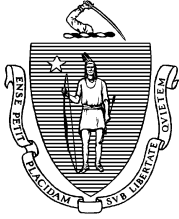


SENATE, No. 2664

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



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND EIGHT

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

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

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

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

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

26 'Foreclosure', a legal proceeding to terminate a mortgagor's interest in property,
27 instituted by the mortgagee, either to gain title or to force a sale in order to satisfy the
28 unpaid debt secured by the property, including, without limitation, foreclosure by action,

29 by bill in equity, by entry and continuation of possession for three years, and by sale
30 under the power of sale in a mortgage as described in Chapter 244 of the General Laws.

31 'Foreclosure sale', the foreclosure of a mortgage by sale of a housing accommodation
32 pursuant to a power of sale in a mortgage deed, as described in Section 14 of Chapter 244
33 of the General Laws.

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

38 'Institutional mortgagee', any entity that holds or owns mortgages or other security
39 interest in three or more properties in the Commonwealth, or acts as a mortgage servicer
40 of three or more mortgages of properties in the Commonwealth, or is the subsidiary,
41 parent, or agent of, or otherwise related to any entity which holds or owns mortgages or
42 other security interests in three or more properties in the Commonwealth or acts as a
43 mortgage servicer of three or more mortgages of properties in the Commonwealth

44 'Just Cause', shall be at least one of the following: (a) the tenant or occupant has failed to
45 pay the rent in effect prior to the foreclosure or failed to pay use and occupancy charges,
46 but only if the foreclosing owner notified the tenant or occupant in writing of the amount
47 of rent or use and occupancy that was to be paid and to whom it was to be paid; (b) the
48 tenant or occupant has violated an obligation or covenant of the tenancy or occupancy
49 other than the obligation to surrender possession upon proper notice and has failed to cure
50 such violation within a reasonable time after having received written notice thereof from
51 the foreclosing owner; (c) the tenant or occupant is committing or permitting to exist a

52 nuisance in, or is causing substantial damage to, the unit, or is creating a substantial
53 interference with the quiet enjoyment of other occupants;

54 (d) the tenant or occupant is convicted of using or permitting the unit to be used for any
55 illegal purpose; (e) the tenant or occupant who had a written lease or other rental
56 agreement which terminated on or after this Act has taken effect, has refused, after
57 written request or demand by the foreclosing owner to execute a written extension or
58 renewal thereof for a further term of like duration and in such terms that are not
59 inconsistent with or violative of any provisions of this Act;

60 (f) the tenant or occupant has refused the foreclosing owner reasonable access to the unit
61 for the purpose of making necessary repairs or improvement required by the laws of the
62 United States, the Commonwealth or any subdivision thereof, or for the purpose of
63 inspection as permitted or required by agreement or by law or for the purpose of showing
64 the rental housing unit to a prospective purchaser or mortgagee;

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

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

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

74 'Tenant or occupant', any person or group of persons entitled to occupy a housing
75 accommodation pursuant to a written lease, tenancy at will, tenancy at sufferance or
76 otherwise.

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

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

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

85 The district and superior courts, and the housing courts in the Commonwealth, shall have
86 jurisdiction over an action arising from any violation of this Act, or any ordinance, or by-
87 law adopted pursuant to this Act, and shall have jurisdiction in equity to restrain any such
88 violation. No tenant shall be evicted in violation of any provision of this Act, or any
89 ordinance or by-law adopted pursuant to this act. It shall be a defense to eviction that the
90 foreclosing owner attempted to evict tenants in violation of any provision of this Act, or
91 any ordinance or by-law adopted pursuant to this Act.

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

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