

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

3081 S SA HB 1 (FILE 3) - HB 6 8672

NMRC Elects New Directors (continued)

Returning as Directors are:

TRAMMELL CROW
President
The Trammell Crow Co.
Dallas, TX

ERIC EICHLER
President
The Linpro Company
King of Prussia, PA

TED ENLOE
President
Lomas & Nettleton
Financial Corp.
Dallas, TX

RICHARD FORE
Partner
Lincoln Property Co.
Las Vegas, NV

NICHOLAS GOULETAS
Chairman
American Invsco Corp.
Chicago, IL

GARY HEDIGER
Executive Vice President
U.S. Shelter Corp.
Greenville, SC

WILLIAM KAPLAN
Executive Vice President
Libra Real Estate
Chicago, IL

W. PATRICK MCDOWELL
Executive Vice President
Fox & Carskadon Financial
Corp.
San Mateo, CA

HOWARD RUBY
Chairman
R&B Enterprises
Los Angeles, CA

RICHARD STEIN
President
Stein & Company
Chicago, IL

SAM ZELL
Chairman
Equity Financial &
Management Co.
Chicago, IL

Newly elected to the Board of Directors are **WILLIAM ELLIOTT, ROBERT A. MCNEIL, GENE PHILIPS, AND ABE GELBER.**

WILLIAM H. ELLIOTT, President and Director of the Managing General Partner of the Angeles Corporation in Los Angeles, California, became the Corporation's Chief Executive Officer in 1981 and has been a member of the Corporation's Board of Directors since 1971. He also serves as Chairman of the Board of Capital Real Estate Management Company; Chairman of the Board and Chief Executive Officer of First Diversified Investments, Inc.; Chief Executive Officer and Vice Chairman of the Board of First Pacific Advisors, Inc.; Chairman of the Board and Chief Executive Officer of MSW; and is an Allied Member of the New York Stock Exchange.



William Elliott, President, Angeles Corporation

ABE GELBER, President of Balcor Property Management, Inc., previously with Robert A. McNeil Corporation as Vice President, Real Estate. Prior to joining McNeil, Mr. Gelber was Vice President of First Office Management, Inc., management arm of Equity Financial & Management Company. From 1966 to 1977 Mr. Gelber served as Vice President of Arlen Realty Management, Inc. Mr. Gelber attended New York University.



Abe Gelber, President, Balcor Property Management, Inc.



Robert A. McNeil, Chairman, The Robert A. McNeil Corporation

ROBERT A. MCNEIL, Chairman of the Board of the Robert A. McNeil Corporation, San Mateo, California, was Chairman of the California Real Estate Association Legislative Committee of the Real Estate Securities and Syndication Institute (RESSI) during 1972, served as Governor (through 1975), and is currently a member of RESSI's National Syndication Forum. Mr. McNeil is a member of the Board of Governors of the National Center for Financial Education, Inc.; serves on the Policy Advisory Board of the Center for Real Estate and Urban Economics, the President's Council of the American Institute of Management, and is currently Vice Chairman of the California Housing Council.



Gene Phillips, Chairman, Southmark Corporation

GENE E. PHILLIPS, Chairman and President of Southmark Corporation located in Dallas, Texas, was Chairman of the Board of Syntek Corporation from 1977 until joining Southmark Corporation in 1980. Mr. Phillips also serves as President of American Realty Trust, Chairman of Novus Property Company, Chairman of Dominion Mortgage, and President and Chairman of North American Mortgage Investors.



NMHC Director Gary Hediger (far right) and Advisory Committee member Ron Berger at breakfast in the U.S. Capitol with Senator "Doc" Huddleston (left).



Chairman of the U.S. House of Representatives Subcommittee on Housing, Congressman Henry Gonzalez with Larry Simon, NMHC Legislative Counsel; Jeff Stack and Preston Butcher, NMHC Secretary and Co-chairman respectively (left to right).

NATIONAL MULTI HOUSING COUNCIL ADVISORY COMMITTEE APPOINTED

Co-chairmen Robert Sheridan and Preston Butcher and the National Multi Housing Council (NMHC) Board of Directors are pleased to announce the formation of the National Multi Housing Council Advisory Committee.

The Advisory Committee will add a new dimension to the legislative and policy making decisions of the National Multi Housing Council. We are indeed proud to welcome these dedicated individuals whose expertise and unique perspectives will greatly enhance the efforts of the Council explained Co-chairman, Preston Butcher.

Comprised of individuals and companies involved in all phases of the multifamily housing industry, the Committee will assist in drafting and promoting policies favorable to the multifamily housing industry at the federal, state and local levels, and opposing restrictive regulations on multifamily housing and condominium development.

The Advisory Committee had its first meeting with the Board of Directors in Washington, D.C. on February 28 and March 1. (See related story page 1)

Appointed to the Advisory Committee are:

California

Parker Kennedy
First American Title Ins. Co.
Gerson Bakar
Gerson Bakar & Associates
Robert Duerr
TransAmerica
Mort Friedkin
Friedkin-Becker
Rich Paoli
Founders Title Co.
Jean Hargrove
The Hargrove Intervivos Trust

Connecticut

Ron Walker
Aetna Life & Casualty

Florida

Tom Mahaffey
Coquina Key Arms

Illinois

Ronald Berger
The Berger Realty Group, Inc.

New York

Herb Grant
Integrated Resources, Inc.

Thomas Gochberg
Smith Barney Real Estate
Michael Futterman
Edlil Realty, Inc.
Charles Fox
Merrill Lynch-Hubbard, Inc.
Thomas E. O'Connor
Bear, Stearns & Company
William Moses
Community Housing Improvement Program
Daniel Rose
Rose Associates

Texas

Wayne Duddleston
Wayne Duddleston, Inc.
Harold Farb
Farb Investments
Robert Folsom
Folsom Investments, Inc.
Tom Freytag
Freytag, Marshall, Beneke, LaForce, Rubinstein & Stutzman
Harvey Huie
Huie Properties
Robert Urley
First Southwest Equity



Congressman Stewart McKinney (third from left) talking with Robert Miller, representing the Robert McNeil Company (far left), Ron Walker, of Aetna, and Senator John Heinz (right).



Happy Anniversary - Bob Sheridan, NMHC Co-chairman presents Steve Driesler, NMHC executive vice president a cake commemorating the completion of Driesler's first year at the Council.

In a recent court case in Massachusetts, another restrictive condominium ordinance was declared invalid. The case, *CHR General, Inc. (a condominium developer) vs. the City of Newton*, revolved around whether the City of Newton had the authority to regulate condominium conversions through its zoning authority. The City of Newton argued that its ordinance regulating condominium conversions was an extension of its independent zoning authority and, therefore, specific legislation from the state was not required.

CHR Inc. argued that regulation of condominium conversions does not fall within the scope of the zoning powers because zoning effects, and is concerned with, the *use* and not the *ownership* of property. The court concurred with the argument of CHR Inc., and ruled that the condominium ordinance was an invalid exercise of the city's zoning power and that to regulate condominium conversion, a city must seek enabling legislation from the Commonwealth of Massachusetts.

This ruling makes very clear, the distinction between *use* and *ownership* and greatly clarifies the relationship between zoning authority and condominium conversions.

MISSOURI

HB 177, which is substantially similar to the UCA, was introduced December 1, 1982, by Representative Shear. It was reported as "do pass" out of the Civil and Criminal Justice Committee on February 16.

NEBRASKA

HB 433, the UCA, has been introduced into the Nebraska State Legislature and is presently assigned to the Banking Committee.

SOUTH CAROLINA

HB 2226 and its Companion SB 102 are currently in the House Labor & Industry Committee. No hearings are scheduled to date. These bills are modified versions of HB 5289 offered last year.

The main provisions are:

- tenants have 120 days (as opposed to the previous bill's 180 days) or until lease expires, to move out if they choose not to buy. (This modification made at request of local developers).
- tenants have 60 days to decide to buy or refuse.
- no provisions for moving assistance payments.
- no special provision for disabled, elderly, or low-income tenants.
- exempts motels and other transient quarters.

RENT CONTROL UPDATE

CALIFORNIA

Officials in *STOCKTON* continue to oppose any form of rent control for the city. In December 1982, the Council rejected rent controls for the fourth time in 4 years.

Phase 3A: *Baker v. City of SANTA MONICA*. Los Angeles Superior Court Judge Richard A. Lavine issued a decision in December 1982, declaring the provision of the SANTA MONICA rent control law restricting the demolition of apartment buildings and related Rent Board regulations unconstitutional. The Judge stated that the injunction may be reconsidered if the Rent Control Board adopts new guidelines for determining general and individual rent adjustments for property owners.

DISTRICT OF COLUMBIA

The D.C. City Council approved a 90-day emergency measure in January 1983 that exempts owners of less than four condominiums used as rental units from the provisions of the City's rent control law. The legislation is expected to become law before the 90-day period expires.

GEORGIA

HB 594, was introduced into the Georgia's State Legislature in February 1983. The bill which would amend the Georgia Landlord and Tenant Law to provide that no county or municipal corporation may enact, maintain or enforce any ordinance or resolutions which would regulate rents had its second reading in the Judiciary Committee on February 15.

MASSACHUSETTS

On January 10, 1983, the Mayor of *BOSTON* signed into law a new rent control and condominium conversion ordinance that will remain in effect until December 1986. Under the rent control provisions, annual general adjustments in rents will be set by the Rent Grievance Board based upon the CPI and changes in property owner's operating costs; vacancy decontrol remains a part of the ordinance; individual rent increases must be approved by the Board. The new law also contains a "just cause eviction" provision.

Under the condominium provisions, property owners must notify tenants one year in advance of a conversion and pay relocation expenses of \$750 per tenant. Elderly, low-income, and handicapped tenants must be given 2 years with an additional 2 year extension to relocate and \$1,000 in relocation assistance.

The Board of Selectmen in *HOLYOKE* voted down a proposed rent control measure in January 1983.

MINNESOTA

SB 510 was introduced March 3, 1983, and is assigned to the Energy & Housing Committee with a hearing scheduled March 17, 1983. SB 510 would prohibit cities, counties and towns from adopting rent control.

HB 648 is the companion bill to SB 510. HB 648 was introduced by Jerry Schoenfeld 3-14-83 and assigned to the Local & Urban Affairs Committee, whose Chairman is Representative Glen Anderson. No hearings have been scheduled to date.

OREGON

HB 2563 introduced February 14, 1983, by the Housing Committee, would prohibit cities and counties from enacting or enforcing ordinances that limit rents which may be charged for dwellings. HB 2563 was assigned to the Judiciary Committee on February 18, and there are as of yet no hearings scheduled. Chairman of that Committee is Representative Hardy Myers.

SOUTH CAROLINA

HB 2049, introduced into the South Carolina Legislature on January 11, 1983, would limit rent increases on residential units to 10% in any 12 month period. This limitation would apply to owners of 5 or more units. HB 2049 is co-sponsored by Robert Woods and Theo Mitchell, and is presently in the Subcommittee on Real Estate of the Labor, Commerce and Industry Committee.



IS REAL ESTATE HIGH ON THE TAX INCREASE LIST?

Just when the multifamily housing industry is on the verge of economic recovery there are emerging those in Washington who seriously want to take "a few whacks out of the plentiful hide of the real estate industry sacred cow."

This quote was attributed to one Congressional expert in a recent *Washington Post* article by Ken Harney, one of the country's most respected real estate reporters. The Harney article emphatically points out that probable future actions on Capitol Hill could drastically affect real estate investment.

Just exactly what real estate tax changes will be proposed, and how serious their chances of passing remains to be seen. However, it is obvious that with the growing concern to reduce federal budget deficits there is increasing pressure to raise tax revenues.

Couple this growing pressure to raise revenues with the fact that there are those in the Reagan Administration as well as the Congress who sincerely, even if mistakenly, believe too much money is being invested in real estate at the expense of other forms of investment, and one has a sure formula for real estate tax "preferences" being high on the chopping block this year.

For example, the Joint Committee on Taxation has estimated more than \$13 billion could be raised in the next five years simply by extending the depreciation period for real estate from 15 to 20 years. Of course, this estimate does not mention the catastrophic effect such a change could have on real estate investment. Nevertheless, with members of Congress desperately looking everywhere for increased revenue this \$13 billion looks extremely inviting.

Articles like Ken Harney's and the increasing rumblings from Capitol Hill clearly indicate 1983 will be a very pivotal year for the multifamily housing industry. All present indications are that our industry is likely to come under serious attack as Congress and the Reagan Administration scramble to raise additional revenue and reduce the deficit.

As the 98th Congress begins consideration of the FY 84 Budget those of us in real estate in general and multifamily housing in particular must be prepared to mount a major effort to defend our industry from what could be disastrous changes in the tax law.

NEW MORTGAGE-BACKED SECURITIES PROGRAM

The Government National Mortgage Association (GNMA) will introduce a new mortgage-backed securities program called the GNMA II MBS Program in July 1983. The GNMA II Program will take advantage of technological improvements that have occurred since GNMA securities were introduced 15 years ago. The program is intended to function in addition to, not in place of, the existing mortgage-backed securities program.

The Government National Mortgage Association, as an agency of the federal government, facilitates the pooling of FHA/VA mortgages so they can be sold as securities to investors, and then guarantees the payment of principle and interest on those securities. Funds which result from the sale of these securities through the secondary market are used to make additional FHA/VA insured mortgages.

The key factors of the new program include a central paying and transfer agent to reduce administrative costs of the program. Previously, individual issuers paid the investors. Chemical Bank of New York has been selected as the central paying agent and will make monthly payments directly to those who have purchased GNMA securities. This is designed to encourage greater participation by both lenders and investors. GNMA II will allow individual mortgages with different interest rates to be included in the same multiplier issuer pool. The original program required all mortgages in a pool to have the same rate. The new program will also allow the lender/issuer to package these loans in pools of less than \$1 million which is the current requirement. This change enables smaller issuers to participate in the program. Another significant aspect of the new program is that investors will be paid on the 25th of each month.

The GNMA II program has some clear advantages over the already successful mortgage-backed securities program. Issuers should be able to more readily assemble mortgages to back securities because of the ability to include varying interest rates in the pool and the reduction of minimum package size.

STATUS REPORTS

CONDOMINIUM AND COOPERATIVE HOUSING

ARKANSAS

The Uniform Condominium Act (HB 298) introduced into the 1983 legislative session was assigned to the Judiciary Committee on February 17.

CALIFORNIA

San Francisco Mayor Dianne Feinstein vetoed a proposed moratorium on condominium conversions on January 4, 1983, but approved an ordinance that limits conversions to 200 per year. This limitation constitutes an 80% reduction in the number of conversions allowed under the ordinance previously in effect.

MASSACHUSETTS

STATE LEGISLATIVE UPDATE. Governor King, in the last days of his term in office, vetoed H6375 which would have granted to individual cities and towns the authority to promulgate their own local ordinances regulating condominium conversions.

CURRENT LAW AND LEGISLATIVE ACTIVITIES AFFECTING
CONDOMINIUM AND COOPERATIVE HOUSING

STATUS AS OF OCTOBER 10, 1981

NATIONAL MULTI HOUSING COUNCIL
1800 M STREET, N.W., SUITE 285-N
WASHINGTON, D.C. 20036
(202) 659-5381

INTRODUCTION

This report covers current laws and legislative proposals governing condominium and cooperative housing at the state and local levels as of October 10, 1981. The National Multi Housing Council welcomes comments on the accuracy of material contained in this report and information updating the status of condominium and cooperative housing activities around the United States.

In 1977 the National Conference of Commissioners on Uniform State Laws produced the Uniform Condominium Act (UCA) for consideration by all the states. This act is referred to in some of the state reports below. A summary of the UCA is provided at the beginning of this report for your information.

THE UNIFORM CONDOMINIUM ACT

The Uniform Condominium Act (UCA) is a comprehensive model statute drafted by the National Conference of Commissioners on Uniform State Laws in the mid-1970s, and approved at the annual meeting of the Conference in August 1977.

The laws governing condominiums in the 50 states are very diverse, and differ in their terminology, protection of tenants' rights, protection of the purchaser, and other provisions. It is to unify and modernize the various state laws that the Uniform Condominium Act was drafted.

As of August 1980, 3 states had passed the Act (West Virginia, Minnesota, Pennsylvania), Louisiana and Georgia adopted sections of it, and it was introduced in the legislatures of Vermont, Illinois, Massachusetts, and Missouri in the 1980 session. It was introduced in 10 state legislatures in 1981, but has not been favorably acted on in any of them.

The Act contains five Articles, the first containing definitions and general provisions applied throughout the Act.

Article 2 concerns the creation, alteration, and termination of the condominium, while also imposing some restrictions on the developer to protect the unit purchaser from potential harm.

Article 3 deals with the administration of the unit owners' association, covering such matters as the powers of and the tort/contract liability of the association.

Article 4 provides for consumer protection for condominium purchasers, requiring substantial disclosure by developers to potential buyers before conveyance of a unit, along with expressed and implied warranties of quality. The article also concerns conversion to condominiums and provides some protection to tenants by requiring necessary notice of conversion and right of first refusal.

Article 5 is optional and has not been included in the Act adopted by the three states that have passed the UCA. The article would establish an administrative agency to supervise a developer's activities.

ARIZONA

LEGISLATIVE UPDATE. Senate bill #1330, which would have enacted the Uniform Condominium Act, was held in the Senate Commerce and Labor Committee and thus killed for this legislative session.

CURRENT STATE LAW. In April 1980, a statute governing condominium conversions was adopted in Arizona. An owner of an apartment complex of four or more units who intends to convert to a condominium must now notify tenants of such planned conversion at least 120 days prior to the date the tenancy is expected to terminate. At some time within this 120 days, or after, the tenant is to have a 30-day period in which he has the exclusive right to contract for the purchase of his unit. The tenant has the right to remain in the unit for 90 days from the date the contract is received, or 120 days after the notice to convert, whichever is later.

CALIFORNIA

CURRENT STATE LAW. The conversion of residential property to a condominium project may not be approved until each of the tenants has been given 120 days' notice of intention to convert. Additionally, each tenant must have an exclusive right to purchase units on terms and conditions at least as favorable as those that such units will be offered to the general public. A property report concerning the location of schools and airports, as well as provisions for public utilities, must be provided to the Real Estate Commission, which then issues a Public Report to potential buyers based on this information. To protect low-moderate income housing, there are provisions for some state financial assistance for certain income level households.

In addition to the state law, nearly communities in California have adopted some form of conversion ordinances. Nearly all of the localities have tenant and buyer protection in mind, although many are also aimed at protecting the rental stock, and some are concerned with protection of low-moderate income housing.

