removal of a condominium
12 in its entirety or a portion thereof as aforesaid, the condo-
13 minium or the portion removed shall be owned in common
14 by such of the unit owners who, immediately prior to re-
15 moval, held fee simple interests in their respective units and
16 in the common areas and facilities. If the condominium is
17 removed in its entirety, the organization of unit owners shall
18 be dissolved, unless it is otherwise provided in the removal
19 instrument. The undivided interest in the property owned in
20 common held by each such unit owner as aforesaid, shall be
21 equal to the percentage of the undivided interest of such
22 owner in the common areas and facilities.

1 SECTION 37. Said chapter 183A is hereby amended by add-
2 ing as section 20 thereof the following paragraph:—

3 All unit owners, tenants of such owners, employees of such

4 owners and tenants, or any other persons who may in any
5 manner use a condominium or any part thereof shall be
6 subject to this chapter and to the master deed or lease and
6 by-laws and any administrative rules and regulations adopted
7 pursuant thereto.