

**Chapter 708. AN ACT REGULATING THE LIABILITY OF REPRESENTATIVES OF THE STATE LONG TERM CARE OMBUDSMAN PROGRAM.**

*Be it enacted, etc., as follows:*

Chapter 19A of the General Laws is hereby amended by inserting after section 33 the following section:-

Section 33A. Neither the state long term care ombudsman, or his designees, any employee of a designated local ombudsman program working directly for such designee, nor any local ombudsman certified by the department in accordance with section twenty-nine and acting for a designated local ombudsman program, whether on a compensated or volunteer basis shall be liable in any civil or criminal action by reason of the good faith performance of his official duties.

No person shall willfully interfere with a representative of the state long term care ombudsman program in the good faith performance of his official duties as defined in regulations of the executive office of elder affairs. For the purposes of this section a representative of the state long term care ombudsman program shall include the state long term care ombudsman, his designees, employees of a designated local ombudsman program working directly for such designee, and any certified local ombudsman. In the event that such willful interference occurs, the state long term care ombudsman may petition the superior court department to enjoin such interference, and grant appropriate relief.

No long term care facility or other entity shall retaliate against any resident or employee of such facility or entity who in good faith filed a complaint with, or provided information to the state long term care ombudsman, his or her designees, or any certified local ombudsman. A long term care facility which retaliates against such resident or employee for having filed a complaint with, or having provided information to the state long term care ombudsman, his or her designee, or any certified local ombudsman shall be liable to the person so retaliated against by a civil action for up to treble damages, costs, and attorneys fees.

Approved January 12, 1990.

**Chapter 709. AN ACT FURTHER REGULATING CONDOMINIUM CONVERSIONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The definition of "Condominium or cooperative conversion

eviction” in section 3 of chapter 527 of the acts of 1983 is hereby amended by adding the following paragraph:-

For purposes of this definition, the word “eviction” shall include, without limitation, any action by an owner of a housing accommodation which causes substantial deprivation of a tenant’s beneficial use of such housing accommodation, materially impairs such tenant’s beneficial enjoyment of such housing accommodation, or is intended to compel such tenant to vacate or to be constructively evicted from such housing accommodation. An eviction shall be presumed to be a condominium or cooperative conversion eviction if the owner has the intent to convert, as defined herein.

**SECTION 2.** Said section 3 of said chapter 527 is hereby further amended by inserting after the definition of “Condominium or cooperative conversion eviction” the following definition:-

“Convert”, the initial offer, in any manner, for sale and transfer of title to any residential unit as one or more condominium units pursuant to an individual unit deed or deeds or, in the case of a cooperative, an individual proprietary lease or leases.

**SECTION 3.** The definition of “Housing accommodation” in said section 3 of said chapter 527 is hereby amended by striking out, in line 1, the word “, structure” and inserting in place thereof the following words:- or buildings, structure or structures.

**SECTION 4.** Said definition of “Housing accommodation” in said section 3 of said chapter 527 is hereby further amended by striking out clause *(iii)* and inserting in place thereof the following clause:-

*(iii)* buildings containing fewer than four residential units, except for buildings which are part of a housing development as defined herein.

**SECTION 5.** Said section 3 of said chapter 527 is hereby further amended by inserting after the definition of “Housing accommodation” the following two definitions:-

“Housing development”, two or more adjacent, adjoining, or contiguous buildings under common legal or beneficial ownership which are used in whole or in part for residential purposes, and which contain four or more units.

“Intent to convert”, the intent to make the initial sale and transfer of title to a residential unit as one or more condominium or cooperative units pursuant to an individual unit deed or deeds, or, in the case of a cooperative, a proprietary lease or leases. Factors which shall be considered in determining whether an owner has the intent to convert are:

*(i)* a master deed or articles of organization for the housing accommodation has been prepared or recorded;

*(ii)* the owner of the housing accommodation has prepared or is in the process of preparing a purchase and sale agreement for the sale of any unit as a condominium or cooperative unit;

(iii) the owner has advertised for sale any unit in the housing accommodation as a condominium or cooperative unit;

(iv) the owner has shown to any prospective purchaser a unit in the housing accommodation for the sale of such unit as a condominium or cooperative unit;

(v) the owner has made any communication, written or oral, to any person residing in the housing accommodation expressly indicating an intent to sell any unit as a condominium or cooperative unit;

(vi) the owner has had any unit in the housing accommodation measured or inspected to facilitate the sale of the unit as a condominium or cooperative unit; and

(vii) the owner has had the land surveyed, an engineering study performed or architectural plans prepared for the purpose of converting such housing accommodation into one or more condominium or cooperative units.

**SECTION 6.** Said section 3 of said chapter 527 is hereby further amended by inserting after the definition of "Low or moderate income tenant" the following definition:-

"Owner", a person who holds title in any manner to a building or housing accommodation, including without limitation, a corporation, partnership or trust, and an employee, agent, servant or other representative of such owner.

**SECTION 7.** Said section 3 of said chapter 527 is hereby further amended by adding the following definition:-

"Unit" or "residential unit", the room or group of rooms within a building which is used or intended for use as a residence by one household.

**SECTION 7A.** Clause (i) of paragraph (a) of section 4 of chapter 527 of the acts of 1983 is hereby amended by striking out the words "or intends to file", each time it appears.

**SECTION 8.** Clause (ii) of paragraph (a) of section 4 of said chapter 527 is hereby amended by striking out, in line 2, the words "building or buildings" and inserting in place thereof the words:- unit or units.