ALAMEDA. According to an ordinance effected on August 1, 1980, developers must submit an application for conversion to the Planning Board containing information on the rental structure of units over the last 3 years including vacancy factors; names, addresses, and history of current tenants; a copy of the proposed covenants, conditions, and restrictions; proposed Homeowners' association fees, and proposed sales price range of units. Each dwelling unit must have separate utility meters except for water, and at least 100 cubic feet of enclosed, weatherproofed, and lockable storage for each unit, with an additional 50 cubic feet for each bedroom.

Tenants must be notified by the developer of the intent to convert and be provided with a copy of the proposed relocation assistance plan which must include a program for paying moving expenses and deposits as well as plans to assist tenants in obtaining new housing. The plan may include but is not limited to assistance such as extended or life-time leases and purchase assistance. For low- and moderate-income tenants, the plan may include special purchase assistance, extended leases at affordable rents, subsidized rents in other buildings, and assistance in qualifying for government housing programs. Tenants' rent may not be increased from the date of the notice of intent to convert until 6 months following the approval of the final map. Non-purchasing tenants have 120 days to relocate after the developer receives the Preliminary Subdivision Public Report. Tenants not in arrears of rental payments have a 60 day non-transferrable right of first refusal to purchase their units after receipt of a Public Report from the Real Estate Commission.

If the ratio of owner-occupied units exceeds 60% of the total number of dwelling units available, conversion of rental units to condominiums will not be permitted. Applicants for conversion permits must pay all costs of inspections and engineering reports required and performed by the Public Works Department.

ANTIOCH. According to an ordinance approved on March 24, 1981, and effective May 14, 1981, developers must first submit an application for a Use Permit in order to convert rental units to condominiums. The application must include a tentative map, a complete legal description of the property and boundary map, dimensioned schematic development plans, and information on sound insulation sufficient to meet requirements in the Uniform

Building Code. One and two bedroom units must be provided with at least two parking spaces, one of which must be covered. There must also be at least one parking space per each five units for guest parking. Gas, water, and electricity must be separately metered and all on-site and adjacent overhead utility service lines and poles shall be converted to an underground system. The developer must submit, prior to filing the final subdivision map, to the Director of Development Services, Director of Public Works, and City Attorney, a Declaration of Covenants, Conditions and Restrictions relating to the management of the common areas and facilities. Other reports to be filed by the developer include a property report describing the condition and estimating the remaining useful life of each element such as roofs, foundations, electrical and mechanical systems; a structural pest control report; a building history report; a rental history report; a rental availability report; and an improvement report. In addition, the Director of Development Services may request additional information or reports.

Tenants must be notified of the intent to convert at least 60 days prior to filing any application for a use permit and tentative map for a conversion. Tenants have the right of first refusal to purchase their units at a price no greater than the price offered to the general public. The right of first refusal will extend for at least 90 days from the date of issuance of the Subdivision Public Report or commencement of sales, whichever date is later. Nonpurchasing tenants not in default of lease agreements have at least 180 days from the date of receipt of notice of intention to convert to find substitute housing and to relocate. Rents may not be increased during the 180 days following the notice of intention to convert. The developer must provide a one-year full warranty to the buyer of each unit for dishwashers, garbage disposals, stoves, refrigerators, hot water tanks, heating units, and air conditioners that are provided.

When there is a rental vacancy factor of 4% or less, the City Council, before approving a conversion, will consider the demand and need for opportunity of homeownership that the conversion will provide, whether the conversion would serve to significantly upgrade otherwise deteriorating structures, and whether the amount and impact of displacement of tenants would be detrimental to the health, safety, or general welfare of the community.

The Planning Commission and City Council may impose varying conditions to alleviate unreasonable burdens on tenants forced to move, especially senior citizens and the handicapped, such as extending the time in which tenants have to relocate, providing continued rental housing availability in the converted condominiums, and allowing a rent credit to be applied toward moving expenses for such tenants.

ATASCADERO. A one-year moratorium on condominium conversions expired in November 1980.

BEVERLY HILLS. On October 27, 1980, the BEVERLY HILLS City Council approved an urgency ordinance requiring developers of condominium conversions to pay relocation expenses where rental units are converted or demolished. The law requires landlords to give a 1-year eviction notice and to pay fees of as much as \$2,500 or to relocate tenants in comparable housing. A moratorium on demolition and conversion of apartments was lifted on November 19, 1980.

BURBANK. Developers in BURBANK must secure a Conditional Use Permit before a Tentative or Parcel map for a conversion will be approved. If a certificate of occupancy was issued to the building less than 2 years prior to the date of application for a Conditional Use Permit, the permit will not be issued. The application for a use permit must contain a property report describing the condition and estimating the remaining useful life of the elements such as foundations, roofs, stairways, air-conditioning, etc. The report must be prepared by an appropriately licensed civil engineer or an architect registered in the state. Information on tenants and rental rates and a schedule of proposed improvements must also be provided in applying for the use permit. The subdivider must correct all deficiencies in such items as fire protection systems, fixtures, appliances, etc., before consideration of the final map will be given. There must be at least one covered parking space for each unit converted. The Planning Board may increase this minimum, but it may not exceed two spaces per unit. Each

dwelling must be provided with a minimum of 60 cubic feet of lockable, enclosed storage space outside the dwelling unit.

Tenants' rights include a 120-day written notice of intention to convert, and the first option to purchase their units at a price no greater than the price and terms no less favorable than the terms offered to the general public for a period of 60 days after the issuance of the final public report by the California Real Estate Commission, unless the tenant gives prior written notice of his intention not to exercise the right. Tenants relocating shall be reimbursed for actual moving expenses by the subdivider at a maximum amount of \$500 for each unit. The financial relocation provision does not apply to those tenants who were given notice of the intent to convert when rental agreements were signed.

BURLINGAME. On May 4, 1981, the Burlingame City Council adopted on a 3-2 vote, a restrictive ordinance on conversions. An application for conversion must now be approved by the City Planning Commission. Such application must contain a very detailed report on the condition of the building, including acoustical, pest control, soil, and other information. Details regarding rental history and household make-up must also be provided, and it must be shown that a majority of the tenants have consented to the conversion.

Among many other provisions, elderly and handicapped tenants are allowed to remain in their units with lifetime leases and specific rent ceilings. Tenants not purchasing their units may extend their leases for two years, with rent increases of only 5% allowed per year. If a tenant decides to vacate, the developer must pay actual moving expenses, provided that such expenses do not exceed four times the monthly rent.

CAPITOLA. Subdividers must apply for a Conditional Use Permit and Final Map. Units built before January 1, 1970, may not be converted. If a building permit was issued after the effective date of the condominium conversion ordinance, November 8, 1979, the building cannot be converted unless the project, prior to the issuance of the building permit, was one for which there was an approved tentative condominium subdivision map. Applications for tentative map for conversion must include a boundary map, a report describing the condition and estimate of remaining useful life of the structure, a structural pest control report, and a statement regarding current project ownership. All conversion projects must conform to the development standards among which are separately metered gas and electricity, sound insulation codes, and building and housing codes such as the requirement that fire detectors be provided in each unit.

Tenants have a 60-day right of first refusal to purchase their units. Tenants not purchasing units shall have at least 120 days from the date of receipt of notice to convert or from the filing date of the final subdivision map, whichever date is later, to find substitute housing and to relocate. Tenants' rent may not be increased from the time of filing of the Tentative Map until relocation takes place unless first approved by the Planning Commission. Non-purchasing tenants age 62 or older, handicapped, or with minor children in school shall be given an additional 6 months in which to find suitable replacement housing. The subdivider is also required to pay moving expenses of 1 1/2 times the monthly rent unless the tenant has given notice of his intent to move prior to receipt of the intent to convert.

CARLSBAD. On January 6, 1981, the CARLSBAD City Council unanimously voted to repeal a 1-month ban on condominium conversions; require a month's rent to any tenant displaced by conversion; and to extend from 60 to 90 days the time period in which tenants have exclusive right to purchase units being converted. Condominium converters also have to meet the same parking, design, and open space requirements that new developments must meet.

CHICO. A condominium conversion ordinance approved by the CHICO City Council on March 2, 1981, provides for tenant relocation assistance for low-income, elderly, and disabled tenants; requires developers to file site plans; and states that if a complex containing more than 5 units is converted, 10% of the units must be offered for lease to elderly or disabled tenants for a period of 3 years.

CHULA VISTA. In November 1980, the CHULA VISTA Planning Commission vetoed a proposal that would have granted renters a relocation allowance if displaced by condominium conversions. A 2-month moratorium on condominium conversions was adopted in November 1980.

CLAREMONT. According to a clause in the city's general plan, planners may turn down condominium conversion requests if the vacancy rate is below 3%.

CONCORD. This city, near Oakland, requires a 120 day eviction notice, 90 day right of first refusal period, and building code inspections and disclosure. Additionally, smoke detectors and fire walls must be installed and reports on pest infestation and dry rot must be disclosed. There are also design development standards which must be met.

The CONCORD City Council rejected a proposed section of the city's condominium conversion ordinance in February 1981, that would have placed a limit on the number of apartments that would be allowed to convert annually.

COTATI. Subdividers must file for tentative map approval and design review in addition to the Conditional Use Requirement. Each converted unit shall be in substantial compliance with current building standards for condominiums prior to occupancy as an owner-occupied unit. Applicants must show the Planning Commission that the conversion will not have a serious detrimental effect on the rental housing supply of the city. The proposed sales price of units shall be stated clearly as a range and shall not be exceeded for 24 months following approval. Preference for conversion is given to projects that address low- and moderate-income housing needs and those that incorporate plans to keep down-payment and resale prices to a minimum. Tenants must receive notice of hearings and it must be shown that the applicant has planned for the needs of the tenants adequately.

COSTA MESA (Orange County). COSTA MESA's ordinance has limited tenant protection, requiring only a 90 day right of first refusal. There must be building code inspections, smoke detectors, a pest report, a useful life report, and energy insulation.

CUPERTINO. CUPERTINO has limited tenant protection clauses, but requires building code inspection and compliance, disclosure of useful life, property or budget, and certain design/development standards.

DOWNNEY. A condominium conversion ordinance adopted on December 23, 1980, states that residential properties developed under a building permit issued after December 1980, may only be converted to any form of multiple ownership housing within the first 3 years of that building receiving a certificate of occupancy, and provided the development meets all the provisions of a planned development unit. After the 3 year period expires, application can be made to the Planning Commission to convert.

An application for conversion must include a Tentative Subdivision Map or Preliminary Parcel Map and Conditional Use Permit, as well as a preliminary condominium conversion application consisting of tenant and rental information, schedule of proposed improvements, a request for inspection to determine any building code violations and conditions, and a report on the remaining useful life of all structures. After these requirements have been met, the applicant may, upon approval of the City Planner, file a formal application.

Tenants must be notified at least 20 days prior to the Planning Commission meeting regarding a Tentative Map for the project, and have 150 days written notice of intent to convert, exclusive right to contract to purchase their unit at equal or more favorable terms and conditions than offered to the general public not less than 20 days from the day of issuance of the Subdivision Public Report unless tenant gives prior written notice of his intention not to exercise the right. Tenants must be given written notice of the intention to convert by the owners or owner's agent at the time a rental or lease agreement is signed. If notice is not given, the subdivider must compensate tenants for their relocation expenses not to exceed \$500 per residential unit to be paid at the time the notice of termination is presented. Tenants with children may not be excluded from purchasing

units being converted and may also be allowed to extend their lease to the end of the current school semester. Each tenant required to move shall be paid a relocation payment of \$150.00.

Conversion of any structure requires a new certificate of occupancy signed by the appropriate City officials, which must be issued prior to receiving final acceptance of the tract map for relocation.

EL CERRITO. In January 1981, the EL CERRITO City Council adopted an ordinance governing construction of condominiums, but indefinitely postponed action on a section dealing with conversions. The ordinance addresses such issues as parking, storage, maintenance, and open space requirements.

FAIRFIELD. Tentative maps for conversion projects may not be received for filing unless they are accompanied by (1) a listing of tenants by name and showing any changes occurring in the previous one year period, and (2) a proposed tenant assistance plan. The condominium conversion ordinance was adopted on August 5, 1980. A declaration of covenants, conditions, and restrictions must be approved by the Director of Environmental Affairs before a tentative map may be approved. The Planning Commission or City Council may disapprove a tentative map if the apartment vacancy rate is equal to or less than 6%.

The tenant assistance plan must contain a statement of a method by which tenants will be assisted by the subdivider in finding comparable replacement rental housing within the area of the conversion. The subdivider must also provide that no tenant shall be required to move from his unit due to a proposed conversion until the expiration of the 2-month period for tenants' first right of refusal to purchase as provided for under the State Subdivision Map Act. A written notification of issuance of the final public report of the Department of Real Estate must be submitted to tenants before the 60 day first right of refusal provision commences.

Tenants relocating may be reimbursed for actual moving expenses of up to 2 times the monthly rent of the occupied unit. However, this reimbursement may be reduced by the amount incurred for any malicious damage caused by the tenant and any past due or delinquent rents. Tenants with spouses or dependent children in school at the time the notice of termination of tenancy is given must be granted an extension of tenancy to permit such persons to complete the school year, semester, or quarter, whichever is the minimum school term.

FOSTER CITY. In April 1981, the City Council in FOSTER CITY adopted a condominium conversion ordinance that bans conversions unless there is an equal number of vacant rental units in the city. The provision may be waived for small apartment complexes if all the tenants want to purchase their units.

HAYWARD. On May 7, 1981, the City Council did pass a new conversion ordinance on a 4-1 vote. Under the new law, the number of rental units converted to condominiums each year cannot exceed the number of non-subsidized rental units built in the previous year, as long as the apartment vacancy rate remains below three percent.

HERMOSA BEACH. Condominium conversions, community apartments, and stock cooperatives require a Conditional Use Permit from the Planning Commission, according to an ordinance approved by the City Council on December 18, 1979. The City Council may approve or deny a permit approved by the Commission. A report on the physical elements of all structures and facilities in the proposed conversion or cooperative must be submitted with the Conditional Use Permit to include a structural condition report, a statement of proposed improvements and repairs, and a current termite inspection report.

The building must comply with all requirements of state laws and regulations pertaining to building structure and safety to include sound transmission standards, and energy insulation standards, and the project shall have separate utility shut off systems for each unit. A notice of intent to convert shall be delivered to each tenant 60 days prior to application for a permit. Tenant assistance provisions include a 60-day right of first refusal, 180 day notice to vacate, reimbursement of actual relocation expenses by developer within 30 days with a maximum of 1 1/2 times the unit's monthly rent not to exceed \$500. If tenants have school aged children, they

may be granted an extension of a lease to permit children to complete the school year, semester, or quarter, whichever is the minimum school term. A tenant's rent may not be increased for 1 year from the time of the filing of the request for permit until relocation takes place.

Any non-purchasing tenant 62 years of age or older or handicapped or with minor children in school shall be given at lease an additional 6 months in which to find suitable replacement housing. If the comparable replacement housing rent is greater than the existing unit rent, then the developer shall pay the differential up to a maximum of \$100 for not more than 6 months.

*LA CANADA. A 4-month moratorium on condominium conversions was approved by the La Canada City Council in September 1981 to allow the Planning Director to prepare a city ordinance on conversions. The Planning Commission is also holding public hearings on the issue.

*LARKSPUR. A proposed ordinance introduced on October 7, 1981, would ban condominium conversions if the vacancy rate in rental units is less than 5%. If the vacancy rate increases to 5% and conversions are allowed, developers must set aside 15% of the units priced for low and moderate income tenants. Developers would also have to pay actual moving expenses incurred when a non-purchasing tenant moves 50 miles. The City Council will hold hearings on the proposed ordinance over the next few months.

*LOMPOC. According to an ordinance adopted by the Lompoc City Council on June 16, 1981, developers may file an application for conversion provided that (1) a certificate of occupancy has been issued at least 2 years prior to the conversion, and (2) the net vacancy rate is 7.5% or higher. The Community Development Director must review the number of new multifamily rental units built each year, including government assisted housing projects, and the total of units built each year will be the number that will be allowed to convert during the succeeding 12 months.

A request to the Community Development Department for conversion of rental properties to condominium must be accompanied by an approved development plan; an application for approval of a tentative map or parcel map; organizational documents; a property report, a prepared plan or written statement by the property owner or agent stating that certain requirements have been satisfied such as sound and energy insulation, parking requirements, storage units, open space and recreational amenities, and separate metering of utilities. At least 100 cubic feet of storage space with a minimum horizontal service area of 25 square feet of enclosed, weather-proof, lockable storage space must be provided for each dwelling unit in addition to that ordinarily contained within a unit.

LOS ANGELES COUNTY. In LOS ANGELES COUNTY, requirements include a notice of conversion, a 1 year continued tenancy during relocation effort, and a right to quiet enjoyment. The developer's main responsibility in tenant protection lies in relocation assistance, as there are payments of \$500 per household in moving expenses and \$1,000 per household in assistance payments. The sponsor must also provide tenants with an updated report of available rental housing. To protect the low-moderate income housing stock, 1% of the purchase price of each unit must be deposited with the County Housing Authority to develop low income housing.

LOS ANGELES CITY. In March 1981, a 3-justice panel of the Second District State Court of Appeals ruled that "an apartment house owner caught in the squeeze between rent control, inflation, and a restriction on his ability to convert to condominiums is entitled to a more reasonable analysis and explanation than that afforded (the owners of the building in question)." The ruling was in response to the denial by the LOS ANGELES City Council to allow a conversion permit to owners of a 193-unit apartment complex in Hollywood. The panel also found inadequate the Council's contention that removal of 193 rental units from the market would cause a negative impact on the tight housing market in the city. The case has been sent back to the City Council for "legally adequate findings."

In the city of LOS ANGELES, there is a 120 day notice of conversion; 1 year continued tenancy during relocation effort; relocation and assistance payments; and special protection for elderly (62 and over), handicapped, families with minor children, and residents of low and moderate income housing. Buyer protection reports are also necessary. For the protection of low-moderate income housing, the Sponsor must pay \$500 per unit to the city in order to develop low and moderate income rental housing.

*LYNWOOD. Application for conversion must be made to the City Council, which will then hold a public hearing on the subject. A conversion may be disapproved if it would have "significant adverse effects" on the availability of rental units in the same market as the proposed conversion, or if the project is substandard in relation to the City Codes. If the conversion is approved, tenants shall have at least 120 days from the date they receive notice of conversion to decide whether or not to purchase. The same unit cannot be sold under different terms, without giving the tenant a first chance to acquire it, for a period of one year.

