

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 724

6  
7 H.P. 519

House of Representatives, February 26, 1985

8 Reference to the Committee on Legal Affairs suggested and ordered  
9 printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Beaulieu of Portland.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Protect Tenants Affected by  
18 Condominium Conversions.  
19

20 Be it enacted by the People of the State of Maine as  
21 follows:

22 Sec. 1. 33 MRSA §1604-111, sub-§(a), as enacted  
23 by PL 1981, c. 699, is repealed and the following en-  
24 acted in its place:

25 (a) A declarant of a condominium containing con-  
26 version buildings, and any person in the business of  
27 selling real estate for his own account, who intends  
28 to offer units in such a condominium shall give each  
29 of the residential tenants and any residential  
30 subtenant in possession of a portion of a conversion  
31 building notice of the conversion no later than 24  
32 months before and provide those persons with the pub-  
33 lic offering statement no later than 6 months before  
34 the declarant will require the tenants and any  
35 subtenant in possession to vacate. The notice must  
36 set forth generally the rights of tenants and

1 subtenants under this section and shall be hand de-  
2 livered to the unit or mailed by prepaid United  
3 States mail to the tenant and subtenant at the ad-  
4 dress of the unit or any other mailing address pro-  
5 vided by a tenant. No tenant or subtenant may be re-  
6 quired by the declarant to vacate upon less than 24  
7 months' notice, except by reason of nonpayment of  
8 rent, waste or conduct that disturbs other tenants'  
9 peaceful enjoyment of the premises. The terms of the  
10 tenancy may not be altered during that period, except  
11 that the rent charged to tenants receiving the  
12 24-month notice for any occupancy within that period  
13 shall be the rent charged at the time notice was  
14 given, subject to an annual adjustment equal to the  
15 percent of change occurring from the date of notice  
16 to the date of adjustment in the Consumer Price Index  
17 prepared by the United States Department of Labor,  
18 multiplied by the established rent at the time of the  
19 adjustment. Failure of a declarant to give notice as  
20 required by this section is a defense to an action  
21 for possession.

22 A life tenancy shall be offered to any of the tenants  
23 in occupancy 24 months before the declarant publicly  
24 or privately offers to convey any unit in the conver-  
25 sion building if the tenant did not receive the re-  
26 quired 24-month notice and at the time notice is re-  
27 quired under this subsection is:

28 (1) Sixty-five years of age or older or his  
29 household includes an occupant who is 65 years of age  
30 or older; or

31 (2) Severely handicapped or his household in-  
32 cludes an occupant who is severely handicapped.

33 This life tenancy must be offered in a written lease  
34 to be provided to the tenant. If the offer is ac-  
35 cepted, notice of the lease, in a form suitable for  
36 recording in the county registry of deeds, shall be  
37 delivered to the life tenant within a reasonable time  
38 after acceptance. This tenancy shall be terminable at  
39 will by the tenant and shall be at the rent being  
40 charged when the 24-month notice is given, subject to  
41 an annual adjustment equal to the percent of change  
42 occurring from the date of notice, or the last prior  
43 adjustment, to the date of adjustment in the Consumer

1 Price Index prepared by the United States Department  
2 of Labor, multiplied by the established rent at the  
3 time of the adjustment.

4 Sec. 2. 33 MRSA §1604-111, sub-§(f), as enacted  
5 by PL 1981, c. 699, is repealed and the following en-  
6 acted in its place:

7 (f) A declarant of a condominium containing con-  
8 version buildings located in a municipality with a  
9 population of 10,000 or more shall obtain condominium  
10 conversion approval before the sale of any unit. All  
11 requests for condominium conversion approval shall be  
12 reviewed by the municipal planning board, agency or  
13 office or, if none, by the municipal officers, re-  
14 ferred to in this subsection as the municipal review-  
15 ing authority.

16 (1) The municipal reviewing authority may, after  
17 a public hearing, adopt reasonable rules and criteria  
18 governing condominium conversions which shall control  
19 until amended, repealed or replaced by rules adopted  
20 by the municipal legislative body. The municipal re-  
21 viewing authority must give at least 7 days' notice  
22 of this public hearing.

23 The criteria adopted by the municipality includes,  
24 but is not limited to, the following: The current va-  
25 cancy rate for multi-family units in the municipality  
26 which may indicate the need for rental units; whether  
27 the denial of conversion approval would result in an  
28 extreme hardship to the applicant; whether the over-  
29 all benefits to the municipality or the neighborhood,  
30 resulting from the removal of the unit from rental  
31 housing use, exceed the harm to the rental housing  
32 market caused by the removal; and the protection and  
33 preservation of the public's health, safety and gen-  
34 eral welfare.