**SECTION 9.** Said paragraph (a) of said section 4 of said chapter 527 is hereby further amended by striking out clause (iii) and inserting in place thereof the following two clauses:-

(iii) that any tenant residing on the date of notice of intent is given in a unit to be converted shall have a period of time, which shall be stated in the notice as authorized by this act, to purchase such unit occupied by the tenant on the date such 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);

(iv) a statement of the rights and obligations specified in paragraphs (c), (d) and (e).

**SECTION 10.** Said paragraph (a) of said section 4 of said chapter 527 is hereby

further amended by inserting after the first paragraph the following paragraph:-

If the owner of a housing development intends to convert the buildings in such housing development to the condominium or cooperative form of ownership, but intends to sell or offer for sale units in only a portion of the buildings in such development within one year after the owner forms the intent to convert such development, the owner shall give to each tenant in any unit which he does not intend to sell or offer for sale within such one year period, a notice which informs such tenant of the date when the owner reasonably expects to offer for sale or sell such unit. Thereafter, the owner shall give to each such tenant the notice of intent to convert as required by the first sentence of this paragraph.

**SECTION 11.** Said paragraph (a) of said section 4 of said chapter 527 is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

All notices required under this section, except as otherwise provided in this paragraph, regarding certain housing developments, shall be given to tenants at the time the owner of a building or housing development converts any part of such property and 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.

**SECTION 12.** Said paragraph (a) of said section 4 of said chapter 527 is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

No person shall seek or conduct a condominium or cooperative eviction until the expiration of the periods of time for notice to tenants specified in this act.

**SECTION 13.** Paragraph (b) of said section 4 of said chapter 527 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any owner of a residential unit who converts such unit to the condominium or cooperative form of ownership shall give to any tenant who is entitled to receive the notice of intent to convert as required by the first sentence of paragraph (a) 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.

**SECTION 14.** Paragraph (c) of said section 4 of said chapter 527 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The owner, as of the date the tenant vacates the unit, of a unit converted to the condominium or cooperative form of ownership shall pay to any tenant of such unit who is entitled to receive notice of the owner's intent to convert as required by the first sentence of paragraph (a) 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, however, 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.

**SECTION 15.** The second sentence of said paragraph (c) of said section 4 of said chapter 527 is hereby amended by striking out, in lines 9 and 10, the words "for which recovery of possession is sought".

**SECTION 16.** Said section 4 of said chapter 527 is hereby further amended by striking out paragraph (d) and inserting in place thereof the following paragraph:-

(d) Any owner of a condominium or cooperative unit during the period of the notice authorized by this section 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 tenants resides which rents for at least the remainder of the notice period, 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 until the owner locates such comparable rental, housing, or two additional years, whichever occurs first.

**SECTION 17.** Paragraph (e) of said section 4 of said chapter 527 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any owner of a unit converted to the condominium or cooperative form of ownership as of the expiration date of the rental agreement for the tenant of such unit, shall give to any tenant of such unit who is entitled to receive a notice of intent to convert as required by the first sentence of this paragraph, an extension of such rental agreement until the expiration of the notice period or ninety day right to purchase period, whichever is later.

**SECTION 18.** Said paragraph (e) of said section 4 of said chapter 527 is hereby further amended by striking out the third sentence and inserting in place thereof the following two sentences:- The provisions of such rental agreement may not otherwise be modified by the property owner except with respect to the amount of annual rent. The total increase in rent for any one year during the period of notice 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 of receipt of the notice of intent to convert, or ten percent, whichever is less; provided, however, that nothing herein shall limit the right of a property owner to any amounts which may be due under a valid tax escalation clause.

**SECTION 19.** Said section 4 of said chapter 527 is hereby further amended by adding the following paragraph:-

(f) The rights specified in paragraphs (a), (b), (c), (d) and (e) for tenants in a building or housing development, except as otherwise provided in paragraph (a) regarding certain housing developments, shall vest with such tenants at the time that the owner converts any unit in such property to the condominium or cooperative form of ownership.

**SECTION 20.** Section 5 of said chapter 527 is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The district and superior courts, and the housing courts in the commonwealth, 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 21.** Said chapter 527 is hereby further amended by adding the following section:-

*Section 8.* If a tenant who is entitled to receive the notice of intent to convert as required by section four vacates the residential unit before the initial sale and transfer of title to the residential unit as a condominium unit has occurred, then the owner of the building or housing development shall give each prospective tenant of the residential unit written notice, prior to the inception of the tenancy, which informs the prospective tenant that the unit is a condominium unit and if applicable, that the unit is currently being offered for sale or will be offered for sale within ninety days of the inception of the tenancy.

**SECTION 22.** Section 22 of chapter 183A of the General Laws, as appearing in the 1986 Official Edition, is hereby amended by inserting after the word "owners", in line 3, the words:- and to the tenants.

Approved January 12, 1990.

## **Chapter 710. AN ACT RELATIVE TO MUNICIPAL SEWER CONTRACTS.**

*Be it enacted, etc., as follows:*

Section 4 of chapter 40 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

For the construction of sewers, sewage systems and sewage treatment and disposal facilities, for making connections thereto and for the collection, treatment and disposal of septage and sewage, with one or more other governmental units as defined in section four A, or with private parties who own, use or operate such facilities for sewage and septage collection, treatment and disposal, for a period