*MARTINEZ. Hearings are currently being held by the Martinez Planning Commission to revise tenant protection provisions in the city's 6 month old condominium conversion ordinance. One proposal would give lifetime leases to elderly tenants and require developers to provide a one year warranty on common property in developments.

Conversion of rental units shall not be approved when the vacancy rate within the city is equal to or less than 5%, according to an ordinance adopted by the City Council on February 4, 1981, and effective March 4, 1981. In addition to the State regulations on conversions, plans submitted to the Planning Director should include location of each common element, tenant information regarding current occupants, and rental history for each unit for the preceding 3 years, proposed programs for relocation assistance, pre-conversion inspection report, acoustical engineer report, and pre-conversion analysis of all structures by a licensed pest control operation. Units being converted must also meet certain design and construction standards such as sound transmission control requirements of the Uniform Building Code, smoke detectors for each unit, separate metering systems for gas and electricity, 1 1/2 off-street parking spaces (one covered) for each unit, and at least 150 cubic feet per unit of enclosed weatherproof and lockable storage space must be provided in addition to that ordinarily contained within each unit.

Buyer protection provisions include providing a statement granting each buyer a 1 year warranty on all appliances and granting to the homeowners' association a 1 year warranty on all structures in the project, a copy of the pest control report, a statement of estimated annual operating and maintenance costs for all common facilities and services for the next 3 years, and a copy of the Building Inspector's pre-conversion inspection.

Tenants must be notified of the intent to convert at least 180 days prior to filing an application and tentative subdivision map with the City. Tenants shall be given the right of first refusal to purchase their units for a period of 60 days after the issuance of the final public report or commencement of sales, whichever is later, on terms equal to or more favorable than the terms on which the unit is offered to the general public. The developer may be required to pay relocation expenses of 1 1/2 times the monthly rental rate in cases where a non-purchasing tenant has been requested by the developer to vacate a unit that has been sold.

MORAGA. In February 1981, the MORAGA Town Council placed a moratorium on condominium conversions until an ordinance establishing conversion guidelines is adopted.

NEWPORT BEACH (Orange County). In NEWPORT BEACH, 30% of the tenants must approve the conversion, and there must be a rental vacancy rate greater than 5%.

OAKLAND. Oakland tenants have a 120 day notice of conversion/eviction and 60 day right of first refusal. Elderly tenants are given lifetime leases. Property and building reports must be filed, utilities have to be metered separately, and tenants are to be given a list of comparables rental housing in the area. A provision of the rental stock protection aspect of the ordinance requires a sub-divider, if converting 5 or more units, to add one new rental unit for each unit converted.

ORANGE COUNTY. ORANGE COUNTY, neighboring Los Angeles County to the Southeast, has an ordinance which requires 120 days' notice of conversion and 90 day right of first refusal. A report on the condition of the building and an estimate of repairs is also necessary. In order to protect the rental stock, the vacancy rate must be greater than 5% before conversions are allowed.

PACIFICA. A 4-month moratorium on condominium conversions was allowed to expire in March 1981. PACIFICA, and developers must now seek Council approval to convert rental units.

PALO ALTO. PALO ALTO, in the San Jose area, has limited tenant protection clauses, but requires building code inspection and compliance, disclosure of useful life, property or budget, and certain design/development standards.

*PINOLE. Developers desiring to convert rental housing to condominiums in Pinole must submit a detailed application to the Planning Department. Condominium development standards must be met, including parking requirements, private open space and storage space for each unit, fire prevention provisions, and other standards. All units must be in compliance with Uniform Building Codes adopted by the City.

Tenants must be notified of the planned conversion no less than 7 days prior to the Planning Commission's meeting on whether to approve or disapprove the application. The City will take into consideration the effect of a conversion on the City's housing stock in making its decision, and will normally not approve conversions if the number of rental dwelling units is less than 15% of total available dwelling units.

If the rental vacancy rate is less than 5%, the developer must provide relocation information to displaced tenants. The developer must also pay each displaced household relocation costs as determined by the Planning Commission.

PLACENTIA. The city presently has a moratorium on condominium conversions until October 5, 1981, and is considering adoption of condominium conversion regulations.

PLEASANT HILL. The conversion of apartment units to condominiums may not take place if the conversion would lower the rental housing supply to less than 20% of all available housing in the city, according to a housing policy adopted by the PLEASANT HILL City Council in February 1981. The Council also adopted a provision that states that 10% of all apartments in a condominium conversion must be set aside for low- and moderate income persons.

*PLEASANTON. A conversion ordinance adopted by the Pleasanton City Council on June 23, 1981, covers the conversion of rental apartments to condominiums as well as the conversion of mobile home parks to projects in which the residential units or mobile home spaces are individually owned. Condominium conversion projects containing 4 or fewer units and condominium conversion projects in which the tenants representing 85% of the total units in the projects have consented to the conversion are exempt from City Council consideration. All condominium conversion projects not exempt must secure City Council approval prior to filing a subdivision map. Those exempt must apply for conversion approval according to the approval process.

Applications may be submitted for non-exempt condominium conversion projects to the City Council for review at any time during the year. The Council must hold a public hearing and approve, conditionally approve, or deny application for conversion. Projects receiving approval by the Council may submit subdivision applications pursuant to state and local ordinance requirements. Developers of condominium conversion projects qualifying as exempt projects shall submit applications at the same time applications are made for tentative map or preliminary parcel map approval at any time during the year. Developers must prepare applications and submit them to the Planning Division on forms prepared by the Planning Division. A fee based on the actual costs of reviewing and processing the application will be assessed to the developer.

Developers must give tenants 60 days written notice of intent to convert prior to the public hearing date before the City Council, Planning Commission, or Staff Review Board and 10 days notice of hearing on application to convert. Applications for conversions may not be approved if rents have been raised on any unit during the period 6 months prior to the date of approval of the condominium project. Once a conversion project has been approved, no rent increases may be allowed prior to actual conversion of the project and sale of the units.

Any elderly (62 years or older) and handicapped tenants who have occupied a dwelling unit or mobilehome space in a proposed conversion project for 18 months or more on the date of approval of the project shall have special leasehold rights. Elderly tenants shall have the right to lease their units for 9 years; handicapped tenants shall have the right to lease their units for 7 years. Rents for this special class of tenants may only increase at an annual rate equivalent to the Bay Area Consumer Price Index or 7%, whichever is less. Units occupied by this class with extended lease provisions must be refurbished at the expense of the developer in a like manner as those units to be sold as condominiums, and the unit must be adequately maintained for the duration of the lease.

If any tenant in a mobile home park does not wish to purchase their spaces they will be afforded relocation assistance provided by a professional property management agency at the expense of the developer in finding a comparable replacement rental unit; moving expenses paid for by the developer in an amount equal to the actual costs for any tenant relocating in the TriValley area or \$500, whichever is less; and utility connection fees paid by the developer in an amount equal to actual expenses up to a maximum of \$100. Mobile home park tenants shall have the right of first refusal, receive price reductions of \$50 per month for every month a tenant has resided in the complex up to a maximum of \$1000 from the price like units are offered to the general public; price reductions of \$1000 for electing to purchase the unit in an "as is" condition; financing assistance including broker-type assistance in locating financing and completing applications, loan qualifying assistance by providing secondary financing, and providing out-of-pocket expense in the course of obtaining financing up to a maximum of \$250.

REDLANDS. Planning Commission members in REDLANDS are studying condominium conversion ordinances from other cities to aid them in drafting an ordinance for the city that would protect renters from involuntary displacement and address reductions in rental housing that may occur from condominium conversions. The Commission is also in favor of the developer providing financial assistance for relocation of tenants who do not wish to purchase their units.

REDWOOD CITY. A condominium conversion ordinance in effect in REDWOOD CITY states that each unit within a project must have a separate meter for gas, electricity, and water. In applying for a condominium conversion permit to the Planning Commission, the following reports must be filed: (1) a property report describing the condition and useful life of structural elements; (2) a structural pest control report; and (3) a written statement from the owner or developer of the project that all tenants have been notified by certified mail that an application will be filed for a condominium permit. Developers must also file a report with the Building Department, Fire Department, and Zoning Administrator to ensure that the project complies with current provisions of the city's building regulations, fire codes, and the zoning ordinance. A non-refundable fee of \$45.00 plus \$30.00 per unit is assessed the developer for the inspection services to comply with required reports. The developer must provide that 75% of the parking spaces must be off-street parking.

Tenants must be given the first option to purchase their units at the same price, terms, and conditions as would be offered to the general public. The right and option to purchase shall be effective for not less than 90 days after commencement of sales to the general public or issuance of the final report of the California Real Estate Commission as required by state law, whichever occurs first. Tenants may terminate any lease or rental agreement without penalty after notice of intent to convert is received provided the developer is notified in

writing by the tenant at least 30 days before actual termination date. If a tenant does not wish to purchase, he may remain in the unit for at least 120 days after notice to convert by the developer is received.

RIVERSIDE. The RIVERSIDE City Council placed a 4-month ban on condominium conversions in December 1980.

SAN BRUNO. An ordinance in effect in SAN BRUNO requires developers to apply for a conversion permit from the Planning Commission. Existing structures must conform to the General Plan and all applicable zoning regulations and city requirements. The application for a Use Permit must include a boundary map; statement of current ownership of all improvements; a copy of all documents submitted to the Department of Real Estate; a statement as to whether the developer will provide any capital contribution to the Association for deferred maintenance of common areas, and if so, the sum and date on which the association will receive said sum; the proposed organizational documents; and all proposed storage areas located within the common areas. In addition, a building history must be filed; a property report describing the condition and estimating the remaining useful life of each structure (i.e., foundations, roofs, mechanical systems, electrical systems, etc.); a summary of average rents for each bedroom type of rental unit along with a detailed unit history; a temporary displacement plan for purchasing tenants; and a list of those tenants approving the conversion; a copy of the form signed by those persons, as well as the method used in obtaining the names.

Projects may not be approved for conversion unless the Planning Commission has reviewed the effect the project would have on the community with respect to the overall impact on schools, neighborhoods, etc. A housing impact report on the housing stock in the city of SAN BRUNO must be filed for projects greater than 21 units but less than 101 and a housing impact report on the housing stock in San Mateo County must be filed for projects greater than 101 units. For each two bedroom unit there shall be two off-street covered parking spaces provided and for each studio apartment 1.5 parking spaces are required, one of which must be covered. In addition, guest parking shall consist of .1 spaces per unit. Gas and electricity must be separately metered for each unit. The developer shall provide an all cost warranty for all unit appliances for a period of one year from date of sale.

Tenants have an exclusive right to purchase their units according to state law. Non-purchasing tenants will be provided with relocation expenses equal to a minimum of four months rental, apportioned equally among the number of tenants in each unit. In addition, all security and cleaning deposits must be refunded to non-purchasing tenants. For tenants who are permanently disabled or senior citizens 62 years of age or older, the developer must provide a 5-year right of occupancy. During this 5-year period rental increases cannot exceed the proportional increases in the residential rent component of the "Bay Area Consumer Price Index." The rent to other tenants after the city and state approvals for conversion may not be increased in excess of the proportional increases in the CPI for a 2-year period or until 80% of the converted units are sold, whichever event occurs first.

There is no limit on the number of units that may be sold in projects of less than 21 units. There is no limit on the number of units that the developer may sell to tenants in projects of any size. However, the sale of remaining units shall be limited each year to the number of units equal to the average turnover rate and unsold units allowed to be sold but not sold for that year may be carried forward to the following year. No more than one conversion project of more than 500 units, or no more than 500 multiple-family rental units may be converted to condominiums, cooperatives, etc., in any given calendar year. Conversion by a single developer of less than 20 units, duplexes and triplexes are exempt.

SAN CARLOS. A condominium conversion ordinance passed in December 1980 by the City Council prohibits conversions until the vacancy rate in SAN CARLOS rises above 1%. The ordinance also gives renters 120 days to relocate with an extended period of time for senior citizens and a 60-day first right of refusal to purchase.

SAN CLEMENTE. If the vacancy rate for apartment units falls below 6%, conversions will be limited to one-half of the number of duplex and multiple dwelling units constructed during the two previous years according to

a City Council ordinance tentatively approved in December 1980. If the rental vacancy rate is 6% or higher, the city will place no restrictions on the number of conversions.

*SAN DIEGO. The San Diego City Council reduced tenant protection provisions of their condominium conversion ordinance on June 9. Tenants must now be notified 6 months in advance of conversion intents. If the vacancy rate exceeds 5% in San Diego, tenant protection provisions are lifted.

SAN FRANCISCO. An ordinance established in 1975 requires conformance to housing codes, tenant right of first refusal, 120 days' notice of conversion, and provisions for public hearings concerning conversions if there are more than 5 units involved. In addition, where any units planned for conversion are part of the low or moderate income housing stock, the purchase price may not exceed 2.5 times the highest low to moderate income level. If the price is not sufficiently low, the application for conversion may not be approved.

Other provisions govern displacement of elderly or disabled tenants. In July 1979, new amendments mandated that no more than 1,000 units may be approved for conversion each year, 40% of the tenants must either agree to purchase a unit or be eligible for lifetime lease, and the developer must pay up to \$1,000 in relocation costs per unit and provide assistance in finding housing for those moving from a converted building.

SAN JOSE. SAN JOSE has limited tenant protection, offering no notice of conversion, 90 days right to continued occupancy, and 90 days right of first refusal from issuance of the Final Report. Building code inspection, compliance and disclosure, a building history report and useful life, property report and budget (in English and Spanish), and separate metering are also required.

SAN MATEO COUNTY. A one-year extension of a moratorium on condominium conversions in areas outside the city limits was approved by the Board of Supervisors in SAN MATEO COUNTY in October 1980.

SANTA ANA (Orange County). In addition to Orange County regulations in SANTA ANA, relocation assistance is necessary, and a developer may have to pay up to \$500 a unit in moving expenses. Building code inspection and compliance is also required.

SANTA BARBARA. Conversions must be approved by the Planning Commission or by the City Council upon appeal and a conversion permit must be issued by the Chief of Building and Zoning. A certificate of occupancy must be issued more than 5 years prior to the date the owner files an application for the approval of a tentative condominium subdivision map. Each unit to be converted must contain not less than 600 square feet unless it is determined by the Planning Commission that at the time of approval other project amenities compensate for the minimum required enclosed area. Among the other requirements are: each unit must have a smoke detector, separate gas and electric meters; 1,200 cubic square feet of enclosed weather-proof and lockable private storage space, 1 1/2 off-street parking spaces per unit for one bedroom or efficiency units and 2 parking spaces for units with 2 or more bedrooms (this requirement may be modified if the developer can prove that additional parking is not needed); and physical elements having a useful life of less than 2 years must be replaced.

A development plan of the project; a physical elements report to include estimates of useful life of each element; a structural pest control report; and a building history must also be filed before a project will be accepted for conversion, along with necessary information concerning the covenants, conditions, and restrictions which would be applied on behalf of any and all owners of condominium units with the project. All residential buildings shall be in compliance with the Uniform Housing Code in SANTA BARBARA and those of the state of California.

Tenant protection clauses include notice of intent to convert; 60-day first option to purchase from date of issuance of the Subdivision Public Report or commencement of sales, whichever date is later; 180 days to vacate; rental increases are limited to one every 6 months and may not exceed a rate greater than the rate increase in the CPI for the same period of time; developer will pay moving expenses of 1 1/2 times the monthly rent to ten-

ants relocating unless the tenant has given notice to vacate prior to receiving the notification of intent to convert from the developer. An intent to convert may be rejected if the proposed conversion will displace a significant percentage of low and moderate income tenants, senior citizens, or tenants with children, and if the conversion will delete a significant number of low and moderate income rental housing units from the city's housing stock at a time when no equivalent housing is readily available in the area. The number of apartments allowed to convert to condominiums may be limited if a rental housing vacancy rate of 3% exists.

SANTA CLARA. Conversion criteria include separate meters for all utilities, fire wall regulations, and sound transmission criteria in the Uniform Building Code as adopted by the City. Prior to approval of a final map, organizational documents must be reviewed and approved by the City Attorney. If no action is taken by the City Attorney within 45 days after documents are submitted, the documents will be deemed approved. The organizational documents shall provide that the City, at its option, has the authority to veto any amendment to the organization documents that would adversely affect the long-term maintenance of the project structure or its common area. The organization documents must provide that any amendment shall not become effective until 60 days after notice of such proposed action is filed with the City Council and the Council has not vetted the amendment.

In addition to California state laws governing condominium conversions, the city may also consider the size of the units, condition of the structure and major mechanical facilities, the impact of conversion on existing tenants (including the ability of tenants to find equivalent housing in the city with equivalent rent), the impact on the city's rental market, and the impact on the public school system. Where there are significant open spaces, recreational facilities and/or maintenance responsibilities, a conversion request shall be evaluated only if the apartment complex has over 25 units. Existing roofs less than 2 years old are exempt from required fire resistive material. If the city finds the proposed conversion unsuitable for community ownership, the rezoning application may be denied and the tentative map not approved.

SANTA FE. A moratorium on condominium conversions adopted by the SANTA FE City Council in January 1980 was extended for another year in January 1981. The city's zoning regulations do not have any provision relating to condominium conversions.

SOUTH SAN FRANCISCO. The Planning Commission in South San Francisco unanimously approved a condominium conversion ordinance that requires a minimum 3% vacancy rate for multifamily rental units before a conversion may take place. Life time leases are offered to low and moderate income tenants over 60 years of age and who are prime wage earners; other low and moderate income tenants are provided with 12 to 24 month leases, and rental increases may not exceed 6%. Developers must pay relocation expenses of \$2,000 and may not seek rent increases during the conversion process. Developers must also pay a fee to the city equal to 10% of the resale value of each converted unit.

STANTON. A condominium conversion ordinance adopted May 27, 1980, requires developers to apply for a conversion permit for all conversions. The application is submitted to the City Council through the Department of Community Development and the Planning Commission. The application must be accompanied by a tentative map. An appraisal report describing the conditions of the structures and estimating the remaining useful life of foundations, exterior walls, fire walls, air-conditioning, etc., must also be submitted. Tenant and rental information on the units must be submitted to the Department of Community Development along with a time schedule for proposed improvements, structural pest control report, and all organizational documents. The filing fee for a conversion permit is \$100 per each separate dwelling unit. No housing units may be converted to owner-occupied dwellings if such conversions are inconsistent with the City of STANTON's Land Use Element that states that 40% of the city's residential units shall be renter occupied.

