

HOUSE No. 3821

The Commonwealth of Massachusetts

In the Year Two Thousand 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
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 any
6 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 entity
13 which held or owned the mortgage or other security interest in the housing accommodation at

14 any time prior to the foreclosure of the housing accommodation; and (2) holds title to this
15 housing accommodation that it acquired at a foreclosure sale or by any other method of
16 foreclosure.

17 For the purpose of this definition, the phrase “holds title” shall include an entity which
18 holds 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 beneficiary, or
21 in any other role, without limitation, shall be considered to “hold title” for the purpose of this
22 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 for the
25 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 unpaid
28 debt secured by the property, including, without limitation, foreclosure by action, by bill in
29 equity, by entry and continuation of possession for three years, and by sale under the power of
30 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 of the
33 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 offered

36 for rent for living or dwelling purposes, together with all services connected with the use or
37 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 city of Worcester, or acts as a mortgage servicer of
40 three or more mortgages of properties in the city of Worcester, or is the subsidiary, parent, or
41 agent of, or otherwise related to any entity which holds or owns mortgages or other security
42 interests in three or more properties in the city of Worcester or acts as a mortgage servicer of
43 three or more mortgages of properties in the city of Worcester.

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

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

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

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

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

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

62 (f) the tenant or occupant has refused the foreclosing owner reasonable access to the unit
63 for the purpose of making necessary repairs or improvement required by the laws of the United
64 States, the commonwealth of Massachusetts or the city of Worcester, or for the purpose of
65 inspection as permitted or required by agreement or by law or for the purpose of showing the
66 rental housing unit to a prospective purchaser or mortgagee.

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

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

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

75 “Tenant or occupant”, any person or group of persons entitled to occupy a housing
76 accommodation pursuant to a written lease, tenancy at will, tenancy at sufferance or 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 punished
83 by a fine of not less than ten thousand dollars. Each eviction done in violation of this act
84 constitutes a separate offense.

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

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