35 (2) Upon receiving an application for condomini-  
36 um conversion approval, the municipal reviewing au-  
37 thority shall issue a dated receipt to the applicant.  
38 Within 30 days after receiving an application, the  
39 municipal reviewing authority shall notify the appli-  
40 cant in writing either that the application is a com-  
41 plete application or, if the application is incom-  
42 plete, the specific additional material needed to

1 make a complete application. After the municipal re-  
2 viewing authority has determined that a complete ap-  
3 plication has been filed, it shall notify the appli-  
4 cant and begin its full evaluation of the condominium  
5 conversion.

6 If the municipal reviewing authority decides to hold  
7 a public hearing on an application for condominium  
8 conversion approval, it shall hold the hearing within  
9 30 days of its receipt of a completed application.  
10 The municipal reviewing authority must notify the ap-  
11 applicant of the date, time and place of the hearing  
12 and must also have that information published in a  
13 newspaper of general circulation in the municipality  
14 in which the proposed condominium conversion is lo-  
15 cated, at least 2 times, the date of the first publi-  
16 cation to be at least 7 days before the hearing.

17 The municipal reviewing authority shall, within 30  
18 days of a public hearing, or within 60 days of re-  
19 ceiving a completed application, if no hearing is  
20 held, or within such other time limit as may be oth-  
21 erwise mutually agreed to, issue an order denying or  
22 granting approval upon such terms and conditions as  
23 it may consider advisable to satisfy the criteria and  
24 other rules adopted by the municipal reviewing au-  
25 thority. In all instances, the burden of proof is  
26 upon the persons proposing the condominium conver-  
27 sions. In issuing its decision, the reviewing author-  
28 ity shall make findings of fact establishing that the  
29 proposed condominium conversion does or does not meet  
30 the reviewing authority's criteria. On all matters  
31 concerning condominium conversion review, the municip-  
32 al reviewing authority shall maintain a permanent  
33 record of all its meetings, proceedings and corre-  
34 spondence.

35 (3) Nothing in this Article, including section  
36 1601-106, may be construed to prohibit a municipality  
37 from enacting ordinances imposing more stringent  
38 standards than those contained in this section, or  
39 otherwise providing for the protection of tenants or  
40 the conversion of rental housing stock, including or-  
41 dinances controlling the number of housing units  
42 within a municipality that may be converted to the  
43 condominium form of ownership.

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STATEMENT OF FACT

2           This bill is intended to provide more protection  
3 to apartment dwellers from being displaced by a con-  
4 version of their apartment building to a condominium.  
5 The bill increases the present 120-day notice of con-  
6 version requirement to 24 months, which gives the  
7 current tenant a greater period of time to locate al-  
8 ternative living arrangements. It also requires the  
9 declarant of a condominium conversion to offer the  
10 condominium unit to the current tenant 6 months be-  
11 fore the apartment is vacated, rather than the  
12 present 120 days, which gives the tenant more time to  
13 consider the offer or arrange financing. The bill al-  
14 so requires the declarant of a condominium conversion  
15 to offer life tenancies to elderly or handicapped  
16 tenants who do not receive the required 24-month no-  
17 tice. This provision ensures that elderly or handi-  
18 capped tenants will receive the notice and have suf-  
19 ficient time to locate suitable alternative living  
20 arrangements or be guaranteed their present apartment  
21 at terms roughly equal to those at which they now  
22 rent.

23           Finally, the bill requires the approval of the  
24 municipal planning board or municipal officers before  
25 a rental building located in a municipality with a  
26 population of 10,000 or more could be converted to  
27 condominium use. Several criteria governing this ap-  
28 proval are set out, including:

- 29           1. The municipality's need for rental housing;
- 30           2. Whether a denial would result in extreme  
31 hardship to the applicant;
- 32           3. Whether the benefits of the conversion exceed  
33 the harm caused by the loss of rental units;
- 34           4. The protection of the general public's  
35 health, safety and welfare; and
- 36           5. Other reasonable rules adopted by the munici-  
37 pality.

1           This approval process will be conducted on an en-  
2           tirely local level. The only state involvement is the  
3           inclusion of the mandatory criteria which local re-  
4           viewing boards will have to apply.

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