In dwelling units of 4 units or less approval of a parcel map, precise plan of design, and a conditional use permit are required in order to proceed with the conversion. For residential condominium conversions, a minimum of 2 covered parking spaces are required for each dwelling unit. A storage space of at least 150 square

feet must be provided for each dwelling unit. Separate gas and electric services are also required for each unit.

Tenants must be notified by the City of the proposed conversion no less than 10 days prior to the public hearing before the Commission regarding the tentative map for the project. The developer must give tenants 120-days written notice of the intention to convert prior to termination of tenancy due to the conversion. Present tenants have a 60-day exclusive right to purchase their units at a price no greater than the price offered to the general public.

TURLOCK. An ordinance approved on August 5, 1980, requires developers to apply to City Council for conversion approval, and a conversion permit must be issued by the Planning Director before such conversion may take place. If an occupancy survey conducted by the Planning Director during the first two weeks in November of each year shows that there is a vacancy rate of from 0-5%, all applications for conversion will be denied. Fifty percent of the yearly average of apartment units constructed over the previous two years will be the number allowable for conversion. If the maximum number of units allowed to convert are not converted in a given calendar year, the surplus will not be carried over to the next calendar year.

In applying for a conversion permit, the developer must include a facilities plan prepared by an appropriately licensed California architect or registered civil or structural engineer, detailing the condition and estimated useful life of all elements of the existing building and other structures involved in the project such as roofs, built-in appliances, foundations, electrical systems, etc. The plan must also include the costs and schedule for replacement of any elements that do not meet current city standards or would have a useful life of less than 5 years. A development plan must also be included along with a schedule of completion for all physical development of common facilities proposed in the project, a maintenance plan including projected costs and method of payment for all physical development, a structural pest control report, and a building history. Gas

and electricity must be metered separately for each unit, the building must meet sound transmission standards established by the state, and the developer must provide a one year unconditional consumer warranty guaranteeing repair or replacement of all appliances. One and one-half parking spaces must be provided for each unit.

Relocation payments to displaced tenants shall be provided at a rate of not less than 2 times the monthly rental of the unit. The developer must also actively seek alternative housing for families displaced by conversion. A sinking fund shall be established by the developer to cover all projected maintenance, utilities, or replacements projected for the first year. Each non-purchasing tenant not in default under the obligations of the rental agreement or lease shall have not less than 150 days from the date of filing of the notice to convert to find substitute housing and to relocate.

WALNUT CREEK. According to an ordinance effected on February 7, 1980, reports to be filed by the developer to the city for conversion include a physical elements report which must include a detailed report of the structural condition of all elements of the property, a structural pest control report, and a statement of repairs and improvements made by the subdivider. The project to be converted must conform to applicable standards of the City Housing Code and the City Building Code. Each unit must contain, among other items, smoke detectors; separate utility meters for gas and electricity; and at least 200 cubic feet of enclosed weather-proofed and lockable storage space. The number of conversions is limited to 5% of the city's potentially convertible rental stock in any one calendar year. This requirement may be changed if the Planning Commission finds that the developer will (1) provide for a significant increase in housing for low- and moderate-income households or senior citizen households, (2) provide for the construction of new rental housing, (3) donate an acceptable site or an acceptable amount of funds to the city for construction of new rental or senior citizen housing, or (4) that the need for low cost homeownership to be provided by the conversion will outweigh the detriment caused by further reduction of the rental stock.

Tenant provisions include a 60-day first refusal to purchase the unit occupied at a price no greater than the price offered to the general public; 120 days from the approval date of the Final Subdivision Map to relocate; rents cannot be increased for 2 years from the time of filing the receipt of the application by the Community Development Department of the Tentative Map until the unit is sold or until the subdivision is denied or withdrawn; non-purchasing tenants aged 62 or older or handicapped or with minor children in school must be given at least an additional 6 months to vacate; tenants living in units at a time prior to Tentative Map approval shall be paid moving expenses of two times the monthly rent; all tenant households in which the head of the household or spouse is 60 years or older at the time of the final map approval must be offered life-time leases with reasonable annual rent increases; at the time of final map approval, all tenant households that meet the income limits of the HUD Section 8 program are considered low- and moderate-income households and shall be offered, at minimum, a 3 year lease with reasonable annual rent increases.

COLORADO

LEGISLATIVE UPDATE. House Bill 1107, which would have enacted a Colorado Condominium Act patterned after the Uniform Condominium Act, was killed in the House Judiciary Committee on April 10, 1981.

CURRENT STATE LAW. Colorado legislation, passed in July 1979, provides for a 90-day written notice of conversion. A residential tenancy cannot be terminated before the existing lease expires, except with the consent of the tenant and developer, but in no event less than 90 days, without cause, unless the tenant consents and the developer pays all moving expenses or other agreed consideration.

BOULDER. Boulder requires a 120-day notice of conversion, plus a notice to indicate that low-income tenants over 62 may receive assistance from the Housing Authority to remain.

CONNECTICUT

CURRENT STATE LAW. The state's condominium law preempts any local regulations and provides that the landlord or developer shall give tenants at least 180 days' notice of the intent to create a conversion condominium. During the first 90 days of such 180 day period, each tenant shall have the exclusive right to purchase the unit he occupies. Any tenant not availing himself of this option is entitled to remain on the premises under the existing lease, or to cancel the lease by giving 30 days' notice. Lower-income tenants receive moving and relocation expenses equal to one month's rent or up to \$500, as determined by the local government. The converter must also provide non-purchasing tenants with relocation information on the availability of alternative housing, financing programs, and governmental housing assistance.

Connecticut also provides for buyer protection, making it necessary for developers to file reports concerning the condition, useful life, and estimate of repairs for the building, along with property reports, budget, and warranties. There are provisions for the purchaser to cancel the contract within 15 days after its execution.

In November 1979, the state imposed a temporary measure that prohibits the conveyance of converted condominiums not having a separate heating plant, effectively prohibiting conversion of any centrally heated multi-family complex.

HARTFORD. The Mayor of HARTFORD submitted legislation to the City Council in late March 1981, that would require developers to pay relocation expenses of at least \$1,000 for tenants in conversion projects if they have lived in the unit for at least 6 months. Developers would also be required to obtain conversion permits from the city and give tenants up to 18 months to relocate. Such requirements would remain in effect as long as the

city's vacancy rate for rental housing is less than 5%. When a similar proposal was introduced in January 1980, the City Corporation Counsel's office ruled that Connecticut state laws on condominiums prevent Hartford from adopting its own regulations. No action has thus far been taken.

DELAWARE

WILMINGTON. The condominium conversion ordinance in WILMINGTON went into effect on February 15, 1980. Under the law, developers must file an engineer's report detailing the present condition of all structural and major utility installations in the condominium to include the age and approximate remaining useful life and the approximate present replacement costs of all elements or components that need replacement including roofs, electrical wiring, plumbing, etc. The ordinance applies to conversions containing 5 or more units. Developers must pay a license fee of \$50 per condominium unit to cover administrative costs to the city. If the vacancy rate for multifamily rental units is 4% or less, no conversions will be allowed unless 67% of the tenants in the proposed condominium project approve in writing the developer's plan to convert. Any apartment building being converted to condominium must meet all applicable provisions of the City Code with respect to housing, the Building Code, and the Fire Prevention Code. In addition, the developer must warrant all repairs and improvements made to each condominium unit and common elements for one year from the close of sale of the first unit.

Developers must notify tenants of the intent to convert within 7 days of the recording of a Declaration with the Recorder of Deeds. A report from a professional engineer licensed to do business in the state of Delaware stating the engineer's observations regarding the condition of the structure involved and the major mechanical components in the building, and a proposed operating budget for the condominium shall also be provided tenants with the intent to convert along with the list of tenants rights.

Tenants have the exclusive right to purchase their units for a period of 90 days, commencing with the receipt of the intent to convert notice unless the tenant signs a written waiver of the right during the 90 day period. If the tenant has not signed such a waiver, the developer may not show or offer the unit for sale to persons other than the tenant for a period of 45 days from receipt of the notice of intent to convert. After the 90 day first right of refusal, the non-purchasing tenant has an additional 90 days before his lease can be terminated by the building owner or developer. During the total 180 day period, non-purchasing tenants may not receive rent increases exceeding that most recently charged a tenant of a comparable unit in the same complex and in no event shall the increase exceed 10% of the tenant's rent. Tenants with more than 60 days remaining on a lease and who have received the intent to convert may terminate their leases with 60 days notice without penalty. Occupants of rental units slated for conversion aged 62 years or older or who are handicapped may not be evicted from their units for a period not less than 18 months from date of receipt of intent to convert.

DISTRICT OF COLUMBIA

The District government imposed a moratorium on conversions through repeated 90 day emergency legislative acts. The court overturned this process on the basis that it represented an improper use of emergency legislation. Subsequently, the District government imposed very strict conditions on condominium conversions. The new law, effective September 1980, provides that a building may not be converted to condominium or cooperative ownership without the approval of more than 50% of the tenants, imposes a 4% levy on the sale of condominium units, establishes a life tenancy for tenants 62 years of age and older with incomes of under \$30,000 a year, and right of first refusal for the tenants' association on the sale of apartment buildings.

FLORIDA

CURRENT STATE LAW. The state of Florida has reserved the power to regulate condominiums. The law requires 270 days' notice of conversion to tenants of more than 6 months and 180 days' notice to tenants of less than 6 months. Counties may extend the tenant's right to occupancy for an additional 90 days if the county finds there is a 3% or less rental vacancy rate. A right of first refusal, extended only to tenants who were in occupancy

at least 6 months prior to the notice of conversion, lasts 45 days from the receipt of mandated purchaser information on the housing market, financing, and tax system. The converter may give a 6 month tenant 1 month's rent in exchange for reducing occupancy from 270 to 180 days.

A buyer of a condominium in Florida may cancel a contract by written notice within 15 days after receipt of statements and disclosures required of a conversion. The converter must issue a building report on the age and useful life of the building and its components (roof, electrical system, heating and cooling system, etc.); date and type of construction; and a property report, operating budget, and possible warranties to give assurances concerning the quality of the property.

SARASOTA. The City Commission in SARASOTA is studying information and data submitted by the SARASOTA Community Coalition on Housing calling for a moratorium on condominium conversions.

GEORGIA

CURRENT STATE LAW. A law passed by the state in the 1980 session greatly expands the condominium act approved in April 1975. The law states that no zoning subdivision, building code, or other real estate use law, ordinance, or regulation shall prohibit the condominium form of ownership or impose any requirement upon any condominium which it does not impose upon a physically identical development under a different form of ownership. Also, no subdivision law, ordinance, or regulation shall apply to any condominium or any subdivision of any convertible space or unit. The law specifies that a condominium converter shall deliver to each tenant a notice of the conversion at least 120 days before the tenant will be required to vacate the unit. Within 60 days after delivery of this notice, the converter shall deliver to the tenant an offer to convey the unit to the tenant at a specified price on specified terms.

Georgia also requires building code inspections, an architect's or engineer's report on the present condition of the building, a full property report disclosure, and an estimated or actual budget. A purchaser may void the contract within 7 days after disclosure.

ATLANTA. ATLANTA has a statute similar to the state with a 120-day notice of conversion and 60-day right of first refusal period. During the 120 days following the right of first refusal, the unit may not be offered at a more favorable price. The city has buyer protection disclosures like those of the state, although there is no purchaser's right to cancel the contract in Atlanta.

HAWAII

LEGISLATIVE UPDATE. Senate Concurrent Resolution 60, introduced into the state Legislature on April 23, 1981, requests a comparative study on condominium laws.

CURRENT STATE LAW. State law requires that an engineer's building report be filed with the Real Estate Commission, along with useful life and estimated cost of replacement reports. Prospective purchasers are entitled to full disclosure on the condition of the building and estimated maintenance and costs for each unit. Contracts are not enforceable until the purchaser has had "full opportunity" to read the Final Public Report, with the possibility of refund and release if such a report differs in a material respect from the Preliminary Report.

ILLINOIS

LEGISLATIVE UPDATE. The Uniform Condominium Act (H1887) was introduced into the state Legislature on May 1, 1981, and was sent to an interim study committee, killing any action on the bill in this session.

*In other legislative action, S.390, passed by the Legislature, was vetoed by Governor James Thompson in late August 1981. The bill has been put back on the calendar for possible further action. S.390 declares that condominium regulation is an exclusive state power or function.

*S.841, requiring that the payment of the purchase price for the initial sale of a condominium unit be held in an escrow account until title is conveyed to the purchaser, became public law on August 14, 1981.

*H.1419 became a public act on September 15, 1981, and requires developers to pay a proportionate share of the common expenses for each unit not sold.

CURRENT STATE LAW. According to Illinois law, the tenant must receive 120 days' notice of the conversion as well as the right of first refusal within the same 120-day period. Under the "buyer protection" clauses, an engineer's report of the present condition of the building must be filed, along with useful life and estimated replacement cost reports. Purchasers must be aware of the actual budget for the two previous years, and have a detailed projected budget. There are provisions for a purchaser to void his contract if disclosure information is not provided at contract.

CHICAGO. Chicago imposed a moratorium on condominium conversions in March 1979, but the law was struck down as an unconstitutional restriction on property rights by a federal district court in March 1980. Still, the city requires that a notice of conversion be sent to tenants 120 days prior to filing a declaration of conversion. Elderly (over 65) and handicapped are granted lease extensions of 180 days. Tenants are given 30 days from the notice of conversion for the right of first refusal. Buyer protection in Chicago is similar to the state law.

EVANSTON. In Evanston there must be a 210 day notice of conversion and, for relocation expenses, either \$300 or 1 month's rent, whichever is higher, payable to tenants within Section 8 housing limits. It is also necessary to file a building code assessment report within 60 days after the notice to convert, and provide warranties on mechanical equipment.

OAK LAWN. The OAK LAWN Board of Trustees voted down placing a moratorium on condominium conversions in February 1981.

ROCK ISLAND. ROCK ISLAND City Council members rejected a proposed condominium conversion ordinance on January 5, 1981. The measure would have required that developers give tenants 120 days notice of intent to convert, specifying the units to be sold and the price; 30 days first right of refusal; and a 120 day extension of leases allowing tenants moving time.

SKOKIE. Skokie's ordinance grants at least a 6 month lease extension from the date of filing the conversion declaration for the elderly, handicapped, and families with children. The law also calls for building code inspections, property, building, and budget reports, and warranties on the unit, common element, and appliances. The purchaser has 15 days to review documents and, if not satisfied, to rescind the contract.

INDIANA

There is no state law governing condominium conversions in Indiana.

INDIANAPOLIS. The city provides for 120 days' notice of intention to convert. For the handicapped and persons over 65, an additional 180 days lease extension may be imposed. Building code disclosures, building reports, a property report prepared by an engineer or architect, and an itemized estimate of expenses for each unit owner are also necessitated by law.

IOWA

LEGISLATIVE UPDATE. House bills 42 and 205 were both sent to the House Judiciary and Law Enforcement Committee in 1981. They were not reported out of the sub-committee before the legislature adjourned on May 22, but may be picked up in the next legislative session as carry-overs.

H42 would require developers to file an approved conversion plan with the Attorney General. Developers could not increase rents for senior citizens beyond ordinary rentals for comparable apartments during the period of their occupancy if they chose not to purchase their converted condominium.

H205 would prohibit for one year the conversion of residential dwellings to condominiums or cooperatives.

KENTUCKY

LOUISVILLE. A proposed condominium conversion ordinance in LOUISVILLE would require developers to notify tenants in writing of their intent to convert, give tenants 180 days to relocate, first right of refusal to purchase their units, and allow tenants who chose not to purchase to cancel their existing leases on 30 days notice.

LOUISIANA

Louisiana state law requires that building code compliance costs must be estimated and disclosed, and that an architect or engineer report on the present condition of the building and its estimated remaining useful life be filed. A property report, projected operating budget, and legal documents must also be disclosed to prospective purchasers who may rescind the contract if misleading or false statements were made in the offering material.

MAINE

LEGISLATIVE UPDATE. Senate Bill 112, the Maine Uniform Condominium Act, has been withdrawn from consideration for the 1981 session.

*PORTLAND. Portland officials are circulating a proposed ordinance that would require developers to notify tenants of a proposed conversion at least 4 months in advance, give the tenants the right of first refusal to purchase their units, and, in some cases, require developers to pay relocation expenses to tenants.

MARYLAND

LEGISLATIVE UPDATE. The governor of Maryland signed condominium legislation on May 7, 1981, that prohibits local governments from banning condominium conversions; requires developers to pay up to \$750 in moving expenses for displaced tenants; requires developers to set up to 20% of the rental costs in a conversion project for families with elderly or handicapped persons, and also for those with incomes of less than 80% of the area's median income who may remain as tenants for a period of 3 years with rental increases tied to the CPI; and allows local governments to purchase a building before it is sold to a developer for conversion. The government must operate the building as a rental property for at least 3 years when purchased. If local governments declare a housing emergency, the 3 year period for tenancy allowed special persons may be extended and could, in fact, establish life tenancies for some elderly and disabled persons.

The state condominium law requires 180 days' notice of intent to convert. A lease may be extended for 180 days on the same terms, or terminated on 30 days' notice. Prospective buyers must be shown property reports if the building is more than 5 years old, a projected operating budget, and certain legal documents. Some deposits on uncompleted units may have to be put in an escrow account, payable to the state. A prospective purchaser may rescind the contract within 15 days of receipt of disclosure information.

*MONTGOMERY COUNTY. Effective July 1, 1981 Montgomery County law allows extended leases to certain classes of citizens and gives the County Government the first option to purchase buildings slated for condominium conversion.

The County law is similar to the state's to some extent, although it adds a building report on condition, useful life, and estimate of repairs. More warranties are needed to cover the common element for . years and the unit for 1 year, with a reserve for appliance repair and maintenance also required.

In November 1980 the Maryland Court of Appeals ruled the provision of the MONTGOMERY COUNTY condominium conversion law requiring apartment owners to give a tenant association 120 days to purchase a building before it is converted invalid. Another section of the law requiring owners to pay \$750 in relocation expenses was also invalidated. The Court ruled in a 5-2 decision that the two provisions conflict with a 1974 state law regulating condominium conversions.

MASSACHUSETTS

*LEGISLATIVE UPDATE. Nearly a dozen amendments were added to Senate Bill 1001 on October 7, 1981. As originally introduced in May 1981, the bill would allow cities and towns to adopt ordinances to restrict and control the conversion of rental housing to condominiums or cooperatives. Cities with populations of 150,000 or more could not permit conversions unless the rental vacancy rate is more than 5%. Further action on the bill is expected in the immediate future.

