

**HOUSE . . . . . No. 4595**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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An Act to stabilize neighborhoods..

*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. Section 5 of chapter 59 of the General Laws, as appearing in the 2008  
2 Official Edition, is hereby amended by inserting after clause fifty-five the following clause:-

3  
4 Fifty sixth. Real estate owned by or held in trust for a charitable organization for the  
5 purpose of creating community housing, as defined in section 2 of chapter 44B, where the  
6 charitable organization purchased said property from an entity that acquired the property  
7 pursuant to section 14 of chapter 244, from the date of such real estate’s acquisition by the  
8 charitable organization until such real estate is leased, rented, or otherwise disposed of; provided,  
9 however, that said exemption for such real property shall not extend beyond a total period of 7  
10 years. This clause shall take effect upon its acceptance by any city or town.

11 SECTION 2. Chapter 184 of the General Laws is hereby amended by inserting after  
12 section 17B ½ the following section:-

13           Section 17B 3/4. (a) As used in this section the following words shall, unless the context  
14 clearly requires otherwise, have the following meanings:

15           ‘Commissioner’, means the Commissioner of the Massachusetts Division of Banks

16           ‘Reverse Mortgage’, a nonrecourse mortgage loan in which: (1) a mortgage, deed of trust,  
17 or equivalent consensual security interest securing one or more advances is created in the  
18 Consumer’s principal dwelling located in Massachusetts; and (2) any principal, interest, or  
19 shared appreciation or equity is due and payable (other than in the case of default) only after: (i)  
20 the Consumer dies; (ii) the dwelling is transferred; or (iii) the Consumer ceased to occupy the  
21 dwelling as a principal dwelling.

22           (b). No mortgagee who makes a reverse mortgage loan to a borrower shall make a reverse  
23 mortgage loan unless the mortgagor affirmatively opts in writing for the reverse mortgage and  
24 has received certification from a counselor with a third-party organization that the mortgagor has  
25 received counseling in person on the suitability of the loan transaction; provided further that said  
26 third party organization shall have been approved by: (1) the United States Department of  
27 Housing and Urban Development; (2) the Massachusetts Executive Office of Elder Affairs. At or  
28 before closing such a loan, the mortgagee shall obtain evidence that the mortgagor has completed  
29 an approved counseling program. If such reverse mortgage loan is made by a mortgagee in  
30 violation of this section, the terms of the loan shall not be enforceable. The Commissioner of  
31 Banks shall issue guidelines or adopt regulations to administer and carry out this section and to  
32 further define the terms used in this section.

33 SECTION 3. Section 13A of chapter 186 of the General Laws, as so appearing, is hereby  
34 amended by inserting after the word “law” the following words:-and the foreclosing entity shall  
35 assume the lease and rental subsidy contract with the rental subsidy administrator.

36 SECTION 4. The general laws are hereby amended by adding after chapter 186, the  
37 following new chapter:-

38 Chapter 186A. Tenant protections in foreclosed properties

39 Section 1. As used in this chapter, the following words shall, unless the context clearly  
40 requires otherwise, have the following meanings:

41 'Entity', a business organization, or any other kind of organization, including without  
42 limitation, a corporation, partnership, trust, limited liability corporation, limited liability  
43 partnership, joint venture, sole proprietorship, or any other category of organization, and any  
44 employee, agent, servant or other representative of such entity.

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

48 'Foreclosing owner', an entity that holds title, in any capacity, directly or indirectly,  
49 without limitation, whether in its own name, as trustee, or as beneficiary, to a housing  
50 accommodation that has been foreclosed upon, and either (1) held or owned a mortgage or other  
51 security interest in the housing accommodation at any point prior to the foreclosure of the  
52 housing accommodation or is the subsidiary, parent, trustee, or agent of, or otherwise is related  
53 to any entity which held or owned the mortgage or other security interest in the housing

54 accommodation at any time prior to the foreclosure of the housing accommodation; or (2) is an  
55 institutional mortgagee that acquires or holds title to the housing accommodation within three  
56 years of the filing of a foreclosure deed on the housing accommodation.

