

HOUSE No. 4084

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to require just cause for evictions from certain foreclosed residential property in the city of Lawrence..

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. (a) Definitions.

2 As used in this Act, the following words shall, unless the context clearly requires
3 otherwise, have the following meanings:

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

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

11 “Foreclosing owner”, an entity that holds title, in any capacity, directly or indirectly,
12 without limitation, whether in its own name, as trustee, or as beneficiary, to a housing

13 accommodation that has been foreclosed upon, and either both (1) held or owned a mortgage or
14 other security interest in the housing accommodation at any point prior to the foreclosure of the
15 housing accommodation or is the subsidiary, parent, trustee, or agent of, or otherwise is related
16 to any 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; or (2) is an
18 institutional mortgagee that acquires or holds title to the housing accommodation within three
19 years of the filing of a foreclosure deed on the housing accommodation.

20 Foreclosure means a legal proceeding to terminate a mortgagor's interest in property,
21 instituted by the mortgagee, either to gain title or to force a sale in order to satisfy the unpaid
22 debt secured by the property, including, without limitation, foreclosure by action, by bill in
23 equity, by entry and continuation of possession for three years, and by sale under the power of
24 sale in a mortgage as described in chapter two hundred forty-four of the General Laws.

25 Foreclosure sale means the foreclosure of a mortgage by sale of a housing
26 accommodation pursuant to a power of sale in a mortgage deed, as described in section fourteen
27 of chapter two hundred forty-four of the General Laws.

28 Housing accommodation means any building or buildings, structure or structures, or part
29 thereof or land appurtenant thereto, or any other real or personal property used, rented, or offered
30 for rent for living or dwelling purposes, located in the City of Lawrence together with all services
31 connected with the use or occupancy of such property.

32 'Institutional mortgagee', any entity, or any entity which is the subsidiary, parent, trustee,
33 or agent of, or otherwise related to any such entity, that holds or owns mortgages or other

34 security interest in three or more housing accommodations, or acts as a mortgage servicer of
35 three or more housing accommodations.

36 Just cause means at least one of the following:

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

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

45 (iii) the tenant or occupant is committing or permitting to exist a nuisance in, or is
46 causing substantial damage to, the unit, or is creating a substantial interference with the quiet
47 enjoyment of other occupants;

48 (iv) the tenant or occupant is convicted of using or permitting the unit to be used for any
49 illegal purpose;

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

55 (vi) the tenant or occupant has refused the foreclosing owner reasonable access to the unit
56 for the purpose of making necessary repairs or improvement required by the laws of the United
57 States, the Commonwealth or any subdivision thereof, or for the purpose of inspection as
58 permitted or required by agreement or by law or for the purpose of showing the rental housing
59 unit to a prospective purchaser or mortgagee.

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

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

67 Tenant or occupant means any person or group of persons entitled to occupy a housing
68 accommodation pursuant to a written lease, tenancy at will, tenancy at sufferance or
69 otherwise. 'Unit' or 'residential unit' means the room or group of rooms within a housing
70 accommodation, located in the City of Lawrence which is used or intended for use as a residence
71 by one household.

72 (b) Foreclosure Eviction.

73 Notwithstanding any other special or general law to the contrary, the foreclosing owner
74 shall not evict a tenant or occupant from a housing accommodation located in the City of
75 Lawrence except for just cause.

76 (c) Penalties.

77 Any foreclosing owner that evicts tenants or occupants in violation of any provisions of
78 this Act shall be punished by a fine of not less than ten thousand dollars. Each eviction done in
79 violation of this Act constitutes a separate offense.

80 (d) Jurisdiction.

81 The Essex County Superior Court and the Northeast Housing Court shall have
82 jurisdiction over an action arising from any violation of this Act and shall have jurisdiction in
83 equity to restrain any such violation. No tenant or occupant shall be evicted in violation of any
84 provision of this Act. It shall be a defense to eviction that the foreclosing owner attempted to
85 evict a tenant or occupant in violation of any provision of this Act.

86 (e) Severability.

87 If any provision of this Act or the application of such provision to any person or
88 circumstance shall be held invalid, the validity of the remainder of this Act and the applicability
89 of such provision to other persons or circumstances shall not be affected thereby.

90 SECTION 2. The provisions of this Act shall be effective immediately upon passage and
91 shall cease to have effect three years after passage.