There is no state law governing condominiums.

ACTON. The Massachusetts legislature approved on May 8, 1981, a bill to regulate condominium conversion in Acton. The Act stipulates that no rental housing be removed from the market for conversion unless a permit is issued by the City Board of Selectmen. The Board will grant permits if the landlord gives the tenants the right of first refusal, provides price concessions or financing assistance, or assists in trying to find comparable rental housing in Acton. Also, a 6-month notice is necessary, and the building must be certified as meeting all applicable building and health codes of the Town and the Commonwealth.

*AMHERST. In August 1981, the state attorney general struck down a town by-law that placed strict guidelines on condominium conversions.

*ANDOVER. Members of the ANDOVER Board of selectmen are supporting a condominium conversion ordinance that requires developers to apply for a special permit from the Zoning Board and give a 1 year notice to tenants before conversions can take place. The bylaw was ruled illegal by the attorney general and is now under appeal by the town.

BOSTON. An ordinance approved on December 26, 1979, provides that no person may bring any action to recover possession of a housing accommodation for the purpose of a condominium conversion until the rental agreement expires or one year has lapsed since written notification of termination of tenancy is received, whichever is later. However, if a tenant is 62 years of age or older, handicapped, or has a total income of less than 80% of the median income for the area, a 2 year extension of occupancy is required. The ordinance will remain in effect until December 31, 1982.

BROOKLINE. According to the conversion ordinance in BROOKLINE that went into effect on June 16, 1980, no landlord or other person may remove from rental use any rental unit in a building of four or more residential units which is not controlled by the Rent and Eviction Control Bylaw without first obtaining a conversion permit from the Housing Conversion Board. In effect, the ordinance prohibits eviction for conversion purposes. This has been appealed to the courts.

CAMBRIDGE. Attempting to recover possession of a rent controlled apartment in order to convert an apartment to a condominium unit is not just cause for eviction according to the CAMBRIDGE rent control ordinance. When a rental unit is converted and sold as a condominium, the new owner may not seek to evict the present tenant and the unit is subject to the provisions of the rent control law. If the purchaser of the unit is the present tenant, the unit becomes permanently decontrolled.

On March 12, 1981, the Massachusetts Supreme Judicial Court upheld the 1976 ordinance that allows the Rent Control Board to prevent evictions from rental units that are converted to condominiums. Real estate owners filed suit against the ordinance claiming that it amounted to "an unconstitutional taking of their property" and eliminated an owner's right to take possession of his property. The Court stated that the ordinance does not prevent an owner from converting his controlled rental units into condominiums, but it does prohibit those units from being used for purposes other than rental housing. The Court also claimed that even though the ordinance prevents some owners from taking possession of their condominiums after purchasing them, it does not amount to an unconstitutional taking of that property since the owner will receive rental income from the unit.

*DEDHAM. The Planning Board in DEDHAM is forming a subcommittee to investigate regulating condominium conversions.

FRAMINGHAM. Enabling legislation is necessary from the state legislature before the town of FRAMINGHAM can implement a condominium conversion ordinance adopted in May 1980. The condominium bylaw requires a 9-month notice to vacate and gives the elderly, low-income, or handicapped 2 years to vacate apartments slated for conversion. FRAMINGHAM will ask Legislators to grant the town home rule powers.

*GLOUCESTER. A recently approved condominium conversion ordinance in GLOUCESTER that would have required a 6 month notice to tenants of an impending conversion by developers and provided relocation expenses, the first option to purchase or special financing assistance, has not been implemented because the State Legislature turned down the City's request for state enabling legislation to impose such an ordinance.

*HUDSON. House Bill 7169 was introduced into the State Legislature on September 23, 1981, requesting enabling legislation to protect tenants and purchasers of condominium or cooperative units in HUDSON.

LOWELL. On June 11, 1980, a condominium conversion ordinance was passed that requires owners to file an intent to convert with the Planning Commission one year prior to the execution or recording of a master deed, and owners must notify tenants of the intent. Tenants have at least 2 years from the date of the recording of the master deed to vacate units being converted and at least one year to purchase their units. Rent increases for the two year period are restricted to the percentile increase of the year previous to the filing of the master deed.

LYNN. The condominium conversion ordinance applies to dwellings containing 3 or more rental units which are to be or have been subsequent to April 17, 1979, converted to condominium ownership by the filing of a master deed. If rental units were used for residential purposes at any time since April 18, 1979, no action to recover possession of the property for the purpose of converting it to a condominium may be taken unless there is a rental vacancy rate in excess of 8%. Buildings purchased that were previously used for residential purposes but which have been vacant for a period of 3 months prior to the sale may request that the Planning Department waive the 8% vacancy rate restriction and may apply for a permit to convert. Reports to be filed with the City Clerk before recordation of condominium documents must include a copy of all documents to be recorded with the Registry of Deeds, a report of the present condition of all structural components and major mechanical systems of the building and their expected useful life, a list of all tenants of the building, and a statement ensuring that the developer has followed the provisions of the ordinance regarding tenant assistance and notification.

If a rental building is intended to be converted, tenants must be notified one year in advance before an attempt to recover possession can be made. Tenants 62 years of age or older or those whose total income for the

previous year was equal to or less than the qualification income for the Section 8 Housing Assistance Program shall be given 2 years notice of intent to convert before action can be taken to recover possession. However, persons not making the required rental payments or substantially violating the terms of the tenancy may be given less than a year's notice to vacate. Tenants have a 30-day first option to purchase their units. If the tenant does not contract to purchase the unit during the 30 day period, the developer may not offer the unit for sale for 180 days following the expiration of the 30 day period at a price or terms more favorable than the price offered to the existing tenant. Developers must pay maximum moving expenses of up to \$300 or one month's rent, whichever is greater, within 14 days of receiving a receipted bill for the costs incurred for tenants whose total income for the previous year was equal to or less than the qualification income for Section 8 assistance.

If plans for conversion are abandoned after sending the notice of intent to convert, the developer or any subsequent owner of the property may not send notice to any tenant for a period of at least 18 months.

*MEDFORD. The MEDFORD City Council voted down a proposed moratorium on condominium conversions in September 1981.

*QUINCY. Although the QUINCY City Council turned down a tenant's request in August 1981 to impose a 9-month moratorium on condominium conversions, the Council may seek legislative permission and enabling legislation to adopt a moratorium.

*ROWLEY. A zoning ordinance in the Town by-laws designed to prohibit the condominium form of ownership in ROWLEY was ruled an "invalid exercise" of the town's zoning powers in March 1981. The by-law states that all structures containing more than one unit must be retained under a single ownership, which is defined as a group or association of two or more individuals having common individual interests in a tract of land and all structures upon it. Judge Marilyn Sullivan stated that the bylaw makes an "illogical distinction between forms of property ownership that is arbitrary and unreasonable and rests on the type of ownership rather than the use of the property." In short, the Judge said "There appears to be no rational basis for the ban on condominium ownership in Rowley." New zoning amendments are expected to be presented to the Town Council.

*SALEM. In order to convert a rental unit to a condominium in Salem, a developer must receive permission by the Board of Appeals according to an amendment to the City Ordinance approved by the Mayor on March 25, 1981. Tenants must be notified of the intent to convert and such notice must include a copy of the amendment dealing with condominium conversions. Notice of the filing must also be given to the Board of Appeals and the Housing Authority in Salem.

*In determining whether or not to grant the petition for a special permit, the Board of Appeals must consider the relationship of the condominium or cooperative conversion to the Master Plan of the City; the impact on the neighborhood and its impact on the existing rental stock for families of low and moderate income and elderly people on fixed incomes; and the degree of hardship caused by the conversion on existing tenants and the steps taken by the petitioner to alleviate the hardship. In addition, in granting any special permit, the Board of Appeals must provide for a minimum of 6 months to lapse from the time of their action before the issuance of the permit and the beginning of any work on the conversion unless the building is vacant at the time of the filing.

*SOMERVILLE. On October 28, 1980, the Mayor of SOMERVILLE signed condominium legislation requiring that developers obtain permits to convert rental apartments to condominiums. A 5-member condominium review board will review requests and consider tenant hardships, owner hardships, and the city's housing situation before approving or disapproving the conversion. If a conversion is approved, developers must give tenants 1 year notice and provide \$300 or a month's rent, whichever is higher, to low-income tenants for relocation expenses. The law is expected to be in effect within 90 days, but is being challenged in court because state enabling legislation is required first.

*STONEHAM. House Bill 7195 was introduced into the State Legislature on September 24, 1981, requesting enabling legislation to require developers of mobile home park conversions to give existing tenants at least a 1 year notice of the conversion.

*WESTFIELD. Although condominium conversions appear to pose no problems in WESTFIELD, the City Council passed a conversion ordinance in August 1981 that provides for an adequate notice to tenants who must relocate due to the conversion process.

WOEBURN. According to an amendment to the zoning ordinance approved in September 1980, conversions from apartments to condominiums require a special permit from the City Council. In considering an application for a special permit, the Council may set a minimum length of time which must pass before any unit can be converted, provided that the time set may not exceed one year.

MICHIGAN

*LEGISLATIVE UPDATE. The Uniform Condominium Act was introduced in the Michigan Senate as Bill #227 on April 1, 1981, and was referred to the State and Veteran's Affairs Committee. As of October 8, 1981, no action has been taken by the Committee.

CURRENT STATE LAW. A state law preempts local laws and provides a two-step process. First, converters may submit a non binding reservation of purchase of an apartment building for conversion purposes to test potential market. The second step is to request a permit to sell conversions, which requires a statement on the financial condition of the converter and a 120 day notice to the tenants. A prospective purchaser has 10 days after receipt of the required disclosure documents and "material information" about the property and budget to withdraw.

Michigan tenancy of persons 65 years of age or older and certain severely handicapped persons shall not be terminated without cause within 1 year receipt of notice of conversion. These persons may also qualify for an extended lease arrangement if they pay less than \$450 monthly rent for a single bedroom unit or \$500 monthly rent for a two or more bedroom unit. Depending on the age of the elderly or handicapped, leases must be extended from 4 to 10 years and rents will not receive an unreasonable increase beyond the fair market rent for a comparable apartment.

MINNESOTA

CURRENT STATE LAW. The state legislature adopted the Uniform Condominium Act in 1980 without significant revisions.

MINNEAPOLIS and WAYZATA have ordinances which provide for 120 day notices of conversion, and 180 day notices for elderly, handicapped, and families with children, along with a 60 day first right of refusal period.

MINNEAPOLIS. In MINNEAPOLIS there is a petition drive underway to place on a future ballot an amendment to the city charter providing both for rent controls and condominium conversion controls. The initiative, if passed, would prohibit the conversion of existing residential apartments to condominiums. Those in the process of conversion would not be prohibited.

ST. PAUL. The ST. PAUL City Council has proposed that if the city has a shortage of rental units it would impose a tax of not more than 4% of the purchase price on rental units converted to condominiums. The proposal states that the revenues would be used for programs to increase the number of housing units for low and moderate income persons.

MISSOURI

LEGISLATIVE UPDATE. House Bill 450, constituting the Uniform Condominium Act, failed to be reported out of the Civil and Criminal Justice Committee. It was, therefore, killed with the adjournment of the Missouri Legislature in June 1981.

CURRENT STATE LAW. State law requires only the filing by a converter of a declaration of intention to convert an apartment building.

BRENTWOOD. A proposed condominium conversion ordinance before the Board of Alderman in BRENTWOOD would require owners or developers to submit a plat review and occupancy permit with their conversion plans. The Mayor and Aldermen would have final approval in authorizing a condominium conversion.

FERGUSON. A 6-month moratorium on condominium conversions expired in October 1980.

KANSAS CITY. A Kansas City ordinance requires site plans, inspection of the condominium converted, and conformance with codes.

ST. LOUIS. St. Louis provides for a 90-day notice of intention to convert and code compliance.

UNIVERSITY CITY. In University City, there must be a 90 day notice, a building inspection, and a certificate of occupancy before the unit may be occupied. The ordinance also stipulates that separate gas and electric meters serve each unit.

WEBSTER GROVES. Webster Groves has a 180 day notice period, a 60 day right of first refusal period, and the purchaser's right to cancel a lease on 60 days' written notice. Other requirements include smoke detectors; a Condominium Code Assessment Report; an engineer's or architect's report on the present condition of the building's structure; a property report; and a 3 year actual budget and 1 year projected budget.

NEVADA

RENO. A condominium conversion ordinance passed by the RENO City Council in June 1980, requires that there be an apartment vacancy rate of at least 5% before apartments can be converted to condominiums. Developers must give tenants first option to purchase their units, a 90-day notice to vacate with an additional 60-day period for senior citizens, and payment of \$350 for relocation expenses.

NEW HAMPSHIRE

LEGISLATIVE UPDATE. On April 7, 1981, bill #799 was introduced into the New Hampshire House of Representatives. This bill would have given tenants no less than 6 months to move when their rental complex is converted to a condominium, and the exclusive right to contract to buy their units. Elderly (60 years of age or older) or disabled tenants may also remain as renters for as long as they wish, and may not be evicted for refusing to consent to the conversion. The New Hampshire Senate has taken actions that effectively kill the legislation for this session.

CURRENT STATE LAW. There is a 90 day notice of conversion and 60 day right of first refusal. Reports on the condition of the building, its useful life, and estimation of repairs are to be filed. An actual budget of the past 3 years is required, as is a schedule of completion of improvements.

NEW JERSEY

*CURRENT STATE LAW. Governor Brendan Byrne signed S.3029 into law on July 27, 1981. The new legislation gives certain senior citizens and disabled persons the right to remain in their apartments for up to 40 years in the case of a conversion. Rents would also be regulated by prohibiting landlords from passing along the costs of the conversion "which do not add new services or amenities."

The bill covers persons over 62 and disabled tenants who have lived in their apartment at least 2 years before the conversion if their household income is no more than three times the per capita income for the county in which they live.

NEW YORK

CURRENT STATE LAW. A complex state law differs for rent controlled and rent stabilized apartments in regard to notices of eviction, continued occupancy, etc. The state's buyer protection provisions include reports on the building, building code, property, and budget, along with a detailed list of disclosures for prospective purchasers that includes reviews for the Attorney General and the tenants.

NEW YORK CITY. New York City and suburbs have a variety of laws, generally providing for 35% tenant approval and lifetime tenancy for persons 62 years or older with annual incomes of \$30,000 or less.

NORTH CAROLINA

The State Legislature Drafting Committee is compiling recommendations to present to the next session of the North Carolina General Assembly to implement state laws regulating the conversion of condominiums and authorize temporary local moratoriums on conversions. A moratorium could be put in effect for a period of 6 months with a possible 6 month extension if it is found that conversions would cause severe financial and relocation problems to tenants or significantly reduce the low- and middle-income housing stock. If two-thirds of the tenants in a building agree to a conversion, the moratorium will not affect the conversion. Under tenant protection clauses, tenants would be notified and have the exclusive right to purchase within a 45-day period, a 75-day period to vacate if tenants do not want to purchase, and during that 75-day period rents may not be increased. The proposed law also provides for a 6-month period in which a developer may not offer the unit for sale at more favorable terms than the terms offered to the tenants if the tenant does not wish to purchase.

WINSTON-SALEM. The WINSTON-SALEM Board of REALTORS recommended in February 1981 that controls not be placed on condominium conversions. A study undertaken by the REALTORS found that the actual percentage of people adversely affected by conversions would be relatively low; most converted buildings are run down and rents would have to be raised to a much higher level to cover renovation costs; conversions meet the strong demand for homeownership; and conversions increase property values. No action has been taken by Aldermen.

OHIO

*LEGISLATIVE UPDATE. H555, introduced on May 20, 1981, would require developers to pay a relocation assistance allowance to eligible elderly tenants, permanently and totally disabled tenants, and certain other tenants who vacate before the expiration of the 120 day notification period or of the term of the rental agreement, whichever occurs later. As of October 8, 1981, no action has been taken on the bill by the Aging and Housing Committee.

CURRENT STATE LAW. The state law, which became effective October 1, 1978, provides for a 120 day notice to vacate, with a 90 day right of first refusal to purchase by the tenant. The law requires the disclosure of building code compliance, or failure to comply, to the purchaser; a report on the age, condition, and remaining useful life of the structure; estimated repair and replacement costs; a 2-year projected budget, revised biannually; and warranties on the structure, unit, and appliances.

LAKWOOD and LYNDHURST, suburbs of Cleveland, have similar ordinances that go beyond the protections of the state law. Lakewood's ordinance was enacted in May 1979, after a 90-day moratorium on conversions, and, among other provisions, allows handicapped and elderly tenants up to 6 months to relocate.

A developer must file a schedule of completion and a report on the present condition of the building, along with an estimation of the useful life of all structural and major mechanical components. The Real Estate Com-

mission must issue a report to prospective purchasers on the building's condition, schedule of completion and useful life, the projected budget, and any legal documents necessary.

In addition, the law requires a 90-day notice to tenants to vacate, and provides for a 30 day period where the tenants have the right of first refusal.

OREGON

PORTLAND. On November 12, 1980, The PORTLAND City Council adopted regulations governing condominium conversions, although a controversial conversion ordinance proposed by the PORTLAND Planning Bureau was rejected earlier. The ordinance requires developers converting units to provide moving expenses to displaced low-income tenants and give tenants 120-days' notice to relocate. The earlier ordinance would have required developers to obtain a special permit before converting, given tenants a 10% discount on the sales price of units if they intended to purchase, and required developers to pay relocation expenses of tenants not purchasing their units.

PENNSYLVANIA

*LEGISLATIVE UPDATE. House Bills #1842 and 1843, amending Pennsylvania's Uniform Condominium Act, were introduced on September 22, 1981, and referred to the Committee on Business and Commerce. H.1842 would require that a declaration for a conversion be recorded on or before the date that notice of conversion is given. H.1843 would prohibit certain unfair conversion practices, require additional notices, and prohibit tenants from waiving rights or remedies of the bill.

*In the Pennsylvania Senate, action continues on S.81, which was laid on the table on September 14, and S.117, which was re-reported on October 5. When S.81 is removed from the table, it will be under second consideration; S.117 is currently on the Senate calendar for a second reading.

S.81 would insert a local option clause into the current Uniform Condominium Act, allowing municipalities to restrict condominium conversions. An amendment on the Bill would impose an eight-month ban on conversions in the Commonwealth.

S.117 would guarantee the right of a lifetime lease to tenants 62 years old or older, and blind or disabled tenants, who have lived in the apartment building for at least three years. The three years do not have to be spent in the same apartment unit.