57 'Foreclosure', a legal proceeding to terminate a mortgagor's interest in property,  
58 instituted by the mortgagee, either to gain title or to force a sale in order to satisfy the unpaid  
59 debt secured by the property, including, without limitation, foreclosure by auction, by bill in  
60 equity, by entry and continuation of possession for three years, and by sale under the power of  
61 sale in a mortgage as described in chapter 244.

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

66 'Institutional mortgagee', any entity, or any entity which is the subsidiary, parent, trustee,  
67 or agent of, or otherwise related to any such entity, that holds or owns mortgages or other  
68 security interest in three or more housing accommodations, or acts as a mortgage servicer of  
69 three or more mortgages of housing accommodations.

70 'Just Cause', at least one of the following: (a) the tenant has failed to pay the rent in effect  
71 prior to the foreclosure or failed to pay use and occupancy charges, but only if the foreclosing  
72 owner notified the tenant in writing of the amount of rent or use and occupancy that was to be  
73 paid and to whom it was to be paid; provided that such failure to pay rent or use and occupancy  
74 charges shall not be deemed to be just cause unless the foreclosing owner, within 30 days of the  
75 foreclosure, posted in a prominent location in the building in which the rental housing unit is

76 located a written notice stating the names, addresses, telephone numbers and telephone contact  
77 information of the foreclosing owner, the building manager, or other representative of the  
78 foreclosing owner responsible for the management of such building and stating the address to  
79 which rent and use and occupancy charges must be sent; and provided further that the  
80 foreclosing owner has delivered such written notice individually to each tenant of said building,  
81 and to the inspectional services department, or its equivalent, for the city or town in which the  
82 rental housing unit is located (b) the tenant has violated an obligation or covenant of the tenancy  
83 or occupancy other than the obligation to surrender possession upon proper notice and has failed  
84 to cure such violation within a reasonable time after having received written notice thereof from  
85 the foreclosing owner; (c) the tenant is committing or permitting to exist a nuisance in, or is  
86 causing substantial damage to, the unit, or is creating a substantial interference with the quiet  
87 enjoyment of other occupants; (d) the tenant is convicted of using or permitting the unit to be  
88 used for any illegal purpose; (e) the tenant who had a written lease or other rental agreement  
89 which terminated on or after the effective date of this chapter, has refused, after written request  
90 or demand by the foreclosing owner, to execute a written extension or renewal thereof for a  
91 further term of like duration and in such terms that are not inconsistent with the provisions of this  
92 chapter; (f) the tenant has refused the foreclosing owner reasonable access to the unit for the  
93 purpose of making necessary repairs or improvement required by the laws of the United States,  
94 the Commonwealth or any subdivision thereof, or for the purpose of inspection as permitted or  
95 required by agreement or by law or for the purpose of showing the rental housing unit to a  
96 prospective purchaser or mortgagee provided that none of the preceding events shall be deemed  
97 just cause unless the foreclosing owner has delivered to each tenant at the time of the delivery of

98 the aforementioned written notice specified in sub-clause (a) above, a written disclosure of the  
99 tenant's right to a court hearing prior to eviction.

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

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

107 'Tenant' any person or group of persons who at the time of foreclosure is entitled to  
108 occupy a housing accommodation pursuant to a written lease or tenancy at will. Any person who  
109 moves into the housing accommodation owned by the foreclosing owner following the filing of  
110 the foreclosure deed without the express written permission of the owner shall not be considered  
111 a tenant under this statute.

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

114 Section 2. Notwithstanding any other special or general law to the contrary, a foreclosing  
115 owner shall not evict a tenant except for just cause, or in the event that there is a binding  
116 purchase and sale agreement for a bona fide third party to purchase said housing accommodation  
117 from a foreclosing owner.

118 Section 3. In the event that a foreclosing owner disagrees with the amount of rent and/or  
119 use and occupancy rates that the tenant-at-will or lessee pays to the foreclosing owner, the  
120 foreclosing owner may bring a claim in district or superior courts, or the housing court to claim  
121 that the rent is unreasonable and set a new use and occupancy rate. A lease between the  
122 foreclosed upon owner and the lessee or proof of rental payment to the foreclosed-upon owner  
123 shall have a presumption of reasonableness.

