

By Mr. Cusack of Arlington, petition of Byron J. Matthews and John F. Cusack relative to the protection of existing tenants and to provide procedures for the conversion of residential property to create condominiums. Urban Affairs

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

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:

1 SECTION 1. Section one of chapter 183A of the General Laws,
2 as most recently amended by sections one and two of chapter 709 of
3 the Acts of 1972, is hereby amended by adding the following new
4 definitions: —

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

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

1 SECTION 2. Chapter 183A of the General Laws is hereby
2 amended by deleting section 2, as added by section one of chapter

3 493 of the Acts of 1963, and inserting in place thereof the following
4 new section: —

5 *Section 2.* Application of this Chapter.

6 The creation of a condominium shall be governed by and subject
7 solely to the provisions of this chapter. Any owner or owners of real
8 property proposing to create a condominium shall submit a notice
9 of intent to do so to the planning board or department in the city or
10 town in which the real property is located not more than one year
11 prior to the execution or recording of a master deed as prescribed
12 herein in the registry of deeds for the county in which such real
13 property is located. The provisions of this chapter shall be deemed to
14 constitute the full force and extent of law with respect to the creation
15 of a condominium.

1 SECTION 3. 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
7 on 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 under
10 said chapter one hundred and eighty-five, a recording of a master
11 deed in the registry of deeds of the whole shall be sufficient grounds
12 for withdrawal of registered land from the provisions of chapter one
13 hundred and eighty-five.

1 SECTION 4. Chapter 183A of the General Laws is hereby
2 amended by adding after section 21, as added by section 3 of chapter
3 709 of the Acts of 1972, the following new section: —

4 *Section 22.* Procedures for conversion of residential property to
5 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 also
10 be given at the time of such submission to all persons who are tenants

11 of the building or buildings located on the real property; and (ii) the
12 owner or owners of the real property executes and acknowledges a
13 certificate which shall be attached to and made a part of the master
14 deed and which states that said owner or owners prior to the
15 execution of any agreement for the sale of the unit, has given a copy
16 of the notice of intent to all persons who were tenants of the building
17 or buildings located on the real property on the date the notice of
18 intent was submitted to the planning board or department.

19 Such notice of intent shall clearly and conspicuously state in
20 addition to the name of the owner or owners of the real property, the
21 number of dwelling units in the building or buildings located on the
22 real property, the number of such units currently occupied by
23 tenants, and the following: (i) that any tenant of the building or
24 buildings located on the real property on the date the notice of intent
25 was given shall have a period of six months from the date of receipt of
26 such notice before the tenant shall be required to vacate the premise;
27 provided, that if such tenant is a low or moderate income tenant he
28 shall have a twelve month period from the date of receipt of such
29 notice before he is required to vacate the premise; (ii) that any
30 tenant of the building or buildings located on the real property on
31 the date the notice of intent was given shall have a period of one
32 hundred and twenty days from the date of receipt of such notice to
33 purchase his unit; provided, that in the case of low or moderate
34 income tenant who is seeking to purchase the unit through a
35 governmental assistance program such period may be extended by
36 mutual agreement of the tenant and the owner or owners of the real
37 property; (iii) that in the case of a low or moderate income elderly
38 tenant of the building or buildings located on the real property on
39 the date the notice of intent was given such tenants shall be entitled to
40 continue to rent his unit as a life-tenant.

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 extend
45 his tenancy on the same terms and conditions and for the same rental
46 until expiration of such six month period by giving written notice
47 thereof to the owner or owners of the real property within thirty days
48 of the date upon which a copy of the notice of intent was given to the

49 tenant by the owner or owners of the real property.

50 Any tenant of the building or buildings located on the real
51 property shall be given the right to purchase his unit as prescribed in
52 the notice of intent on substantially the same or more favorable
53 terms and conditions as set forth in a duly executed purchase and
54 sales agreement which will be used for the sale of such unit, which
55 agreement shall conspicuously disclose the existence of, and shall be
56 subject to the tenant's right of first refusal. The tenant may exercise
57 the right of first refusal to purchase his unit by executing the purchase
58 and sales agreement prior to the expiration of the one hundred and
59 twenty day period set forth in the notice of intent.

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

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

1 SECTION 5. Chapter 183A of the General Laws is hereby
2 further amended by adding the following new section: —

3 *Section 23.* Life-tenancy for existing low or moderate income
4 elderly tenants of residential property being converted to create a
5 condominium.

6 Any of the dwelling units of any real property used for residential
7 purposes to be converted to a condominium which is occupied by
8 one or more low or moderate income elderly tenants at the time the
9 notice of intent to create a condominium is submitted to the
10 planning board or department pursuant to section twenty-two shall
11 be retained by the owner or owners of the real property as rental
12 units for the purposes of ensuring the continued occupancy for the
13 term of their natural lives of said low or moderate income elderly
14 tenants. The rental due for such units shall be increased over the
15 rental paid in the year prior to said notice of intent only in
16 accordance with and in the same proportion to increases in social
17 security and supplemental security income (SSI) payments. The
18 share of the common expenses paid by the owner or owners of such
19 units to the organization of unit owners shall be equal to twenty

20 percent of the rent, notwithstanding the provisions of section six, so
21 long as said unit continues to be occupied by said low or moderate
22 income elderly tenant. The difference between the share of the
23 common expenses for such units as provided in section six and
24 twenty percent of the rent shall be considered a common expense.

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

3 *Section 24. Regulation by cities or towns.*

4 If the number of dwelling units available for rent for residential
5 purposes in a city or town is reduced by ten percent or more as the
6 result of the conversion of existing real property used for residential
7 purposes in the city or town to create a condominium, the city or
8 town may adopt an ordinance or bylaw by a majority vote of a
9 special or annual town meeting, or by a majority vote of the city
10 council, whichever is applicable, requiring that any further pro-
11 posed conversions shall obtain a special permit from the planning
12 board or department prior to such conversion. The ordinance or
13 bylaw shall establish procedures and criteria for the issuance or
14 denial of such a special permit, which procedures and criteria may be
15 recommended to the town meeting or the city council by the
16 planning board or department.

1 SECTION 7. Section 38 of chapter 59 of the General Laws, as
2 most recently amended by section one of chapter 576 of the Acts of
3 1978, is hereby further amended by adding at the end of the first
4 paragraph the following new words: — , in the case of a rental unit
5 provided for in section 23 of chapter 183A such fair cash valuation
6 shall be based upon a capitalization of income derived from such
7 unit for the fiscal year immediately prior to the submission of a
8 notice of intent as provided in section twenty-two of chapter 183A to
9 create a condominium.

1 SECTION 8. Section 51C of chapter 167 of the General Laws, as
2 most recently amended by chapter 74 of the Acts of 1974, is hereby
3 further amended by adding at the end thereof the following new
4 sentence: — The value used in determining the amount of such loans
5 secured by first mortgages on units of a condominium shall be the
6 market value of such units, notwithstanding any discount provided
7 to existing tenants.

