

SENATE No. 1743

By Mr. Olver, a petition (accompanied by bill, Senate, No. 1743) of John W. Olver and James G. Collins (by vote of the town) for legislation relative to the regulation of condominium and cooperative conversion in the town of Amherst. Housing and Urban Development.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-two.

AN ACT RELATIVE TO THE REGULATION OF CONDOMINIUM AND
COOPERATIVE CONVERSION IN THE TOWN OF AMHERST.

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. As used in this act the following terms shall
2 have the following meanings: —
3 “board”: the Board of Selectmen.
4 “condominium unit”: a unit of a condominium, as defined
5 in Chapter 183A of the General Laws.
6 “cooperative unit”: a unit of a cooperative, as defined in
7 Chapter 157 of the General Laws.
8 “condominium conversion”: the sale, of a condominium unit
9 in a building, by the owner of said building.
10 “cooperative conversion”: the execution of a lease, of a
11 cooperative unit in a building, with an owner of shares of
12 stock in the corporation which owns the building.

1 SECTION 2. This act shall apply to all buildings located with-
2 in the town which contain two or more units of rental hous-
3 ing, whether or not said units are occupied. However, no unit
4 once lawfully converted to a condominium or cooperative,
5 and lawfully occupied by its owner, thereafter shall be gov-
6 erned by this act. Notwithstanding section 4 (A) hereof, this
7 act shall not apply to units as to which master deeds have
8 been filed prior to the effective date of this act.

1 SECTION 3. A. No condominium or cooperative conversion
2 permitted in the town except pursuant to a conversion permit

3 granted under subsections (B) and (C) hereof. No owner of
4 a condominium unit shall occupy said unit, and no owner of
5 stock in a cooperative corporation shall occupy a unit in a
6 building owned by said corporation, unless a conversion per-
7 mit covering said unit has been granted.

8 B. When the vacancy rate for rental units in the town
9 exceeds five per cent, a building owner may apply to the
10 Board for a permit to convert said building to condominiums
11 or cooperatives. When the vacancy rate is equal to or lower
12 than five per cent, a building owner may not apply for a
13 permit unless the financial and other circumstances are such
14 that a prohibition of conversion would constitute unconstitu-
15 tional confiscation of the owner's property. When such an ap-
16 plication is made, the Board before granting a permit shall be
17 required to make an explicit finding that denial of a permit
18 would constitute such confiscation.

19 C. The Board shall consider at least the following factors
20 in determining whether to grant or deny a conversion permit
21 for a building: —

22 (1) the impact of the proposed conversion upon the tenants
23 sought to be protected by this act, upon the availability of
24 rental housing of comparable type, quality and cost in the
25 town and upon the overall availability of rental housing in
26 the town;

27 (2) the ease or difficulty with which the affected tenants
28 could find alternative rental housing in the town of compar-
29 able type, quality and cost;

30 (3) any efforts to mitigate the impact of the proposed con-
31 version upon the affected tenants, including but not limited to,
32 guaranteed rights to remain as tenants for a fixed period, full
33 or partial reimbursement or moving expenses and other costs
34 of finding alternative rental housing, and the procurement by
35 the building owner for the tenants of alternative rental hous-
36 ing in the town of comparable type, quality and cost;

37 (4) the physical condition of the housing involved, and
38 the financial viability of the building maintained as rental
39 housing;

40 (5) whether, for how long, and why a unit or units in the
41 building have been vacant; and

42 (6) the age, financial status, and health of the affected ten-
43 ants, and the lengths of their tenancies;

44 (7) the degree of conversion within the building already
45 effectuated prior to the effective date of this act.

46 D. The Board shall have the power to issue such orders
47 and enact such regulations as it may deem necessary to ef-
48 fectuate the purposes of this act, and to prescribe the pro-
49 cedure for filing applications for conversion permits, giving
50 notice of applications, holding public hearing upon applica-
51 tion, and rendering decisions upon applications. The Board
52 may impose a reasonable filing fee for applications.

53 E. The Board shall determine the vacancy rate for rental
54 units in the town, using what source or sources of statistical
55 data it determines to be appropriate.

56 F. Tenants of units converted, or to be converted, or pro-
57 posed to be converted, may not be evicted, for the purpose of
58 permitting renovation or rehabilitation of said units, or for
59 the purpose of permitting occupancy of said units by pur-
60 chasers, for nine months after the date of application for a
61 conversion permit, or six months after the date of granting of
62 a conversion permit, whichever is longer. It shall be unlawful
63 to commit any acts of harassment against tenants, to fail to
64 make necessary repairs or provide required services, or to seek
65 unreasonable increases in rents, for or during said period, for
66 the purpose of seeking to induce tenants to vacate units.

67 G. A tenant shall have the right of first refusal to pur-
68 chase the unit in which he or she lives.

69 H. An application for a conversion permit shall be accom-
70 panied by a written plan setting forth an orderly process for
71 the conversion, and a description of the governing process by
72 which the owners' association or cooperative corporation shall
73 exercise its responsibilities during and after the conversion.

74 I. An application for a conversion permit shall cover all
75 units in a building; however, the Board may in the exercise
76 of its discretion under subsection (C) hereof condition the
77 grant of the conversion permit upon the building owner mak-
78 ing special provisions for certain units and the tenants thereof.

79 J. No conversion permit shall be granted unless the build-
80 ing has been certified by an independent, licensed engineer or

81 architect to meet all applicable building and health codes
82 of the town and commonwealth.

83 K. Any building owner who files a condominium master
84 deed shall notify the Board in writing within ten days of such
85 filing.

1 SECTION 4. Should any provision hereof, or its application
2 to any person or circumstance, be determined to be invalid,
3 that invalidity shall not affect the validity of any other pro-
4 vision or application hereof.

1 SECTION 5. Any person who violates this act shall be pun-
2 ished by a fine of fifty dollars per offense. Each day during
3 which a unit is illegally converted or occupied and each day
4 after which an illegal conversion takes place, shall constitute
5 a separate offense, and the conversion of multiple units in a
6 building shall constitute multiple offenses. The Board may en-
7 force this act in a court of competent jurisdiction, and may
8 obtain appropriate injunctive relief to enforce this act in a
9 civil action. Any person aggrieved by a failure to comply with
10 this act may enforce its provisions in a civil action for in-
11 junctive relief.

1 SECTION 6. This act shall take effect upon its passage.