124 Section 4. Any foreclosing owner that evicts a tenant in violation of any provisions of  
125 this Act, or any ordinance or by-law adopted pursuant to this Act, shall be punished by a fine of  
126 not less than ten thousand dollars. Each eviction done in violation of this Act constitutes a  
127 separate offense. The district and superior courts, and the housing courts in the Commonwealth,  
128 shall have jurisdiction over an action arising from any violation of this Act, or any ordinance, or  
129 by-law adopted pursuant to this Act, and shall have jurisdiction in equity to restrain any such  
130 violation. It shall be a defense to eviction that the foreclosing owner attempted to evict a tenant  
131 in violation of any provision of this Act, or any ordinance or by-law adopted pursuant to this Act.

132 SECTION 5. Section 35A of chapter 244 of the General Laws, as appearing in the 2008  
133 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof  
134 the following 2 subsections:-

135 (a). As used in this section and section 35B, the following words shall, unless the context  
136 clearly requires otherwise, have the following meanings:

137 “Borrower”, a mortgagor of a mortgage loan.

138 “Borrower’s representative”, an employee of a HUD-certified non-profit organization  
139 located in the commonwealth; provided, however, that borrower’s representative shall not  
140 include a person or entity which is compensated by the borrower.

141 “Creditor”, any person or entity that holds or controls, partially, wholly, indirectly,  
142 directly, or in a nominee capacity, a mortgage loan securing a residential property, including,  
143 without limitation, an originator, holder, investor, assignee, successor, trust, trustee, nominee  
144 holder, Mortgage Electronic Registration System, or mortgage servicer. This definition shall  
145 also include any servant, employee, or agent of a creditor.

146 "Creditor’s Representative”, a person who has the authority to negotiate and modify the  
147 mortgage loan.

148 “Mortgage loan”, a loan to a natural person made primarily for personal, family or  
149 household purposes secured wholly or partially by a mortgage on residential property.

150 “Net Present Value”, calculation using the federal Home Affordable Modification  
151 Program Base Net Present Value Model that compares the expected economic outcome of a loan  
152 with or without a loan modification.

153 “Residential property", real property located in the commonwealth having thereon a  
154 dwelling house with accommodations for four or less separate households and occupied, or to be  
155 occupied, in whole or in part by the obligor on the mortgage debt. This definition shall be  
156 limited to the principal residence of a person, and not an investment property or second home.

157 (a ½) Any mortgagor of residential real property located in the commonwealth consisting  
158 of a dwelling house with accommodations for 4 or less separate households and occupied in



159 whole or in part by the mortgagor, shall have a 150 day right to cure a default of a required  
160 payment as provided in the residential mortgage or note secured by the residential real property  
161 by full payment of all amounts that are due without acceleration of the maturity of the unpaid  
162 balance of the mortgage; provided, however, that if a lender certifies (i) that it has engaged in a  
163 good faith effort to resolve the issue of the amounts currently due with the homeowner; (ii) that  
164 its good faith effort has involved at least one meeting between a creditor's representative and the  
165 homeowner and the homeowner's attorney or borrower's representative; and (iii)\_after such  
166 meeting the homeowner and the lender were not successful in resolving their dispute, then the  
167 lender may begin proceedings after a right to cure period lasting only 90 days. The right to cure  
168 a default of a required payment shall be granted once during any 3 year period, regardless of the  
169 mortgage holder.

170 SECTION 6. Section 35A of chapter 244 of the General Laws is hereby amended by  
171 striking out subsection (a ½) and inserting in place thereof the following subsection:-

172 (a ½). Any mortgagor of residential real property located in the commonwealth consisting  
173 of a dwelling house with accommodations for 4 or less separate households and occupied in  
174 whole or in part by the mortgagor, shall have a 90 day right to cure a default of a required  
175 payment as provided in such residential mortgage or note secured by such residential real  
176 property by full payment of all amounts that are due without acceleration of the maturity of the  
177 unpaid balance of such mortgage. The right to cure a default of a required payment shall be  
178 granted once during any 5 year period, regardless of the mortgage holder.

179 SECTION 7. Subsection (c) of said section 35A of said chapter 244, as so appearing, is  
180 amended by inserting after clause (6) the following 5 clauses:-

181 (8) the mortgagor has the right to sell the property prior to the foreclosure sale and use  
182 the proceeds to pay off the loan;

183 (9) the mortgagor has the right to redeem the property by paying the total amount due,  
184 prior to the foreclosure sale;

185 (10) the mortgagor has the right to request from the residential mortgage lender a  
186 negotiated agreement to repay the mortgage on terms that are different from or alternative to the  
187 original terms of the mortgage including, but not limited to, copies of the mortgage, note,  
188 disclosure statement, and payment records.