CURRENT STATE LAW. The Pennsylvania legislature adopted a revised version of the Uniform Condominium Act in July 1980. The act preempts what has been an 18-month moratorium on condominium conversions in PHILADELPHIA by prohibiting discrimination against condominiums by local authorities. The moratorium expired on October 30, 1980, rather than the scheduled March 1981.

Pennsylvania's law differs from the UCA in several respects. Pennsylvania requires a 1 year notice of conversion and 6 month right of first refusal period; the UCA only calls for 120 days' notice and 60 days' right of first refusal. The Pennsylvania act adds sections that give tenants the right to cancel leases on 90 days' written notice, requires public hearings at least 30 days before a notice of conversion, and allows a 2-year lease extension to elderly (62 years or older), blind, or disabled tenants who have occupied their apartments for at least 2 years. Additional warrants against defects are also required.

RHODE ISLAND

LEGISLATIVE UPDATE. House Bill #5689, introduced March 3, 1981, was approved by the legislature and has become law in Rhode Island. The new law requires that tenants be given at least a 120 day notice in the case of conversions, and the first opportunity to purchase their units. Owners/developers shall not offer units for sale to the general public at terms more favorable than offered to the tenants.

Tenants who have attained the age of 62 must be given a one-year notice, and will have reasonable moving expenses and costs paid by the owner/developer if they move within a 50-mile radius.

The Uniform Condominium Act is currently in The Rhode Island Senate Committee on Corporations. The House failed to pass the UCA earlier in the session, passing a substitute resolution in its place.

SOUTH DAKOTA

A contract may be voided if the developer fails to notify the South Dakota Real Estate Commission in writing of the intention to sell offerings in a condominium project. Any deposit made with a reservation or contract must be held in escrow until the deed is delivered.

TENNESSEE

LEGISLATIVE UPDATE. The Uniform Condominium Act, introduced into both the House and Senate in February 1981, will not be dealt with until the new session opens in January 1982. The Tennessee Senate deferred action until next year; at the close of the 1981 regular session, the bill was still in the House Commerce Committee, and will be picked up again in January.

CURRENT STATE LAW. The state law provides for a 60 day notice to tenants of intention to convert, and for relocation assistance.

TEXAS

CURRENT STATE LAW. State law only requires a declaration of a condominium conversion be filed at the county clerk's office.

UTAH

LEGISLATIVE UPDATE. Senate bill S.1 was introduced into the state Legislature on January 12, 1981, providing procedures for the approval of condominium conversions.

VERMONT

LEGISLATIVE UPDATE. Before going out of session on May 5, 1981, the Vermont House of Representatives passed the Uniform Condominium Act. The bill is now in the Senate Judiciary Committee. No further action will be taken until the Legislature reconvenes in January 1982, when the bill will be taken up as a carry over in the Senate.

The Vermont House passed the Uniform Condominium Act early in the 1980 legislative session, but the Act was killed later in the Senate.

VIRGINIA

CURRENT STATE LAW. The Virginia condominium law requires that tenants be given 120 days' notice to vacate, and that they have the exclusive right to purchase the units they occupy within the first 60 days of that 120 day period.

The developer must also file a Public Offering Statement, which describes the present condition of the building; dates of construction and major repairs; expected useful life; expenditures of the past 3 years, with a proposed budget; and a 1 year warranty against structural defects in the common element and unit.

FAIRFAX COUNTY. The FAIRFAX COUNTY Board of Supervisors approved voluntary condominium conversion guidelines in March 1981, that will ease relocation for displaced tenants. Three major condominium developers have agreed to long term leases for elderly and handicapped tenants with financial assistance to tenants relocating. The developers will also assist in finding new housing for tenants and offer discounts to those tenants desiring to purchase their units.

WASHINGTON

CURRENT STATE LAW. The state's Horizontal Property Regime Act regulates the sale and ownership of condominiums. The law is designed to protect the buyer, offering no provisions concerning the tenants.

Several communities have devised ordinances of their own, in the absence of state regulations.

EVERETT. The conversion ordinance that became effective April 18, 1979, is similar to the other Seattle-area ordinances discussed below.

KING COUNTY. The KING COUNTY ordinance, covering the unincorporated parts of the county, was passed April 16, 1979, and is slightly more complex than that of Seattle. It requires relocation assistance equal to 2 months' rent, but not less than \$350.

LYNNWOOD. LYNNWOOD requires notice of conversion and right of first refusal.

MERCER ISLAND. The Seattle suburb of MERCER ISLAND has a similar ordinance, although without relocation assistance.

REDMOND. In REDMOND, where between 50 to 75% of apartments have been converted to condominiums, an ordinance was passed that requires 120 days' notice, first right of refusal, and protection of tenants from evictions.

SEATTLE. SEATTLE's tenant protection includes the first right to purchase, 120 days' notice, and \$350 in relocation expenses if a tenant chooses not to buy. There must be a building code inspection and compliance and disclosures that include estimated useful life, repair costs, property report, budget, and monthly expenses.

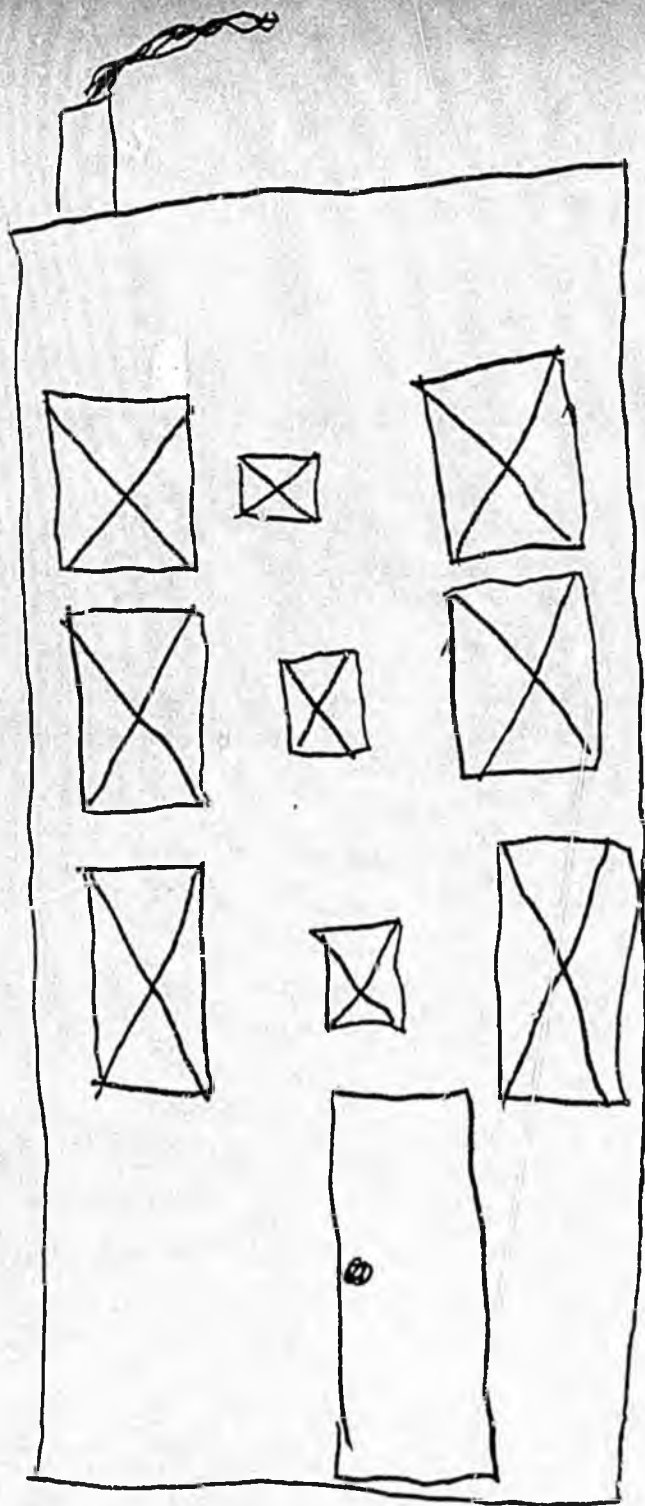
WEST VIRGINIA

The state legislature passed the Uniform Condominium Act in the 1980 session.

WISCONSIN

LEGISLATIVE UPDATE. Assembly Bill A.3, introduced into the state Legislature on January 9, 1981, which would permit counties and municipalities to adopt ordinances regulating the conversion of property to condominiums, was defeated in the Assembly by a 50-46 vote on May 14.

CURRENT STATE LAW. State law provides for a 120-day notice to vacate with exclusive option to purchase by the tenant within a 60 day period, and buyer protection in the form of disclosing an annual operating budget and certain legal documents to prospective purchasers.



A Brief Overview
Of Housing Discrimination
Against Families with Children



NO Children Allowed

A BRIEF OVERVIEW OF
HOUSING DISCRIMINATION
AGAINST FAMILIES WITH CHILDREN

Children's Defense Fund
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The Children's Defense Fund (CDF) is a national public charity created to provide a long-range and systematic voice on behalf of the nation's children. Through research, public education, technical assistance to state and local groups, community organizing, monitoring federal administrative and legislative policy and programs, and litigation, CDF seeks to change specific policies and practices resulting in the neglect or mistreatment of millions of children. Our goal is to place the needs of children and their families higher on the nation's public policy agenda.

CDF takes no government money and has no chapters. However, through our Children's Public Policy Network, we work closely with other state, local, and national groups, individuals, and parents. Those interested in participating in the network and receiving up-to-date information on a range of public policies affecting children should subscribe to our monthly newsletter, CDF Reports. The toll-free network number is (800) 424-9602.

CDF's focus is on institutional rather than individual neglect and abuse of children and on strengthening parents' roles in decisions of other institutions affecting their children. CDF's program areas are: child health and mental health, child welfare, child care and family support services, and education. In each area we have documented specific problems facing millions of children of all races and classes and tried to think through a range of specific strategies for alleviating those problems at the federal, state, and local levels and in the public and private sectors.

The increased involvement of individuals and groups on behalf of children throughout the nation is critically important. We hope each of you taking the time to read this booklet will:

- become more informed about the needs of children nationally and in your own area;
- talk to other parents, individuals, and groups in your community to gain strength from numbers to pursue local change for children;
- speak up to unresponsive policymakers and public officials who fail to protect children's interests well or provide them with needed services.

Over the past several years local groups formed to fight discrimination against children in housing have cropped up around the country -- in Los Angeles, Cincinnati, Dallas, Atlanta, and elsewhere.¹ Yet there is still very little public knowledge about the problem of housing discrimination against families with children. There are no available analyses of data on the numbers of inadequately housed children and little solid local information. Although the Department of Housing and Urban Development (HUD) annually collects data on the numbers of children inadequately housed, the agency has not compiled and disseminated the information.²

Because of these factors and because we have seen the direct and indirect effects of scarce and inadequate housing on children in our four existing program areas,³ CDF is sharing this brief overview with the goal of focusing more public and policymaker attention on the special and widespread discrimination faced by families with children. Through our child welfare work, for example, we have heard of children being

¹A list of groups is included on pages 21 & 22.

²The Annual Housing Survey is conducted by HUD and the Bureau of the Census. The information is based on samples of housing units. It includes questions on numbers of children by race, family income, public assistance, and family structure in housing characterized by tenure, cost, condition, and date of occupancy.

³These are: child welfare, child health, education, and child care and family support services.

removed from their parents because of the inability to provide the basic essentials; housing is at the top of the list. Through our education program we have long fought against racially segregated schools. We know how residential segregation helps perpetuate segregated education. Now we are learning how housing policies that exclude children are used to help maintain racially segregated schools. We are also conducting a study of the unmet mental health needs of children and have heard about the stress suffered by families unable to find decent housing.

The Problem

- In Cincinnati a recently separated mother of a 17-month-old girl, expecting another child, was sent by the welfare department to a local housing group. Dependent now on Aid to Families with Dependent Children for her income, the mother had been unable to find housing for herself and her child. She was living with relatives who wanted her out. After several months of searching, the housing group has been unable to find her housing. She despairs at the thought of a second child without a home and considers giving her newborn up for adoption.
- In Los Angeles a young attorney and his wife have been evicted from their home of several years because they have a baby. Unable to afford a house, they seek suitable rental housing but are continually refused by landlords who do not accept families with children.

- John and his three brothers have been living for the past three years with their foster mother and her two children. Six months ago they were all evicted from their home. They have been staying with friends of their foster mother. John and his brothers fear they will be forced to leave their foster mother and return to their former child care institution because she cannot find housing for all of them.
- When Gary turned seven years old, the landlord told his mother to find another place to live because he was at a "troublesome" age.
- Belinda, her brother, and mother were evicted from their apartment in Cincinnati because the landlord sold the building. They moved in with their aunt and her two children because they couldn't find other housing in the city. Their aunt was evicted for allowing them to stay with the family. Now they all live with their grandmother. When Belinda's mother applies for housing, she is refused because there will be "no one at home to look after the kids while she is at work." Her aunt is considered inadequate because she is on welfare.
- JoAnn is blind. She attends a school in Dallas geared to her special educational needs. Her parents have three other children, of whom one other is blind. They were recently evicted from the house they rented for \$300. Now her parents are frantic because they cannot find,

with their \$14,000 yearly income, suitable housing near enough to JoAnn's school and are afraid she will have to leave it.

- Sara, 4 1/2, has five brothers and sisters. The oldest is 12. The children and their parents spent two-and-one-half months living on the Santa Monica Pier in their family station wagon because they couldn't find housing. After staying at a mission, in a one-bedroom apartment, and in an apartment which was frequently vandalized, the family found a two-bedroom house in a town which is a very long commute for Sara's father.

As more and more families are unable to buy housing, they must turn to the rental market. The crisis in the rental housing market has reached staggering proportions:

- About 26 million families -- 35 percent of all families -- depend on rental housing.⁴ The dramatic rise in selling price and home ownership costs is making an increasing number of families unable to afford home ownership. By 1976 mounting home ownership costs for a medium-priced new house were \$465 monthly (mortgage, interest, insurance premiums, property taxes, utility costs, and repair and maintenance expenses).⁵ National rental housing vacancy

⁴U. S. General Accounting Office, Report to the Congress by the Comptroller General of the United States, CED-8011, "Rental Housing: A National Problem that Needs Immediate Attention" (Washington, D.C.: U. S. General Accounting Office, November 8, 1979) (hereinafter "GAO Report"), p. 1.

⁵GAO Report, p. 8.

rates during 1978 were about 5 percent and declined to 4.8 percent during the first quarter of 1979, rates HUD considers dangerously low.⁶ The shortage of units affordable to large families was particularly acute; in some urban areas vacancy rates were estimated to be 2.8 percent.⁷

- while median rents have increased by an average of 9.6 percent annually from 1973 through 1977, renter income has only increased 5.6 percent annually.⁸
- About 11.9 million renters pay more than 25 percent of their income as rent; 7.4 million pay more than 35 percent. Of those paying more than 35 percent, 86 percent had annual incomes of less than \$7,000.⁹
- Over 21 percent of black families lived in physically deficient units in 1976,¹⁰ as did 20 percent of Hispanic families¹¹ and 22 percent of female-headed households.¹²

⁶GAO Report, p. 5.

⁷GAO Report, p. 11.

⁸GAO Report, p. 6.

⁹GAO Report, p. 6.

¹⁰How Well Are We Housed?, HUD-PDR-333, "3. Blacks" (Washington, D.C.: U.S. Department of Housing and Urban Development, February 1979), p. 8.

¹¹How Well Are We Housed?, HUD-PDR-333, "1. Hispanics" (Washington, D.C.: U.S. Department of Housing and Urban Development, September 1978), p. 8.

¹²How Well Are We Housed?, HUD-PDR-333, "2. Female-Headed Households" (Washington, D.C.: Department of Housing and Urban Development, December 1978), p. 8.

When children are present in families, tight rental housing markets become even tighter:

- A study of private rental units in Dallas, Texas completed by Jane Greene and Associates in December 1978 showed that 52 percent of the 432 apartment complexes surveyed refused to accept children, while 12 percent accepted children with specified restrictions.¹³
- In a 1979 study of 633 apartment complexes (total units, 48,235) in metropolitan Atlanta, 26.5 percent of total apartment units surveyed barred children; 25 percent of units accepted children with restrictions.¹⁴
- The California Fair Housing for Children Project found in a survey of six California cities that 70 percent of rental apartment buildings surveyed in Los Angeles, 50 percent in Fresno, 64 percent in San Diego, 67 percent in San Jose, and 12 percent in San Francisco had restrictions against children.¹⁵
- In Los Angeles, where the overall renter vacancy rate is 2.6 percent, the effective vacancy rate for families with children is less than eight-tenths of one percent. In

¹³U.S. Department of Housing and Urban Development, unpublished contractor report: J G & Associates, "A Comparison of Vacancies and Rents on the Basis of Apartment Policies Regarding the Acceptance of Children," May 1979.

¹⁴U.S. Department of Housing and Urban Development, unpublished contractor report: Reid, Keating and Long, "Patterns of Discrimination Against Children in Rental Housing in the Metro-Atlanta Area," January 1979.

¹⁵U.S. Department of Housing and Urban Development, unpublished contractor report: The Fair Housing Project, "The Extent and Effects of Discrimination Against Children in Rental Housing: A Study of Five California Cities," December 1979.

San Jose, where the renter vacancy rate is at a healthy level (5.4 percent), the effective vacancy rate for families with children is only 1.6 percent.¹⁶

Why the Housing Needs of Children Are Not Being Met

CDF's preliminary analysis shows multiple contributing factors:

- a decreasing and inadequate supply nationwide of housing for families with children;
- increasing numbers of families with inadequate incomes to purchase or rent suitable housing;
- increasing rent levels, causing more and more children to be housed in inadequate, overcrowded, and unsanitary dwellings;
- "no children" signs appearing on new rental units and units formerly occupied by children;
- powerful real estate lobbies arguing for "free choice" for renters and thwarting local advocacy groups' struggles to achieve and enforce prohibitions against "no children" policies;
- federal housing agencies failing to fulfill the oft-repeated congressional commitment to adequately house the nation's families and failing even to enforce their own regulations.

¹⁶"The Extent and Effects of Discrimination Against Children in Rental Housing."

These concerns are present in the private as well as the publicly owned and subsidized housing market. Some are discussed below.

