HOUSE . . . . . No. 3681

By Messrs. Rogers of Framingham and Cusack of Arlington, petition of Andrew J. Rogers, Jr., and John F. Cusack for legislation to provide procedures for the conversion of residential property to condominiums and to ensure protection of existing tenants. Housing and Urban Development.

The Commonwealth of Massachusetts

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

AN ACT TO ENSURE PROTECTION FOR EXISTING TENANTS AND TO PROVIDE PROCEDURES FOR THE CONVERSION OF RESIDENTIAL PROPERTY TO CREATE CONDOMINIUMS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Declaration Of Purpose. The general court finds and declares that a serious and prolonged public emergency exists within the Commonwealth with respect to housing a substantial number of the citizens of the Commonwealth. This housing emergency has been created by the lack of new housing production, especially rental housing, by prolonged increases in housing costs at a rate exceeding increases in personal income, by housing demolition, by increased costs of construction and finance, and by increased residential mortgage interest rates. This emergency is being severely aggravated in many areas by the effect of conversion of rental housing into condominiums, which absent production of new rental housing necessarily reduces the stock of rental housing otherwise available. A substantial and increasing shortage of rental housing accommodations for persons of all incomes, but especially for the elderly on fixed incomes, and low and moderate income families, has been and will continue to be the result of the emergency. This emergency has a severe impact upon the right of citizens of the Commonwealth to decent, safe, and sanitary hous-

ing. 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 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 living on fixed incomes and families of low and moderate income. It is necessary that such emergency be met by the Commonwealth immediately.

SECTION 2. Section one of chapter 183A of the General Laws, as most recently amended by sections one and two of chapter 709 of the Acts of 1972, is hereby amended by adding the following new definitions: —

Low or moderate income tenant — persons whose net annual income is less than eighty percent of the median income for the area as set forth in regulations promulgated from time to time by the Federal Department of Housing and Urban Development pursuant to section eight of the Housing Act of 1937, as added by the Housing and Community Development Act of 1974.

Low or moderate income elderly tenant — persons who have reached the age of sixty-two or over whose annual net income is less than eighty percent of the median income for the area as set forth in regulations promulgated from time to time by the Federal Department of Housing and Urban Development pursuant to section eight of the Housing Act of 1937, as added by the Housing and Community Development Act of 1974.

SECTION 3. Chapter 183A of the General Laws is hereby amended by deleting section 2, as added by section one of chapter 493 of the Acts of 1963, and inserting in place thereof the following new section: —

Section 2. Application of this Chapter. The creation of a condominium shall be governed by and subject solely to the provisions of this chapter. Any owner or owners of real property proposing to create a condominium shall submit a notice of intent to do so to the planning board or department in the city or town in which the real property is located not more than one year prior to the execution or recording of a master deed as prescribed herein in the

12 registry of deeds for the county in which such real property is
13 located. The provisions of this chapter shall be deemed to consti-
14 tute the full force and extent of law with respect to the creation of a
15 condominium.

1 SECTION 4. Chapter 183A of the General Laws is hereby
2 amended by deleting section 16, as most recently amended by
3 chapter 554 of the Acts of 1973, and inserting in place thereof the
4 following new section: —
5 *Section 16.* Submission of registered property to this Chapter.
6 The owners of real property intending to create a condominium on
7 land all of which is registered under the provisions of chapter one
8 hundred and eighty-five, shall file a master deed under the provi-
9 sions of said chapter. If a portion of the land is registered land
10 under said chapter one hundred and eighty-five, a recording of a
11 master deed in the registry of deeds of the whole shall be sufficient
12 grounds for withdrawal of registered land from the provisions of
13 chapter one hundred and eighty-five.

1 SECTION 5. Chapter 183A of the General Laws is hereby
2 amended by adding after section 21, as added by section 3 of
3 chapter 709 of the Acts of 1972, the following new section:—
4 *Section 22.* Procedures for conversion of residential property
5 to create a condominium.
6 No real property used for residential purposes may be converted
7 to create a condominium unless and until (i) a notice of intent has
8 been submitted to the planning board or department in the city or
9 town in which the real property is located, a copy of which shall
10 also be given at the time of such submission to all persons who are
11 tenants of the building or buildings located on the real property;
12 and (ii) the owners or owners of the real property execute and
13 acknowledge a certificate which shall be attached to and made a
14 part of the master deed and which states that said owner or owners
15 prior to the execution of any agreement for the sale of the unit,
16 have given a copy of the notice of intent to all persons who were
17 tenants of the building or buildings located on the real property on
18 the date of notice of intent was submitted to the planning board or
19 department.