189 (11) the mortgagor may have the following additional rights, depending on the terms of  
190 the residential mortgage:

191 (a) to transfer the property to a third party subject to the security interest held by the  
192 residential mortgage lender and the transferee's right, if any, to cure the default;

193 (b) to refinance the obligation by obtaining a loan which would fully repay the residential  
194 mortgage debtor; and

195 (c) to voluntarily grant a deed to the residential mortgage lender in lieu of foreclosure.

196

197 SECTION 8. Chapter 244 of the General Laws is hereby amended by inserting, after  
198 section 35A, the following section:-

199 Section 35B. (a) For purposes of section 35A, the determination as to whether a creditor  
200 has made a good faith effort to negotiate and agree upon a commercially reasonable alternative

201 to foreclosure shall mean that the creditor has considered, without limitation: (i) an assessment  
202 of the borrower's current circumstances, including without limitation the borrower's current  
203 income, debts and obligations; (ii) the net present value of receiving payments pursuant to a  
204 modified mortgage loan as compared to the anticipated net recovery following foreclosure and  
205 (iii) the interests of the creditor, including, without limitation, investors and taxpayers, in the  
206 event the creditor has received federal or state money.

207 (b) A creditor shall be deemed to comply with the requirement to engage in a good faith  
208 effort to negotiate and agree upon a commercially reasonable alternative to foreclosure set forth  
209 in section 35A, if, 10 days prior to the mediation, the creditor sends to the borrower:

210 (1) Sends to the borrower a determination of a borrower's current ability to make  
211 affordable monthly payments, reasonably taking into account the borrower's current  
212 circumstances including income, debts and obligations and consistent with federal Home  
213 Affordable Modification Program Guidelines determined by the United States Department of the  
214 Treasury.

215 (2) identifies a loan modification that achieves the borrower's affordable monthly  
216 payment ("modified loan"), which loan modification may include one or more of the following:  
217 reduction in principal, reduction in interest rate, or an increase in the loan term period but not  
218 more than a ten year increase and to not more than a forty year period.

219 (3) conducts an analysis comparing the net present value of the modified loan and the  
220 creditor's anticipated net recovery that would result from foreclosure,

221 (4) either (a) in all circumstances where the net present value of the modified loan  
222 exceeds the anticipated net recovery at foreclosure, offers and agrees to modify the loan in a

223 manner that provides the affordable monthly payment, or (b) in circumstances where the net  
224 present value of the modified loan is less than the anticipated net recovery of the foreclosure, the  
225 creditor provides the borrower with the decision that no loan modification will be offered and a  
226 summary of the creditor's net present value analysis, and applicable inputs in that analysis; and

227 (5) If the borrower is ineligible for a loan modification pursuant to subsection Section 3  
228 (i)-(iv) or as requested by a borrower, (i) a creditor shall assess a borrower's requested short sale  
229 or deed-in-lieu of foreclosure offer, and accept such offer if the net present value of accepting the  
230 short sale offer or deed-in-lieu of foreclosure offer is greater than the anticipated net recovery of  
231 the foreclosure, or (ii) in circumstances where the net present value of the short sale offer or  
232 deed-in-lieu of foreclosure offer is less than the anticipated net recovery of the foreclosure, the  
233 creditor must provide the borrower with a summary of the creditor's net present value analysis,  
234 and applicable inputs in that analysis.

235 (c) For purposes of this section and section 35A, except as specified in a contract a  
236 servicer of pooled residential mortgages may determine whether the net present value of the  
237 payments on the loan, as modified, is likely to be greater than the anticipated net recovery that  
238 would result from foreclosure to all investors and holders of beneficial interests in such  
239 investment, but not to any individual or groups of investors or beneficial interest holders, and  
240 shall be deemed to act in the best interests of all such investors or holders of beneficial interests  
241 if the servicer agrees to or implements a loan modification or takes reasonable loss mitigation  
242 actions that comply with this Section.