A. The Landlord's "Right" to Exclude Children and the Market's Inability to House Children Adequately

Some landlords claim a right to exclude children, alleging that certain tenants do not want to have children around and that the market will respond to the housing needs of all. In fact, housing for families with children is not being produced. According to the Comptroller General:

The proportion of multifamily rental construction starts which have been federally subsidized has increased steadily from 22 percent in 1972 to about 44 percent in 1978. HUD estimates that federally subsidized and/or insured units will account for about 75 percent of multifamily construction starts in 1979. If the current rental market conditions continue, there will be even greater reliance on Federal programs to deal with the rental housing market crisis, particularly as it relates to lower income households.¹⁷

Even when the government has stepped in to offer financial incentives for the development of family housing, private developers are reluctant to build or renovate housing for families with children. Federal housing programs disproportionately benefit the elderly, and much federally subsidized housing excludes children.

B. Unenforced and Ineffective Protections

Local, state, and federal prohibitions cover housing discrimination against families with children. Nine states have laws prohibiting housing discrimination against children,

¹⁷GAO Report, p. 11.

and at least four cities have ordinances.¹⁸ The enforcement record has been poor. Better enforcement of these provisions is important but will not alone cure the problems of low- and moderate-income families with children unable to afford available housing.

Similar problems exist in the public housing market. Federal laws prohibiting exclusion of families with children by landlords receiving federal mortgage assistance are unenforced.¹⁹ HUD officials claim inadequate monitoring personnel. As a result, no enforcement or monitoring has been done to ensure that federal financial assistance does not go to those who discriminate against children.

C. An Unfulfilled National Commitment to Children

Despite congressional commitment since 1949 to provide decent housing for all families,²⁰ the housing needs of families with children have been neglected. Federally financed and subsidized housing has favored the elderly.²¹ In 1977

¹⁸State statutes exist in Arizona, Delaware, the District of Columbia, Illinois, Massachusetts, Minnesota, New Jersey, New York, and Wisconsin. Cities that have passed ordinances include San Francisco, Berkeley, Los Angeles, and Santa Monica, California.

¹⁹Rental Housing Insurance Program, 42 U.S.C. §1713, with implementing regulations in 24 CFR §§207.20(a)(1) and (2); 221.536(a); 236.65(a).

²⁰Congressional Declaration of National Housing Policy, 42 U.S.C. §1441.

²¹We recognize and support the housing needs of the elderly. We simply believe there has to be a fairer balance in housing provisions for families with children.

the elderly constituted 32 percent of the low-income renter households but were (a) 45 percent of all families in publicly owned low-income housing, (b) 48 percent of all families certified for federal rental assistance payments under the Section 8 program of the National Housing Act, and (c) 51 percent of all families certified for occupation of newly constructed and substantially rehabilitated housing under Section 8. Although the federal Rental Housing Insurance program was "intended to facilitate particularly the production of rental accommodations, at reasonable rents, of design and size suitable for family living,"²² in 1977 41 percent of all families certified for occupancy in federally insured rental housing were families with no minor children.²³

D. Lack of Coordinated Planning for Housing Needs

When it comes to building or rehabilitating housing for families with children, everyone claims someone else is responsible. Real estate developers say it is not profitable to build or rehabilitate without some financial incentive. The federal government will supply the financial assistance but wants local communities to plan and choose appropriate housing priorities and sites. Local governments claim they

²²42 U.S.C. §1713.

²³U.S. Department of Housing and Urban Development, 1977 Statistical Yearbook (Washington, D.C.: U.S. Government Printing Office, December 1978).

are unable to find any place to put housing for families or developers to build it.²⁴

Federal law requires communities to assess their housing needs and to plan to meet them as a condition of receiving federal assistance.²⁵ In a Housing Assistance Plan (HAP), each community must assess the housing assistance needs of lower-income persons (families, large families, and the elderly), specify realistic goals for meeting these needs, and indicate locations of proposed housing to meet these goals.²⁶ The HAPs were seen by Congress as crucial to achieving a decent home for every family.²⁷ Congress recognized that federal housing programs for families would not be effective "without local governments providing adequate facilities and services and a healthy community environment for housing."²⁸ The coordinated assessment, planning, and performance, how-

²⁴For example, for years no publicly subsidized family housing was built in Cincinnati. Finally a citizens group demanded that provisions for family housing be put in the city's Housing Assistance Plan. The city agreed to set a construction goal of 410 new family units. Not one has been built. The city claims that there are no developers to build it; the developers claim there are no available sites for which zoning would allow construction.

²⁵Housing and Community Development Act, 42 U.S.C. §§5301, et seq., as amended.

²⁶42 U.S.C. §5304(c)(1).

²⁷42 U.S.C. §5301(d)(3) & (4).

²⁸As reported in House Committee on Banking and Currency, 93rd Congress, 1st Session, Housing and Urban Development Act of 1973, at 156 (Comm. Print 1973).

ever, has not occurred, and new housing construction continues to neglect children.²⁹

E. Persistent Discrimination in Housing against Racial Minorities and Female-headed Households

Despite constitutional and statutory³⁰ guarantees against discrimination in housing, racial minorities and female-headed households still face extensive discrimination.³¹ The forms of discrimination are becoming more subtle, but the effects of discriminatory practices are widely felt.

Several of the local studies of housing restrictions on children show a correlation between restrictions on children and racially segregated housing patterns. Limitations on the age of children and exclusion of children have been found in "white" areas of cities. The authors have suggested that the practices are designed to perpetuate, among other things,

²⁹To correct this, HUD issued new regulations in 1979 that required communities to propose housing assistance goals that will result in the provision of assistance in proportion to the assessed needs of three household types: the elderly, large families, and elderly individuals. In addition, communities that have met the goals or a substantial portion of its housing goals for the elderly but have not done so for families are required to meet goals for family housing before providing additional assistance to elderly households. (24 CFR §570.306 (c)(4)).

³⁰Fair Housing Act, Title VIII of the 1968 Civil Rights Act, 42 U.S.C. 3601 et seq.

³¹U.S. Department of Housing and Urban Development, Office of Policy Development and Research, Measuring Racial Discrimination in American Housing Markets (Washington, D.C.: U.S. Department of Housing and Urban Development, April 1979); U.S. Department of Housing and Urban Development, Office of the Assistant Secretary for Fair Housing and Equal Opportunity, Women & Housing: A Report on Sex Discrimination in Five American Cities (Washington, D.C.: U.S. Government Printing Office, January 1976).

segregated school systems. The public association of public housing with black children and their families has often been cited as being responsible for community opposition to low-income multifamily housing.³² Fair housing groups see restrictions on children as a new technique for keeping black and other minority families out.

What Needs to Be Done -- the National Network Agenda

In December 1979 groups from all over the country met in Washington, D.C. to share their ideas on how to confront the increasingly serious problem of discrimination against families with children. The groups included local fair housing organizations as well as national organizations concerned about the effect of the housing problem on children, women, and minorities throughout the country. The groups agreed upon the need to improve communication and coordinate their efforts and decided to form a National Network on Housing Discrimination against Families. To increase public awareness of the scope of the problem, the groups spurred HUD to conduct a nationwide study of the extent of housing discrimination against families with children. These studies showed that the problem was of serious nationwide proportions, present in suburban counties as well as urban centers, and causing personal tragedies for individual families.

³²See, for example, "The Scars of a SW Housing Struggle," The Washington Post (January 14, 1980), p. 1.

The national network aims to increase public awareness of this problem and its impact on families through extensive public education. You can help by joining the network. Write to: National Network on Housing Discrimination against Families, Children's Defense Fund, 1520 New Hampshire Avenue, N.W., Washington, D.C. 20036.

The network needs individuals to help with its public education campaign by distributing materials and keeping other participants informed of what is happening in their home town, city, county, or state. It also helps those seeking to take local action to combat the problem, as discussed next.

What You Can Do Locally

If you are concerned about the housing problems faced by families in your town, city, county, or state, there is much you can do.

1. Fair Housing Ordinances or Statutes

Only a few states, cities, and counties have laws prohibiting housing discrimination against families with children. Find out whether your state legislature, county commission, or city council has enacted such laws. If they have, get a copy and find out how the law is administered. Who is responsible for enforcement? What has been done to enforce it? How many complaints have been investigated? How many families have gotten homes as a result?

If your state or locale does not have a law, find out if any laws have been proposed by contacting the staff of your local state legislator or the clerk of your city council. If a law has been proposed but not enacted, you may wish to contact the state or local legislator who proposed the law and find out which groups are working for passage and what you can do to help.

If no such law is pending, you might find others concerned about the problem and collectively ask your local state legislator or city council to propose such a law.

2. Local Enforcement of Federal Fair Housing Laws

Federal law prohibits discrimination against families with children in housing with federally insured mortgages except where such housing is exclusively for the elderly. Yet many landlords receiving federal assistance discriminate against families. You can contact your local Housing Authority or regional HUD office (see list in appendix) to find out which landlords in your area are covered by this prohibition and help to inform families that these landlords are not allowed to discriminate against them. You can encourage families to contact HUD when they have been discriminated against even if they are not certain whether the landlord receives federal assistance.

Federal law also prohibits discrimination by private landlords against minorities and women. If a family believes that a "no children" policy is really a subterfuge for racial or sexual discrimination, they should file a complaint with

their local HUD office.

Fair housing laws do not create more housing, but they do help to ensure that existing housing is distributed more fairly. In order to attack the problem of the lack of desirable housing suitable for families, you may wish to try some of the other steps listed below.

3. Local "Housing Assistance Plans"

As recipients of federal funds under the Community Development Block Grant program, local governments are required to have a HAP -- a housing assistance plan. This plan is supposed to lay out the housing needs of the community and what steps are to be taken locally to meet those needs. For instance, it must show how many moderate- and low-income families reside or are expected to reside in the community, how large these families are, and whether they need rental or ownership property. The local government is to show how it will use available resources to meet these needs, including federal and state housing assistance, local zoning ordinances, and other community resources.

In the past many localities have failed to act in accord with their plan, thus ignoring the housing needs of the community, especially those of moderate- and low-income families with children.

Public participation in the planning process is mandated by law, and local groups throughout the country have used the

process to make local government more responsive to the housing needs of children.

Contact the clerk of your local government and ask for a copy of your community's HAP; find out when the next meeting will be to discuss the HAP. You can attend and raise the problem of inadequate housing for families with children.

4. Building Incentives

Some localities have used their zoning powers to encourage the development of more rental housing for families. For instance, some counties give zoning concessions or financial assistance to developers if they agree to create some housing for families and rent it at below market rates.

Community pressure, either through or independent of the HAP process, can move the local planning body to include such incentives.

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NATIONAL NETWORK ON HOUSING DISCRIMINATION
AGAINST FAMILIES WITH CHILDREN

National Groups

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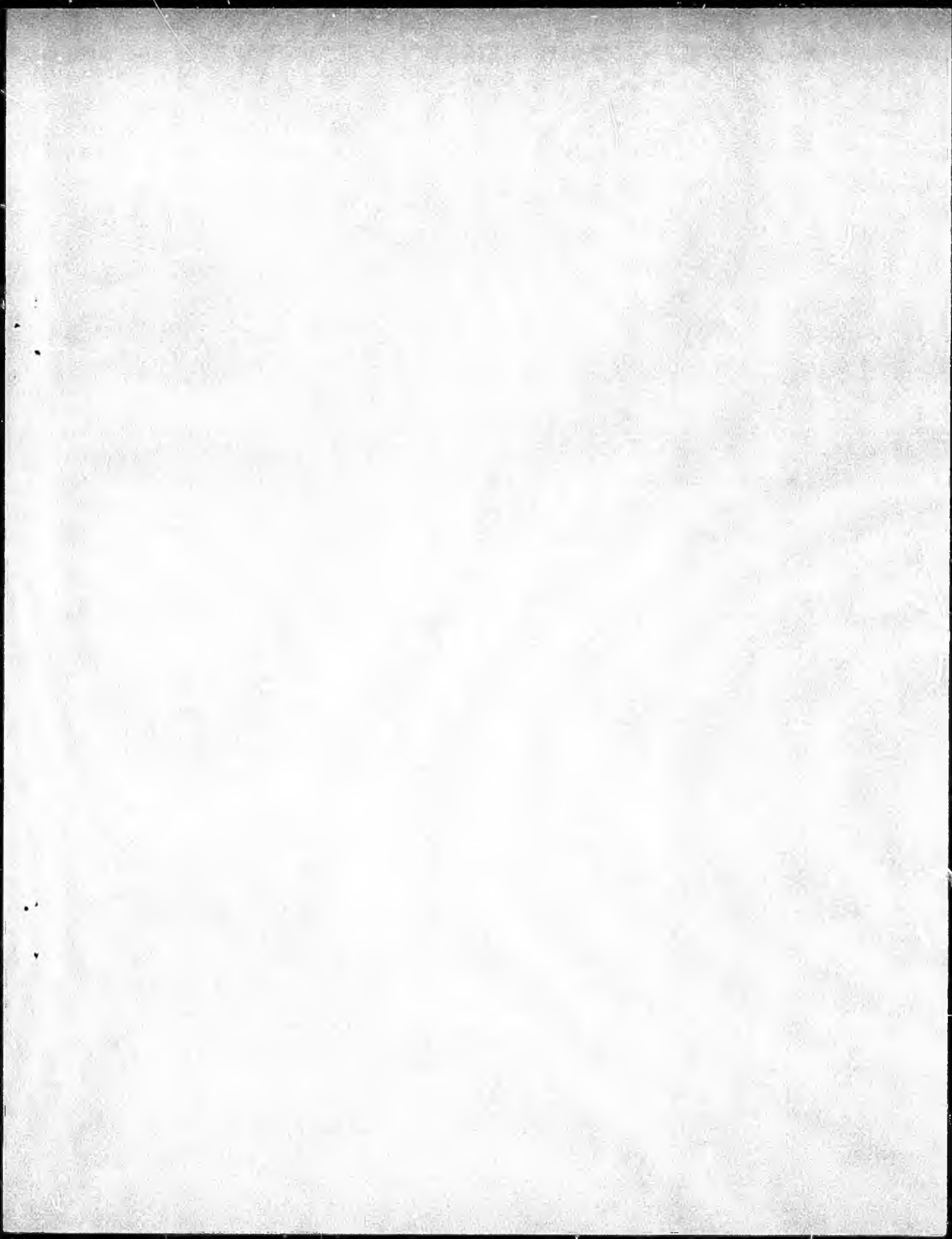
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HB

6

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
7-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 28, 1983

SUBJECT: Driving a motor vehicle while intoxicated
(CSHB 6 (Judiciary))

TO: Representative Mitchell E. Abood, Jr.

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

Here is the sectional analysis of the draft of CSHB 6 (Judiciary) that you requested. It only highlights the major changes to existing law.

Section 1 makes it clear that a judge or employee of the court, in addition to other named persons, may take possession of a title, registration, or license that is revoked, canceled, limited or suspended. This is not a substantive change to existing law.

Section 2 adds new requirements for a driver's license application examination: (1) that the applicant know the effects of alcohol and drugs on drivers and the related dangers of driving under their influence; and (2) that the applicant know the laws relating to driving while intoxicated.

Section 3 authorizes, on refusal to submit to a chemical test of breath or if a test indicates an alcohol concentration of 0.10 or more, the seizure of the driver's license by the law enforcement officer and revocation of the license by the Department of Public Safety. The officer reads the driver a notice and gives him a copy of the notice. The notice explains the revocation procedure and the right of court review. The notice itself is a temporary driver's license that expires in seven days unless the driver initiates court proceedings to rescind the revocation of license. The revocation periods are the same as those imposed by a court after conviction of the same offenses under Sec. 6 of this draft. A revocation is stayed if the person initiates a court action to rescind the Department of

Representative Mitchell E. Abood, Jr.
Page 2
April 28, 1983

Public Safety's action. Procedures for court review of an administrative revocation are set out.

Section 4 adds a new basis for the immediate revocation of a driver's license by a court: the refusal to submit to a chemical test of breath.

Section 5 extends the period limited license privileges from 30 to 60 days for offenses that are grounds for immediate revocation of a license. This does not apply to driving while intoxicated or refusal to submit to a chemical test of breath. Adds a requirement that a prior offense must occur within 15 years before longer periods of license revocation will be imposed.

Section 6 requires a court convicting a person of driving while intoxicated or refusal to submit to a chemical test of breath to revoke the person's driver's license. The period of revocation depends upon whether the person has been previously convicted in this or another jurisdiction of either offense within the preceding 15 years. If the person has not been previously convicted, the period of revocation is 90 days. If the person has been convicted once, the period is one year. If the person has been convicted more than once, the period of revocation is 10 years. Under existing law the court shall revoke the license of a person for not less than 30 days for the first conviction. The court shall revoke the license for not less than one year for a second conviction. The court shall revoke the license for not less than three years for a third or subsequent conviction.

Section 7 allows a court to grant limited license privileges for the final 60 days a license is revoked for driving while intoxicated or refusal to submit to a chemical test if the person has not been previously convicted. Existing law also provides for limited license privileges only for first offenders.

Section 8 removes the reference to a person convicted of driving a motor vehicle while intoxicated with reference to limited license privileges, since periods of revocation are established under Sec. 6 of this bill.

Section 9 provides that the license of a person on whom a limitation was placed is revoked after the period of limitation until the person provides proof of financial responsibility and receives a new license.

Representative Mitchell E. Abood, Jr.
Page 2
April 28, 1983

Section 10 limits the penalties imposed under existing law for driving while a license is canceled, suspended, revoked or in violation of limitation to situations involving loss of driving privileges for reasons other than driving while intoxicated or refusal to submit to a chemical test. Those situations are dealt with under Sec. 11 of this bill.

Section 11 provides a minimum penalty of 30 days imprisonment and a fine of \$500 for driving when driving privileges have been revoked for driving while intoxicated or refusal to submit to a chemical test if the person has been convicted only once within the previous 15 years. If the person has been convicted more than once of driving while intoxicated or refusal to submit to a chemical test and drives while driving privileges have been revoked, the minimum penalty is 90 days imprisonment and a fine of \$1,000.

Section 12 provides that upon expiration of a period of limitation the driver's license remains revoked until the person furnishes proof of financial responsibility. Under existing law the period of limitation continues and the person may continue to drive, subject to the limitation, until proof of financial responsibility is furnished.

Section 13 changes the penalties for conviction of driving while intoxicated. If a person has not been previously convicted within the preceding 15 years of driving while intoxicated or refusal to submit to a chemical test, the minimum sentence of imprisonment is 72 hours, and a fine of not less than \$250 imposed. If a person has been previously convicted once, the minimum sentence of imprisonment is not less than 20 consecutive days and a fine of not less than \$500 is imposed. If a person has been previously convicted more than once, the minimum sentence of imprisonment is 30 days and a fine of not less than \$1,000 is imposed. The five-year period used for calculating the number of convictions required to increase the penalty has been eliminated, so that all previous convictions occurring within the preceding 15 years are considered. A conviction in this or another jurisdiction, if the elements are substantially similar, is counted for purposes of determining enhanced penalties. The provision for suspension of sentence after the minimum sentence is served has been eliminated. The vehicle used in commission of the offense may be forfeited.

