

[SIMILAR MATTER FILED DURING PAST SESSION
SEE NO. OF]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND SEVEN

AN ACT AN ACT REQUIRING JUST CAUSE FOR EVICTION AND FORECLOSED PROPERTIES

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith 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. As used in this Act, the following words shall, unless the context clearly
2 requires otherwise, have the following meanings:
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4 'Entity', a business organization, or any other kind of organization, including without
5 limitation, a corporation, partnership, trust, limited liability corporation, limited liability
6 partnership, joint venture, sole proprietorship, or any other category of organization, and
7 any employee, agent, servant or other representative of such entity.
8
9 'Eviction', any action, without limitation, by a foreclosing owner of a housing
10 accommodation which is intended to compel a tenant or occupant to vacate or to be
11 constructively evicted from such housing accommodation.
12
13 "Foreclosing owner", an entity that both (1) held or owned a mortgage or other security

14 interest in the housing accommodation at any point prior to the foreclosure of the housing
15 accommodation or is the subsidiary, parent, or agent of, or otherwise is related to any
16 entity which held or owned the mortgage or other security interest in the housing
17 accommodation at any time prior to the foreclosure of the housing accommodation; and
18 (2) holds title to this housing accommodation that it acquired at a foreclosure sale or by
19 any other method of foreclosure.

20
21 For purpose of this definition, the phrase 'holds title' shall include an entity which holds
22 title in any capacity, directly or indirectly, without limitation, whether in its own name, as
23 trustee, or as beneficiary. Any entity which attempts to evict tenants from the housing
24 accommodation, whether in its own name, as trustee, as mortgage servicer, or as
25 beneficiary, or in any other role, without limitation, shall be considered to 'hold title' for
26 the purpose of this definition.

27
28 Any institutional mortgagee that holds title to a housing accommodation that has been
29 foreclosed upon within the last three years shall be considered to be a foreclosing owner
30 for the purpose of this Act.

31
32 'Foreclosure', a legal proceeding to terminate a mortgagor's interest in property,
33 instituted by the mortgagee, either to gain title or to force a sale in order to satisfy the
34 unpaid debt secured by the property, including, without limitation, foreclosure by action,
35 by bill in equity, by entry and continuation of possession for three years, and by sale
36 under the power of sale in a mortgage as described in Chapter 244 of the General Laws.

37
38 'Foreclosure sale', the foreclosure of a mortgage by sale of a housing accommodation
39 pursuant to a power of sale in a mortgage deed, as described in Section 14 of Chapter 244
40 of the General Laws.

41
42 'Housing accommodation', any building or buildings, structure or structures, or part
43 thereof or land appurtenant thereto, or any other real or personal property used, rented or
44 offered for rent for living or dwelling purposes, together with all services connected with
45 the use or occupancy of such property.

46
47 'Institutional mortgagee', any entity that holds or owns mortgages or other security
48 interest in three or more properties in the Commonwealth, or acts as a mortgage servicer
49 of three or more mortgages of properties in the Commonwealth, or is the subsidiary,
50 parent, or agent of, or otherwise related to any entity which holds or owns mortgages or
51 other security interests in three or more properties in the Commonwealth or acts as a
52 mortgage servicer of three or more mortgages of properties in the Commonwealth

53
54 'Just Cause', shall be at least one of the following: (a) the tenant or occupant has failed to
55 pay the rent in effect prior to the foreclosure or failed to pay use and occupancy charges,
56 but only if the foreclosing owner notified the tenant or occupant in writing of the amount
57 of rent or use and occupancy that was to be paid and to whom it was to be paid; (b) the
58 tenant or occupant has violated an obligation or covenant of the tenancy or occupancy
59 other than the obligation to surrender possession upon proper notice and has failed to cure

60 such violation within a reasonable time after having received written notice thereof from
61 the foreclosing owner; (c) the tenant or occupant is committing or permitting to exist a
62 nuisance in, or is causing substantial damage to, the unit, or is creating a substantial
63 interference with the quiet enjoyment of other occupants;
64 (d) the tenant or occupant is convicted of using or permitting the unit to be used for any
65 illegal purpose; (e) the tenant or occupant who had a written lease or other rental
66 agreement which terminated on or after this Act has taken effect, has refused, after
67 written request or demand by the foreclosing owner to execute a written extension or
68 renewal thereof for a further term of like duration and in such terms that are not
69 inconsistent with or violative of any provisions of this Act;
70 (f) the tenant or occupant has refused the foreclosing owner reasonable access to the unit
71 for the purpose of making necessary repairs or improvement required by the laws of the
72 United States, the Commonwealth or any subdivision thereof, or for the purpose of
73 inspection as permitted or required by agreement or by law or for the purpose of showing
74 the rental housing unit to a prospective purchaser or mortgagee;

75
76 'Mortgagee', an entity to whom property is mortgaged; the mortgage creditor, or lender,
77 including, but not limited to, mortgage servicers, lenders in a mortgage agreement and
78 any agent, servant, or employee of the mortgagee, or any successor in interest and/or
79 assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

80
81 'Mortgage Servicer', an entity which administers or at any point administered the
82 mortgage, including, but not limited to, calculating principal and interest, collecting
83 payments from the mortgagor, acting as an escrow agent, and foreclosing in the event of
84 a default.

85
86 'Post-foreclosure eviction', an eviction of a tenant by a foreclosing owner.

87
88 'Tenant or occupant', any person or group of persons entitled to occupy a housing
89 accommodation pursuant to a written lease, tenancy at will, tenancy at sufferance or
90 otherwise.

91
92 'Unit' or 'residential unit', the room or group of rooms within a housing accommodation
93 which is used or intended for use as a residence by one household.

94
95 SECTION 2. Notwithstanding any other special or general law to the contrary, the
96 foreclosing owner shall not evict a tenant or occupant except for just cause.

97
98 SECTION 3. Any foreclosing owner that evicts tenants or occupants in violation of any
99 provisions of this Act, or any ordinance or by-law adopted pursuant to this Act, shall be
100 punished by a fine of not less than ten thousand dollars. Each eviction done in violation
101 of this Act constitutes a separate offense.

102
103 The district and superior courts, and the housing courts in the Commonwealth, shall have
104 jurisdiction over an action arising from any violation of this Act, or any ordinance, or by-
105 law adopted pursuant to this Act, and shall have jurisdiction in equity to restrain any such

106 violation. No tenant shall be evicted in violation of any provision of this Act, or any
107 ordinance or by-law adopted pursuant to this act. It shall be a defense to eviction that the
108 foreclosing owner attempted to evict tenants in violation of any provision of this Act, or
109 any ordinance or by-law adopted pursuant to this Act.

110 SECTION 4. This Act shall cease to have effect on December 31, 2013.

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

The undersigned, citizen of _____, respectfully petitions for the passage of the accompanying bill and for legislation.

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Dianne Wilkerson(D W0)	Second Suffolk
Patricia Jehlen(PDJ0)	Second Middlesex
Edward Augustus, Jr.(EMA0)	Second Worcester
Marc Pacheco(MRP0)	First Plymouth and Bristol
Harriette Chandler(HLC0)	First Worcester
Michael Morrissey(MWM0)	Norfolk and Plymouth
Richard Moore(RTM0)	Worcester and Norfolk
James Marzilli, Jr.(JJM1)	Twenty-third Middlesex
Robert Creedon, Jr.(RSC0)	Second Plymouth and Bristol