243 (d) Prior to ending the right to cure period, the creditor must certify compliance with this  
244 Section in an affidavit, listing the time and place of the mediation, parties attending, relief

245 offered to the borrower, and summary of the creditor’s net present analysis and applicable inputs  
246 of the analysis, if applicable pursuant to subsection (a)(1) and certify modification or any option  
247 offered complies with current federal law or policy. A creditor shall provide a copy of the  
248 affidavit to the homeowner and also file a copy of the affidavit required by this Section with the  
249 Land Court in advance of initiating any foreclosure by entry, action or sale.

250 (e) The Attorney General may adopt, amend or repeal rules and regulations to aid in the  
251 administration and enforcement of this Section, including regulations that assist in the  
252 implementation of the requirement for the parties to engage in a good faith effort to negotiate and  
253 agree upon a commercially reasonable alternative to foreclosure as set forth in subsection (a).

254 SECTION 9. Section 33 of chapter 266 of the General Laws, as appearing in the 2008  
255 Official Edition, is hereby amended by striking out, in lines 5 to 10, inclusive the words “(2)  
256 whoever, with intent to defraud, by a false statement in writing respecting the financial  
257 condition, or means or ability to pay, of himself or of any other person, obtains credit from any  
258 bank or trust company or any banking institution or any retail seller of goods or services  
259 accustomed to give credit in any form whatsoever shall be guilty of larceny” and inserting in  
260 place thereof the following words:- “ (2) whoever, with intent to defraud, by a false statement in  
261 writing respecting the financial condition, or means or ability to pay, of himself or of any other  
262 person, obtains for himself or for any other person credit from any bank or trust company or any  
263 banking institution or any mortgage lender, as defined in section 1 of chapter 255E or any retail  
264 seller of goods or services accustomed to give credit in any form whatsoever shall be guilty of  
265 larceny.

266           Whoever violates this section shall be punished by imprisonment in jail for not more than  
267 1 year or by a fine of not more than \$300, or, if the value of the benefit obtained by a violation of  
268 clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds \$250  
269 shall be punished by imprisonment in the state prison for not more than 5 years, or by a fine of  
270 not more than \$25,000 and imprisonment in the house of correction for not more than 2 years.

271           SECTION 10. Said chapter 266 is hereby further amended by striking out section 34, as  
272 so appearing, and inserting in place thereof the following section:--

273           Section 34. Whoever, with intent to defraud and by a false pretence, induces another to  
274 part with property of any kind or with any of the benefits described in section 33 shall be guilty  
275 of larceny. Whoever violates this section shall be punished by imprisonment in jail for not more  
276 than 1 year or by a fine of not more than \$300, or, if the value of the benefit obtained by a  
277 violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2)  
278 exceeds \$250 shall be punished by imprisonment in the state prison for not more than 5 years, or  
279 by a fine of not more than \$25,000 and imprisonment in the house of correction for not more  
280 than 2 years.

281           SECTION 11. Chapter 266 of the General Laws is amended by inserting after Section 35  
282 the following section:-

283           Section 35A. (a) As used in this section, the following words shall have the following  
284 meanings, unless the context otherwise requires:--

285           “Funds”, shall include, but not be limited to, a commission, fee, yield spread premium or  
286 compensation in any form.

287 “Material omission”, the omission or concealment of a material fact necessary in order to  
288 make the statement made, in the light of the circumstances under which it is made, not  
289 misleading.

290 “Mortgage lending process”, the process through which a person seeks or obtains a  
291 residential mortgage loan including, but not limited to, solicitation, application, or origination,  
292 negotiation of terms, third-party provider services, underwriting, signing and closing, and  
293 funding of the loan. Documents involved in the mortgage lending process include, but shall not  
294 limited to: uniform residential loan applications or other loan applications; appraisal reports;  
295 HUD-1 settlement statements; supporting personal documentation for loan applications such as  
296 W-2 forms, verification of income and employment, bank statements, tax returns and payroll  
297 stubs; and any required disclosures.

298 “Pattern of residential mortgage fraud”, the violation of subsection (b) in connection with  
299 3 or more residential properties.

300 “Person”, a natural person, corporation, company, limited liability company, partnership,  
301 real estate trust, association or any other entity.