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Section 14 requires a person involved in an accident or who commits certain serious traffic offenses, or drives in a manner that creates risk to a person or property to submit to a preliminary breath test that may be used by an officer in determining whether to arrest the person. Refusal to submit to the test is a violation punishable by a fine.

Section 15 makes it clear that refusing to submit to a chemical test after being arrested constitutes the crime of refusing to submit to a chemical test. Refusing to submit to the preliminary breath test provided for in Sec. 13 of this bill is a separate offense.

Section 16 provides new penalties for refusal to submit to a chemical test which are similar to the fines and terms of imprisonment imposed for driving while intoxicated under this bill.

Section 17 removes provisions allowing the district court to find extenuating circumstances and to modify or nullify the suspension or revocation of a driver's license or permit for refusing to submit to a chemical test of breath.

Section 18 adds new sections providing for the forfeiture of a motor vehicle used in the commission of an offense under AS 28.35.030 (Operating a Vehicle, Aircraft or Watercraft While Intoxicated), and also for the forfeiture of a motor vehicle used in the commission of an offense under AS 28.-35.032 (Refusal to Submit to a chemical Test of Breath). In addition, provision is made for the remission of forfeitures, a procedure to allow a person with ownership or security interests in a forfeited motor vehicle to claim the vehicle or interest in the vehicle through court proceedings. A municipality is granted authority to provide for impoundment and forfeiture of a motor vehicle in similar circumstances.

Section 19 repeals provisions that have been replaced by other provisions throughout this bill.

TBC:ljb
17/002

PRESENT LAW

SB 61

CSSB 61 (State Affairs)

Grounds for Immediate revocation of Driver's license.

Refusal of chemical test of breath was not included.

Adds the refusal to submit to a chemical test of breath to the grounds for the immediate revocation of a driver's license

Same as SB 61

License suspensions, revocations, and limitations for DWI

1st conviction: license revoked for 30 day minimum, or limited license and revocation for 60 days minimum.
2nd conviction: license is revoked for one year minimum. No limited license privileges.
3rd or subsequent conviction: license is revoked for 3 year
No limited license privileges.

1st conviction: driver's license is seized at the time of arrest if driving a motor vehicle. License is revoked or suspended for 90 days. No limited license privileges. 2nd conviction: driver's license is seized at the time of arrest. License is revoked for one year. No limited license privileges. 3rd or subsequent conviction: Driver's license is seized at the time of arrest. License is revoked permanently.

1st conviction: driver's license is seized at the time of arrest. License is revoked for 90 days. Limited License privileges may be granted for the last 60 days. 2nd conviction: same as SB 61. 3rd or subsequent conviction: Driver's license is seized at time of arrest. License is revoked for 10 years. No limited license privileges.

Chart SB 61 5/9/83

Imprisonment for DWI or refusal of breath test.

1st conviction: not less than 72 consecutive hours.
2nd conviction: not less than 10 consecutive days if offense was committed within 5 years of previous conviction, or, not less than 20 consecutive days if the offense was committed within one year of previous conviction.

1st conviction: same as present law.
2nd conviction: not less than 20 consecutive days.
3rd or subsequent conviction: not less than 30 consecutive days.

1st conviction: same as SB 61.
2nd conviction: same as SB 61.
3rd or subsequent conviction: same as SB 61.

License suspensions, revocations, and limitations for refusal of breath test

1st offense: ineligible for a driver's license or permit for a three months' period unless the court finds hardship and modifies the suspension or revocation.
2nd conviction: if there is a conviction for DWI or refusal of breath test, revocation is for one year.

All penalties for refusal to submit to a chemical test of breath are identical to the above penalties for driving while intoxicated.

All penalties for refusal to submit to a chemical test of breath are identical to the above penalties for DWI.

PRESENT LAW

SB 61

CSSB 61 (State Affairs)

Fines for DWI or refusal of breath test	Not more than \$1000.00	1st conviction \$250 minimum-- \$500 maximum fine. 2nd conviction: \$500-- \$1,000 3rd conviction: \$1,000-- \$2,500	1st conviction: not less than \$250. 2nd conviction: \$500 minimum. 3rd conviction: \$1,000 minimum.
Impoundment of vehicle	no provision	1st offense: 15 days 2nd offense: 90 days	impoundment section has been deleted (see amendment to this bill).
Forfeiture of vehicle	no provision	If a person has been convicted more than once of DWI or refusing to submit to a chemical test of breath, the court may order the forfeiture of a motor vehicle.	Adds new sections. An additional provision is made for the remission of forfeitures, a procedure to allow a person with ownership or security interests in a forfeited motor vehicle to claim the vehicle or interest in the vehicle through court proceedings. A municipality is granted the authority to provide for impoundment and forfeiture of a motor vehicle in similar circumstances.
Administrative revocation of driver's license	no provision	On refusal to submit to a chemical test for breath or if a test indicates an alcohol concentration of 0.10 or more, the law enforcement officer shall seize the driver's license. The officer reads the a notice and give the driver a copy of the notice. The notice explains the revocation procedure. The notice is a temporary driver's license that expires in 7 days unless the driver initiates court proceedings to rescind the revocation of the license.	Adds additional language which will stay a revocation if the person initiates a court action to rescind the Department of Public Safety's action. Procedures for court review of an administrative revocation are set out.
Use of	no provision	No provision	Section 15 requires a person involved in an accident or who commits certain serious traffic offenses, or who drives in a manner that creates a risk to a person or property to submit to a preliminary breath test that may be used by an officer in determining whether to arrest the person. Refusal to submit to the test is a violation punishable by a fine.

Section 1:

Technical Amendment adding judges and employees of the court to the list of those persons who may physically take a license which has been revoked etc...

Section 2:

Adds a section on alcohol and automobiles, to the written portion of the driver's license examination.

Section 3:

Provides for administrative license revocation for refusal to submit to a chemical breath test and for an illegal breath alcohol level; outlines the procedures for the revocation, and provides for review of the revocation.

Section 4:

Adds refusal to submit to a chemical breath test to the list of offenses for which a person's driver's license may be revoked.

Section 5:

Outlines the drivers license revocation for those persons convicted of certain driving offenses listed in section 4. The period of revocation is not less than 30 days for the first conviction. Limited driver's licenses may be granted at the discretion of the court. Ten years would be the period of time used to calculate whether a person had a prior conviction.

Section 6:

Outlines the license revocation for persons convicted of DWI and refusal to submit a chemical sobriety test. The period of revocation would be 90 days for the first conviction. Upon second conviction, the period of revocation would be one year. For the third conviction, the revocation would be 10 years.

Section 7:

Adds a new subsection which states that a limited license may be granted for the final 60 days of a revocation when the revocation is for DWI or refusal to submit to a chemical sobriety test.

Section 8:

Is a technical amendment removing what would be an outdated reference.

Section 9:

Adds a ~~new~~ subsection to the to the section on license limitations which states that ~~a~~ person may not receive a new license until they show proof of responsibility (AS 28.20.240)

Section 10:

States that a person who is convicted for driving in violation of their license revocation, suspension, or cancellation shall be punished by a minimum of 10 days incarceration. The persons license shall not be restored for an additional year from the time they would have been eligible to have their license restored.

Section 11:

States that a person whose license was revoked for DWI or refusal to submit to a chemical sobriety test is convicted of driving while license is revoked, the court shall impose 90 days incarceration and a fine of not less than \$1,000.

Section 12:

States that upon expiration of a period of limitation the driver's license remains revoked until the person furnishes proof of financial responsibility.

Section 13:

Sobriety Checkpoints--Similar to roadblocks--Enforcement officers can check for alcohol and administer preliminary breath tests (Department of Public Safety already has this power)(may want to take this out). Also Section 13 contains the Open Container Law - making it illegal to have unsealed containers of alcohol.

Section 14:

Outlines Fines and Incarceration periods for those convicted of DWI and refusal of chemical sobriety tests. Also states that the Court shall order treatment for the above offenses.

Section 15:

If you involved a traffic accident and suspected of alcohol or drug intake, the police officer may administer a preliminary breath test and refusal is an infraction --there by punishable by a \$300 fine.

Section 16:

Refusal of a preliminary breath test may be used against someone in court.

Section 17:

Outlines the penalties of refusing to submit to preliminary sobriety tests-(same as DWI).

Section 18:

Technical section which makes the person give up their drivers license where they receive a notice of revocation.

Section 19:

States that a unconscious person need not be arrested before a chemical sobriety test may be administered.

Section 20:

States that upon the 2nd conviction the court may forfeit the motor vehicle involved in the drunk driving or refusal of sobriety test offense. Also provides for a hearing procedure on forfeitures of the motor vehicles to protect 3rd party interests in the motor vehicles. This section also provides local option for impoundment of motor vehicles.

Section 21:

Repeals technical sections

There is no effective date clause for this bill.

MSG 83-00006472 PRTY 1 04/07/83 16:46:31 ORIG: LV00 IN= 0003 OUT= 0142
FROM: ANNI/VALDEZ TO: JUNEAU T/C
TARGET: LJHL SUBJ: DRUNK DRIVING T/C

I AM NOT CERTAIN I AM DOING THIS PROPERLY AS I HAVE TRIED USING THE
LETTERS GIVEN BY TOM AND I AM GOOFING.

I HAVE 5 OBSERVERS IN THE OFFICE.

- | | |
|--|----------|
| 1. DIANE MOWRY, BOX 1023, VALDEZ | 835-2667 |
| 2. ROBERT DONALD, BOX 1050, VALDEZ
VALDEZ COUNSELING CENTER | 835-2838 |
| 3. JANESE M. CRYSTAL, BOX 307, VALDEZ | 835-4560 |
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| 5. RALPH MANN, BOX 2284, VALDEZ | 835-4840 |

I HAVE BEEN AT THIS A WHILE AND AT 2:45 MY OFFICE IS EMPTY!

E.O.M.

4/7

MSG 83-00006446 PRY 1 04/07/83 16:07:32 ORIG: LK00 IN= 0005 OUT= 0029
FROM: JUNE R./KETCHIKAN TO: JUNEAU T/C
TARGET: LJHZ SUBJ: 4/7/83 T/C SSA, DRUNK DRIVING

HERE TO LISTEN IN KETCHIKAN IS:

1. BOB KONET
P.O. BOX 1021
WARD COVE, AK. 99901
247-2471

EOM/JR

MSG 83-00006412 PRTY 1 04/07/83 15:17:19 ORIG: L000 IN= 0008 OUT= 0004
FROM: MARY JO/KODIAK TO: JUNEAU T/C
TARGET: LJH6 SUBJ: SEN. SA T/C 4/7

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EOM/

MSG 83-00006419 PRTY 1 04/07/83 15:37:51 ORIG: LR00 IN= 0012 OUT= 0005
FROM: FLORENCE IN BARROW TO: TOM, JUNEAU
TARGET: LJH6 SUBJ: 4/7 T/C W/(S) SA ON DRUNK DRIVING

OMNI 4 1

BARROW HAS AN OBSERVER

1. HAROLD CURRAN,
BOX 117
BARROW, ALASKA 99723

852-2611 EXT. 279 (WORK)

PLEASE THANK SENATOR FISCHER FOR REMINDING THE SPEAKERS THAT THEY NEED TO
TALK INTO THE MICROPHONE. WE DID LOSE AT LEAST ONE SPEAKER EARLIER.

April 8, 1983

MEMO

TO: vlc

FROM: Suzy

RE: Article in the News on the Latest Drunk Driving Fatality

I have known about this situation concerning record systems for some time. In fact, I have asked Allen Baily to speak on the subject tomorrow. The situation is actually much worse than it seems.

If the court suspends one's license for DWI, in many cases the Department of Motor Vehicles, and the police department may not have that on their records for months. The person may simply go and get a duplicate license from DMV (our state record system is a mess). If by chance the suspension has been recorded with DMV, the person may usually get a new license when, or if they travel to another state.

In an effort to combat the inter-state record problem, there has been a recent push for a national driver's register. This register would be an interstate system recording all alcohol/automobile related violations-- hopefully eliminating the possibility for getting a new license when traveling to another state.

Allen Baily and Dennis Kelso are both very aware of this problem. In fact, Dennis Kelso told us (you and I) about it when we talked to him last fall.

4/10/83 via phone 2021

Geo Reed re DWI -

Treatment is effective

In 74 had 2 DWI's
each to each
- no help

later

AA - helped refrain
via alcohol differently

Alc prevention ~~program~~
programs are effective

Repeat offenders don't
reflect the fact that
many who've been
treated never drink
again, never drink
& drive again

June 20, 1983

HB 6 is up on the floor

FISCAL INFORMATION:

Finance deleted the correctional fiscal note (2860.0 FY 84) because they felt it was duplicative. According to Kevin Bruce, it isn't.

total fiscal impact (without corrections) 1052.4 thousand dollars FY 84.

SECTIONAL COMPARISON BETWEEN FINANCE AND STATE AFFAIRS VERSIONS:

The major substantive changes in HB 6 are highlighted in the attached copy.

The controversy about the administrative license examination is in section 3 of the finance version of the bill.

Section 3: outlines administrative license revocation procedure (pg 2, line 4 to page 3, line 15). The compromise between the court system and DPS concerning the administrative review is on page 4, lines 20 - 25. The administrative hearing appeal is on page 7, lines 1-15. (The person convicted may appeal to the superior court for judicial review).

Section 4: the finance version adds Driving while license suspended to the list of offenses of grounds for immediate revocation of a driver's license (page 8, lines 8-9).

Section 11: was not in the State Affairs version of the bill. It outlines the sentence for a person convicted of driving while license suspended if the suspension resulted from a dwi conviction or refusal to submit to a chemical test.

Section 23: Page 20, lines 9-23 outlines the criteria for determining whether or not the offenders car should be forfeited. I think this portion of the bill is terrible.

HB 6 now fully complies with the first tier of the Barnes bill-- enabling the state to receive federal funds.

Suzanne

TOTAL FISCAL
IMPACT

1052.4 THOUSAND (F-184).
(SEE ATTACHED SHEET)

WORK DRAFT
Josephson
6/16/83

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 6 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department
10 designated by the commissioner, judges and employees of a court, and
11 all peace officers, may take possession of a certificate of title,
12 [OR] registration or license issued by this jurisdiction that [WHICH]
13 has been revoked, canceled, limited or suspended, or [WHICH] is ficti-
14 tious, stolen or altered.

15 * Sec. 2. AS 28.15.081(a) is amended to read:

16 (a) The department shall examine every applicant for a driver's
17 license. The examination shall include a test of the applicant's (1)
18 eyesight, (2) [HIS] ability to read and understand official traffic
19 control devices, (3) [HIS] knowledge of safe driving practices, (4)
20 knowledge of the effects of alcohol and drugs on drivers and the
21 dangers of driving under the influence of alcohol or drugs, and (5)
22 knowledge of the laws relating to driving while intoxicated and the
23 traffic laws and regulations of this state. The examination [, AND]
24 may include a demonstration of ability to exercise ordinary and rea-
25 sonable control in the driving of a motor vehicle of the type and
26 general class of vehicles for which the applicant seeks a license.
27 However, an applicant who has not been previously issued a driver's
28 license by this or another jurisdiction must demonstrate [HIS] abil-
29 ity, and must present medical information that [WHICH] the department

1 reasonably requires to determine [HLS] fitness to safely drive a motor
2 vehicle of the type and general class of vehicles for which the appli-
3 cant [HE] seeks a license.

4 * Sec. 3. AS 28.15 is amended by adding new sections to read:

5 Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-
7 cal test administered under AS 28.35.031(a) to a person driving a
8 motor vehicle for which a driver's license is required produces a
9 result described in AS 28.35.030(a)(2) or if a person under arrest for
10 driving a motor vehicle for which a driver's license is required
11 refuses to submit to a chemical test under AS 28.35.031(a), a law
12 enforcement officer shall read a notice and deliver a copy to the
13 person. The notice shall advise that

14 (1) the department intends to revoke the person's driver's
15 license or nonresident privilege to drive, or refuse to issue an
16 original license to the person;

17 (2) the person has the right to administrative review of
18 the revocation or determination not to issue an original license;

19 (3) the notice itself is a temporary driver's license that
20 expires seven days after it is delivered to the person;

21 (4) revocation of the person's driver's license or nonresi-
22 dent privilege to drive, or a determination not to issue an original
23 license shall take effect upon expiration of the temporary driver's
24 license unless the person within seven days requests an administrative
25 review.

26 (b) After reading the notice under (a) of this section, the law
27 enforcement officer shall seize the person's driver's license if it is
28 in the person's possession and shall deliver it to the department with
29 a sworn report describing the circumstances under which it was seized.

1 (c) Upon receipt of a sworn report of a law enforcement officer
2 that a chemical test under AS 28.35.031(a) produced a result described
3 in AS 28.35.030(a)(2) or that a person refused to submit to a chemical
4 test under AS 28.35.031(a), that notice under (a) of this section was
5 provided to the person, and that contains a statement of the circum-
6 stances surrounding the arrest and the grounds upon which the offi-
7 cer's belief that the person was driving while intoxicated a motor
8 vehicle for which a driver's license is required was based, the de-
9 partment shall revoke the person's license or nonresident privilege to
10 drive a motor vehicle in the state, or refuse to issue an original
11 license effective upon expiration of the temporary driver's license
12 issued under (a) of this section.

13 (d) The period of revocation of a driver's license by the de-
14 partment under this section shall be for the appropriate minimum
15 period for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. ADMINISTRATIVE REVIEW OF REVOCATION. (a) A
17 person who has received a notice under AS 28.15.165(a) may make a
18 written request for administrative review of the department's action
19 under AS 28.15.165(c). If the person's driver's license has not been
20 previously surrendered to the department, it shall be surrendered to
21 the department at the time the request for review is made.

22 (b) A request for review shall be made within seven days after
23 receipt of the notice under AS 28.15.165 or the right to review is
24 waived and the action of the department under AS 28.15.165(c) is
25 final. If a written request for a review is made after expiration of
26 the seven-day period, and if it is accompanied by the applicant's
27 verified statement explaining the failure to make a timely request for
28 a review, the department shall receive and consider the request. If
29 the department finds that the person was unable to make a timely