

**HOUSE . . . . . No. 3821**

**[LOCAL APPROVAL RECEIVED.]**

**The Commonwealth of Massachusetts**

PRESENTED BY:

**James J. O'Day**

*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 passage of the accompanying bill:

An Act protecting tenants from unjustified evictions on foreclosed properties in the city of Worcester .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James J. O'Day	14th Worcester District
Harriette L. Chandler	First Worcester
Robert P. Spellane	13th Worcester
Vincent A. Pedone	15th Worcester
John P. Fresolo	16th Worcester
John J. Binienda	17th Worcester
Michael O. Moore	Second Worcester

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT PROTECTING TENANTS FROM UNJUSTIFIED EVICTIONS ON FORECLOSED PROPERTIES IN THE CITY OF WORCESTER .

*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 requires otherwise,  
2 have the following meanings:

3 “Entity”, a business organization, or any other kind of organization, including without limitation, a  
4 corporation, partnership, trust, limited liability corporation, limited liability partnership, joint venture,  
5 sole proprietorship, or any other category of organization, and any employee, agent, servant or other  
6 representative of such entity.

7 “Eviction”, any action, without limitation, by a foreclosing owner of a housing accommodation which is  
8 intended to compel a tenant or occupant to vacate or to be constructively evicted from such housing  
9 accommodation.

10 “Foreclosing owner”, an entity that both (1) held or owned a mortgage or other security interest in the  
11 housing accommodation at any point prior to the foreclosure of the housing accommodation or is the  
12 subsidiary, parent, or agent of , or otherwise is related to any entity which held or owned the mortgage or  
13 other security interest in the housing accommodation at any time prior to the foreclosure of the housing  
14 accommodation; and (2) holds title to this housing accommodation that it acquired at a foreclosure sale or  
15 by any other method of foreclosure.

16 For the purpose of this definition, the phrase “holds title” shall include an entity which holds title in any  
17 capacity, directly or indirectly, without limitation, whether in its own name, as trustee, or as beneficiary.  
18 Any entity which attempts to evict tenants from the housing accommodation, whether in its own name, as  
19 trustee, as mortgage servicer, or as beneficiary, or in any other role, without limitation, shall be  
20 considered to “hold title” for the purpose of this definition.

21 Any institutional mortgagee that holds title to a housing accommodation that has been foreclosed upon  
22 within the last three years shall be considered to be a foreclosing owner for the purpose of this act.

23 “Foreclosure”, a legal proceeding to terminate a mortgagor’s interest in property, instituted by the  
24 mortgagee, either to gain title or to force a sale in order to satisfy the unpaid debt secured by the property,  
25 including, without limitation, foreclosure by action, by bill in equity, by entry and continuation of  
26 possession for three years, and by sale under the power of sale in a mortgage as described in chapter 244  
27 of the General Laws.

28 “Foreclosure sale”, the foreclosure of a mortgage by sale of a housing accommodation pursuant to a  
29 power of sale in a mortgage deed, as described in section 14 of chapter 244 of the General Laws.

30 “Housing accommodation”, any building or buildings, structure or structures, or part thereof or land  
31 appurtenant thereto, or any other real or personal property used, rented or offered for rent for living or  
32 dwelling purposes, together with all services connected with the use or occupancy of such property.

33 “Institutional mortgagee”, any entity that holds or owns mortgages or other security interest in three or  
34 more properties in the city of Worcester, or acts as a mortgage servicer of three or more mortgages of  
35 properties in the city of Worcester, or is the subsidiary, parent, or agent of, or otherwise related to any  
36 entity which holds or owns mortgages or other security interests in three or more properties in the city of  
37 Worcester or acts as a mortgage servicer of three or more mortgages of properties in the city of  
38 Worcester.

39 “Just Cause”, shall be at least one of the following:

40 (a) the tenant or occupant has failed to pay the rent in effect prior to the foreclosure of failed to  
41 pay use and occupancy charges, but only if the foreclosing owner notified the tenant or occupant  
42 in writing of the amount of rent or use and occupancy that was to be paid and to whom it was to  
43 be paid;

44 (b) the tenant or occupant has violated an obligation or covenant of the tenancy or occupancy  
45 other than the obligation to surrender possession upon proper notice and has failed to cure such  
46 violation within a reasonable time after having received written notice thereof from the  
47 foreclosing owner;

48 (c) the tenant or occupant is committing or permitting to exist a nuisance in, or is causing  
49 substantial damage to, the unit, or is creating a substantial interference with the quiet enjoyment  
50 of other occupants;

51 (d) the tenant or occupant is convicted of using or permitting the unit to be used for any illegal  
52 purpose;

53 (e) the tenant or occupant who had a written lease or other rental agreement which terminated on  
54 or after this act has taken effect, has refused, after written request or demand by the foreclosing  
55 owner to execute a written extension or renewal thereof for a further term of like duration and in  
56 such terms that are not inconsistent with or violative of any provisions of this act;

57 (f) the tenant or occupant has refused the foreclosing owner reasonable access to the unit for the  
58 purpose of making necessary repairs or improvement required by the laws of the United States,  
59 the commonwealth of Massachusetts or the city of Worcester, or for the purpose of inspection as

60 permitted or required by agreement or by law or for the purpose of showing the rental housing  
61 unit to a prospective purchaser or mortgagee.

62 “Mortgagee”, an entity to whom property is mortgaged; the mortgage creditor, or lender, including, but  
63 not limited to, mortgage servicers, lenders in a mortgage agreement and any agent, servant, or employee  
64 of the mortgagee, or any successor in interest and/or assignee of the mortgagee’s rights, interests or  
65 obligations under the mortgage agreement.

66 “Mortgage Servicer”, an entity which administers or at any point administered the mortgage, including,  
67 but not limited to, calculating principal and interest, collecting payments from the mortgagor, acting as an  
68 escrow agent, and foreclosing in the event of a default.

69 “Post-foreclosure eviction”, an eviction of a tenant by a foreclosing owner.

70 “Tenant or occupant”, any person or group of persons entitled to occupy a housing accommodation  
71 pursuant to a written lease, tenancy at will, tenancy at sufferance or otherwise.

72 “Unit” or “residential unit”, the room or group of rooms within a housing accommodation which is used  
73 or intended for use as a residence by one household.

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

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

79 The district and superior courts, and the housing courts in the city of Worcester, shall have jurisdiction  
80 over an action arising from any violation of this act, or any ordinance adopted pursuant to this act, and  
81 shall have jurisdiction in equity to restrain any such violation. No tenant shall be evicted in violation of  
82 any provision of this act or any ordinance adopted pursuant to this act. It shall be a defense to eviction  
83 that the foreclosing owner attempted to evict tenants in violation of any provision of this act or any  
84 ordinance adopted pursuant to this act.

85 SECTION 4. This act shall take effect upon passage and shall cease to have effect on December 31, 2013.