302 “Residential mortgage loan”, a loan or agreement to extend credit made to a person,  
303 which loan is secured by a mortgage, security interest, deed to secure debt, deed of trust, or other  
304 document representing a security interest or lien upon any interest in a 1- to-4 family residential  
305 property located in the commonwealth, including the renewal or refinancing of any such loan.

306 (b) Whoever: (1) makes or causes to be made any material statement that is false or any  
307 statement that contains a material omission, knowing the same to be false or to contain a material  
308 omission, during or in connection with the mortgage lending process, with the intent that such

309 statement be relied upon by a mortgage lender, borrower or any other party to the mortgage  
310 lending process; (2) uses, or facilitates the use of, any material statement that is false or any  
311 statement that contains a material omission, knowing the same to be false or to contain a material  
312 omission, during or in connection with the mortgage lending process, with the intent that such  
313 statement be relied upon by a mortgage lender, borrower or any other party to the mortgage  
314 lending process; (3) receives any proceeds or any other funds in connection with a residential  
315 mortgage closing, knowing such proceeds or funds were obtained in violation of clause (1) or  
316 (2); or (4) files, or causes to be filed, with a registrar of deeds any document that contains a  
317 material statement that is false or a material omission, knowing such document to contain a  
318 material statement that is false or a material omission, shall be punished by imprisonment in the  
319 state prison for not more than 5 years or by imprisonment in the house of correction for not more  
320 than 2 ½ years or by a fine of not more than \$10,000 in the case of a natural person or not more  
321 than \$100,000 in the case of any other person, or by both such fine and imprisonment.

322 Any person who engages in a pattern of residential mortgage fraud shall be punished by  
323 imprisonment in the state prison for not more than 15 years or by a fine of not more than  
324 \$50,000, or in the case of a natural person, not more than \$500,000 in the case of any other  
325 person, or by both such fine and imprisonment.

326 (c) Any violation of this section may be prosecuted and punished in: the county in which  
327 the residential property for which a mortgage loan is being sought is located; any county in  
328 which any act was performed in furtherance of the violation; in any county in which any person  
329 alleged to have violated this section had control or possession of any proceeds of, or other funds  
330 received as a result of, the violation; any county in which a closing on the mortgage loan



331 occurred; any county in which a document containing a deliberate misstatement,  
332 misrepresentation or omission is filed with a registrar of deeds.

333 (d) It shall be an affirmative defense if a defendant charged with a violation of this  
334 section as a result of conduct or an omission by an employee or agent of the defendant if the  
335 defendant demonstrates the following by a preponderance of the evidence:

336 (1) the defendant had in force, at the time of the violation and continues to have in force,  
337 a written policy that includes:

338 (i) A prohibition against conduct that violates this section by employees and agents of the  
339 defendant;

340 (ii) Penalties or discipline for violation of the policy;

341 (iii) A process for educating employees and agents concerning the policy and  
342 consequences of a violation; and

343 (iv) A requirement for a criminal history check before employing an employee or  
344 engaging an agent and a requirement that the defendant will not employ or engage an individual  
345 whose criminal history check reveals a previous conviction of a crime involving fraud;

346 (2) the defendant demonstrates that it enforces the written policy described in clause (1);  
347 and

348 (3) Before the violation of this section the defendant communicated the written policy  
349 described in clause (1) and the consequences for violating the policy to the employee or agent  
350 who committed the violation.

351 (e) It shall be a rebuttable presumption that a borrower in the residential mortgage  
352 lending process did not make a false material statement or a material omission. Two or more  
353 single incidents or occurrences of fraud in the mortgage lending process shall sufficient to  
354 overcome this rebuttable presumption.

355 SECTION 12: Chapter 255 of the General Laws is hereby amended by inserting after  
356 section 12 the following section-

357 Section 13.

358 (a) For purposes of this section, the following terms shall have the following meanings  
359 unless the context clearly requires otherwise:

360 “Abandoned”, any structure or building that is not legally occupied for a period of 60  
361 days or has visible signs of physical distress, including boarded windows, fire damage, exposure  
362 to the elements, susceptibility to unauthorized entry or where mortgage or property tax payments  
363 are delinquent for 60 days.

