

SENATE No. 807

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act preventing unnecessary vacancies in foreclosed homes.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-------------------------------|--|
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> |
| <i>Timothy R. Madden</i> | <i>Barnstable, Dukes and Nantucket</i> |
| <i>Peter V. Kocot</i> | <i>1st Hampshire</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> |
| <i>Benjamin Swan</i> | <i>11th Hampden</i> |
| <i>Mary S. Keefe</i> | <i>15th Worcester</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> |
| <i>Carmine L. Gentile</i> | <i>13th Middlesex</i> |
| <i>Josh S. Cutler</i> | <i>6th Plymouth</i> |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> |
| <i>Michelle M. DuBois</i> | <i>10th Plymouth</i> |
| <i>Barbara L'Italien</i> | <i>Second Essex and Middlesex</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> |
| <i>Linda Dorcena Forry</i> | <i>First Suffolk</i> |
| <i>Evandro C. Carvalho</i> | <i>5th Suffolk</i> |
| <i>Sarah K. Peake</i> | <i>4th Barnstable</i> |
| <i>Timothy J. Toomey, Jr.</i> | <i>26th Middlesex</i> |
| <i>Chris Walsh</i> | <i>6th Middlesex</i> |

Cory Atkins

14th Middlesex

SENATE No. 807

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 807) of James B. Eldridge, Timothy R. Madden, Peter V. Kocot, Jason M. Lewis and other members of the General Court for legislation to prevent unnecessary vacancies in foreclosed homes. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 728 OF 2013-2014.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**
—————

An Act preventing unnecessary vacancies in foreclosed homes.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect citizens of the Commonwealth involved in the mortgage foreclosure crisis, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 SECTION 1. Section 1 of chapter 186A of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by striking out the definition of “Bona fide lease or bona
3 fide tenancy.”

4 SECTION 2. Said section 1 of said chapter 186A of the General Laws, as so appearing, is
5 hereby further amended by inserting the following definition:- “Fair Market Rent,” an amount
6 equal to that established by the United States Department of Housing and Urban Development

7 pursuant to 42 U.S.C. c § 1437f(o), as it exists or may be amended, for a unit of comparable size
8 in the area in which the property is located

9 SECTION 3. Said section 1 of said chapter 186A of the General Laws, as so appearing, is
10 hereby further amended by inserting in line 26 after the words “Federal Home Loan Mortgage
11 Corporation” the following words:- or the Federal Deposit Insurance Corporation

12 SECTION 4. Said section 1 of said chapter 186A of the General Laws, as so appearing, is
13 hereby further amended by inserting the following definition:-

14 “Foreclosure Sale Purchaser” or “Purchaser”, either a foreclosing owner or a person or
15 entity which purchases a housing accommodation from a foreclosing owner, not intending to
16 reside or have a family member reside in such housing accommodation as the primary residence
17 of such person or individual in control of such entity.”

18 SECTION 5. Said section 1 of said chapter 186A of the General Laws, as so appearing, is
19 hereby further amended in the definition of “Just cause” by striking subsection (1) and inserting
20 in place thereof the following subsection:-

21 (1) the tenant has failed to pay the rent in effect prior to the foreclosure or, in the case of
22 the former mortgagor and any household members, monthly rent payments in an amount agreed
23 to by the mortgagor and purchaser or, in the absence of such agreement, a Fair Market Rent as
24 long as the foreclosure sale purchaser notified the tenant in writing of the amount of rent, the
25 agreed upon monthly rent payments or Fair Market Rent that was to be paid and to whom it was
26 to be paid.

27 SECTION 6. Said section 1 of said chapter 186A of the General Laws, as so appearing, is
28 hereby further amended by striking the definition of “tenant” and inserting in place thereof the
29 following definition:-

30 “Tenant”, a person or group of persons who at the time of foreclosure is an occupant of
31 such housing accommodation. A person who moves into the housing accommodation owned by
32 the foreclosure sale purchaser, subsequent to the foreclosure sale, without the express written
33 permission of the foreclosure sale purchaser shall not be considered a tenant under this chapter.

34 SECTION 7. Said chapter 186A of the General Laws, as so appearing, is hereby further
35 amended in Sections 2,3,4,5, and 6 by striking out each appearance of the words “foreclosing
36 owner” in each section and replacing them with the following words:- foreclosure sale purchaser

37 SECTION 8. Section 3 of said chapter 186A of the General Laws, as so appearing, is
38 hereby amended by striking the first sentence and inserting in place thereof the following
39 sentence:-

40 Within 30 days of the foreclosure, the foreclosure sale purchaser shall post in a prominent
41 location in the building a written notice stating the names, addresses, telephone numbers and
42 telephone contact information of the foreclosure sale purchaser, the building manager or other
43 representative of the foreclosure sale purchaser responsible for the management of such building
44 and stating the address to which the rent, or, in the case of the former mortgagor and any
45 household members, the agreed upon monthly rent payments or Fair Market Rent shall be sent.

46 SECTION 9. Section 4 of said chapter 186A of the General Laws, as so appearing, is
47 hereby amended in subsection (a) by striking clause (i) and inserting in place thereof the
48 following clause:-

49 (i) the tenant has failed to pay the rent in effect prior to the foreclosure or, in the case of
50 the former mortgagor and any household members, the agreed upon monthly rent payments or
51 Fair Market Rent, as long as the foreclosing owner notified the tenant in writing of the amount of
52 rent that was to be paid and to whom it was to be paid;

53 SECTION 10. Section 5 of said chapter 186A of the General Laws, as so appearing, is
54 hereby amended by striking the second sentence and inserting in place thereof the following
55 sentence:-

56 A bona fide lease between the foreclosed-upon owner and the lessee or proof of rental
57 payment to the foreclosed-upon owner or a Fair Market Rent shall be presumed reasonable.

58 SECTION 11. Section 6 of said chapter 186A of the General Laws, as so appearing, is
59 hereby amended by striking the second paragraph and inserting in place thereof the following
60 paragraph:-

61 A foreclosure sale purchaser that evicts a tenant in violation of this chapter or any
62 ordinance or by-law adopted pursuant to this chapter, shall be punished by penalty of not less
63 than \$5,000 to be paid to the tenant upon order of the court. Each such illegal eviction shall
64 constitute a separate offense.