20 Such notice of intent shall clearly and conspicuously state, in
21 addition to the name of the owner or owners of the real property,
22 the number of dwelling units in the building or buildings located on
23 the real property, the number of such units currently occupied by
24 tenants, and the following: (i) that any tenant of the building or
25 buildings located on the real property on the date the notice of
26 intent was given shall have a period of six months from the date of
27 receipt of such notice before the tenant shall be required to vacate
28 the premise; provided, that if such tenant is a low or moderate
29 income tenant he shall have a twelve month period from the date of
30 receipt of such notice before he is required to vacate the premise;
31 (ii) that any tenant of the building or buildings located on the real
32 property on the date the notice of intent was given shall have a
33 period of one hundred and twenty days from the date of receipt of
34 such notice to purchase his unit; provided, that in the case of a low
35 or moderate income tenant who is seeking to purchase the unit
36 through a governmental assistance program such period may be
37 extended by mutual agreement of the tenant and the owner or
38 owners of real property; (iii) that there be no eviction of a low or
39 moderate income elderly tenant located on the real property on the
40 date the notice of intent was given.
41 Any tenant who was a tenant as of the date of the notice of intent
42 and whose tenancy expires (other than for cause) prior to the
43 expiration of the six months from the date on which a copy of the
44 notice of intent was given to the tenant shall have the right to
45 extend his tenancy on the same terms and conditions and for the
46 same rental until expiration of such six month period by giving
47 written notice thereof to the owner or owners of the real property
48 within thirty days of the date upon which a copy of the notice of
49 intent was given to the tenant by the owner or owners of the real
50 property.
51 Any tenant of the building or buildings located on the real
52 property shall be given the right to purchase his unit as prescribed
53 in the notice of intent on substantially the same or more favorable
54 terms and conditions as set forth in a duly executed purchase and
55 sales agreement which will be used for the sale of such unit, which
56 agreement shall conspicuously disclose the existence of, and shall
57 be subject to the tenant's right of first refusal. The tenant may

exercise the right of first refusal to purchase his unit by executing the purchase and sale agreement prior to the expiration of the one hundred and twenty day period set forth in the notice of intent.

Any notice provided for in this section shall be deemed given or submitted when a written notice is delivered in person or mailed, certified or registered mail return receipt requested, to the party who is being given notice.

Units offered for sale which are occupied by a tenant at the time of the offer shall be shown to prospective purchasers only a reasonable number of times and at appropriate hours. Such units may only be shown to prospective purchasers during the last ninety days of an expiring tenancy.

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

Section 23. No eviction for existing low or moderate income elderly tenants of residential property being converted to create a condominium.

Any of the dwelling units of any real property used for residential purposes to be converted to a condominium which is occuped by one or more low or moderate income elderly tenants at the time the notice of intent to create a condominium is submitted to the planning board or department pursuant to section twenty-two shall be retained by the owner or owners of the real property as rental units for the purposes of ensuring the continued occupancy of said low or moderate income elderly tenants. The rental due for such units shall be increased over the rental paid in the year prior to said notice of intent only in accordance with and in the same proportion to increases in social security and supplemental security income (SSI) payments. The share of the common expenses paid by the owner or owners of such units to the organization of unit owners shall be equal to twenty percent of the rent, notwithstanding the provisions of section six, so long as said unit continues to be occupied by said low or moderate income elderly tenant. The difference between the share of the common expenses for such units as provided in section six and twenty percent of the rent shall be considered a common expense.

SECTION 7. Chapter 183A of the General Laws is hereby further amended by adding the following new section:—

Section 24. Regulation by cities or towns. If the number of dwelling units available for rent for residential purposes in a city or town is reduced by ten percent or more as the result of the conversion of existing real property used for residential purposes in the city or town excluding dwelling units in housing which a government or a charitable or educational institution owns, operates, finances, or subsidizes, to create a condominium, the city or town may adopt an ordinance or bylaw by a majority vote of a special or annual town meeting, or by a majority vote of the city council, whichever is applicable, requiring that any further proposed conversions shall obtain a special permit from the planning board or department prior to such conversion. The ordinance or bylaw shall establish procedures and criteria for the issuance or denial of such a special permit, which procedures and criteria may be recommended to the town meeting or the city council by the planning board or department.

SECTION 8. Section 38 of chapter 59 of the General Laws, as most recently amended by Section One of Chapter 576 of the Acts of 1978, is hereby further amended by adding at the end of the first paragraph the following new words: — , in the case of a rental unit provided for in Section 23 of Chapter 183A such fair cash valuation shall be based upon a capitalization of income derived from such unit for the fiscal year immediately prior to the submission of a notice of intent as provided in Section 22 of Chapter 183A to create a condominium.

SECTION 9. Section 51C of chapter 167 of the General Laws, as most recently amended by Chapter 74 of the Acts of 1974, is hereby amended by adding at the end thereof the following new sentence: — The value used in determining the amount of such loans secured by first mortgages on units of a condominium shall be the market value of such units, notwithstanding any discount provided to existing tenants.

SECTION 10. The provisions of Section 3 of this act which require the filing of a notice of intent with the planning board or department of the city or town where land proposed for submission to the provisions of this chapter is located and the provisions of

5 Sections 5 and 6 of this act shall be effective only in those cities or
6 towns which accept the provisions thereof by a majority vote of an
7 annual or special town meeting, or town council, or by a majority
8 vote of the city council at a regular meeting thereof, whichever is
9 applicable.