364 “Commissioner”, the municipality’s building inspector or commissioner or other  
365 administrative chief in a town responsible under M.G.L. c. 134 § 3 for administering and  
366 enforcing the state building code.

367 “Days”, consecutive calendar days.

368 “Conclusion of the foreclosure process”, means the date at which a mortgage foreclosure  
369 process is finalized as evidenced by the filing of a foreclosure deed with the Registry of Deeds

370 “Owner”, every person, entity, association, corporation, fiduciary, service company,  
371 property manager or realtor who alone or severally has legal or equitable title or any interest in  
372 any real property or is a trustee or agent appointed by the courts or is a mortgagee in possession.

373 “Residential Property”, any property that contains one or more dwelling units used,  
374 intended, or designed to be occupied for living purposes.

375 (b) Any city or town which accepts the provisions of this section may impose an  
376 abandoned property registration program as provided in this chapter. All owners must register  
377 abandoned and/or foreclosed residential properties with Commissioner on forms provided by the  
378 Commissioner. All registrations must state the individual owner or agent’s phone number and  
379 Mailing address. This registration must also certify that the property was inspected and identify  
380 whether the property is abandoned. If the property is abandoned, the registration must designate  
381 a local individual or local property management company responsible for the security and  
382 maintenance of the property. This designation must state the individual or company’s name,  
383 phone number and local mailing address. This registration must be received within sixty days of  
384 abandonment or within sixty days of the conclusion of the foreclosure process.

385 All property registrations are valid for one year. An annual registration fee, not to exceed  
386 one-hundred dollars and no cents (\$100.00) must accompany the registration form. The fee and  
387 registration are valid for the calendar year, or remaining portion of the calendar year in which the  
388 registration was initially required. Subsequent registrations and fees are due January 1st of each  
389 year and must certify whether the foreclosed property remains abandoned.

390 Once the property is sold or is no longer abandoned, the owner must provide proof of sale  
391 or written notice of occupancy to the Commissioner.

392 (c) Properties subject to this section must be maintained in accordance with all applicable  
393 Sanitary, Building Codes, and local regulations. The local owner or local property management  
394 company must inspect and maintain the property on a monthly basis for the duration of the  
395 abandonment.

396 The property must contain a posting with the name and 24-hour contact phone number of  
397 the local individual or property management company responsible for the maintenance. This sign  
398 must be clearly visible from the street.

399 Compliance with this section shall not relieve the property owner of any other obligation  
400 set forth in statute, regulation, covenant conditions and restrictions and/or homeowners'  
401 association rules and regulations.

402 (d) The Commissioner shall have the authority and the duty to inspect properties subject  
403 to this section for compliance and to issue citations for any violations. The Commissioner shall  
404 have the discretion to determine when and how such inspections are to be made, provided that  
405 their policies are reasonably calculated to ensure the enforcement of this section.

406 (e) Failure to initially register with the Commissioner is punishable by a fine, not to  
407 exceed of five hundred dollars and no cents (\$500.00).

408 If applicable, failure to properly identify the name of the local individual or property  
409 management company is punishable by a fine, not to exceed five hundred dollars and no cents  
410 (\$500.00).

411 Failure to maintain the property is punishable by a fine, not to exceed hundred dollars and  
412 no cents (\$500.00) for each month the property remains out of compliance or is otherwise not  
413 maintained.

414 Violations of this chapter shall be treated as a strict liability offence regardless of intent.

415 This section shall only take effect in a city or town accepting the provisions of this  
416 section by a majority vote of the city council with the approval of the mayor, in the case of a city  
417 with a Plan A, Plan B, or Plan F charter, by a majority vote of the city council, in the case of a  
418 city with a Plan C, Plan D, or Plan E charter, by a majority vote of the annual town meeting or a  
419 special meeting called for that purpose, in the called-for purpose, in the case of a municipality  
420 with a town meeting form of government; or by a majority of the town council, in the case of a  
421 municipality with a town form of government. The provisions of this section shall take effect on  
422 the first day of the first calendar month following days after such acceptance; provided further  
423 that if such day is at least 15 days after such acceptance; and provided further, that if such day is  
424 less than 15 days after such acceptance, it shall take effect on the first day of the second calendar  
425 month following such acceptance.

426 SECTION 13. Section 6 shall take effect on January 1, 2016.