

SENATE No. 1614

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act requiring just cause for eviction and foreclosed properties..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 1. As used in this Act, the following words shall, unless the context clearly requires
2 otherwise, have the following meanings:'Entity', a business organization, or any other kind of
3 organization, including without limitation, a corporation, partnership, trust, limited liability
4 corporation, limited liability partnership, joint venture, sole proprietorship, or any other category
5 of organization, and any employee, agent, servant or other representative of such
6 entity.'Eviction', any action, without limitation, by a foreclosing owner of a housing
7 accommodation which is intended to compel a tenant or occupant to vacate or to be
8 constructively evicted from such housing accommodation. "Foreclosing owner", an entity that
9 both (1) held or owned a mortgage or other security interest in the housing accommodation at
10 any point prior to the foreclosure of the housing accommodation or is the subsidiary, parent, or
11 agent of, or otherwise is related to any entity which held or owned the mortgage or other security
12 interest in the housing accommodation at any time prior to the foreclosure of the housing
13 accommodation; and (2) holds title to this housing accommodation that it acquired at a
14 foreclosure sale or by any other method of foreclosure. For purpose of this definition, the phrase

15 'holds title' shall include an entity which holds title in any capacity, directly or indirectly, without
16 limitation, whether in its own name, as trustee, or as beneficiary. Any entity which attempts to
17 evict tenants from the housing accommodation, whether in its own name, as trustee, as mortgage
18 servicer, or as beneficiary, or in any other role, without limitation, shall be considered to 'hold
19 title' for the purpose of this definition. Any institutional mortgagee that holds title to a housing
20 accommodation that has been foreclosed upon within the last three years shall be considered to
21 be a foreclosing owner for the purpose of this Act. 'Foreclosure', a legal proceeding to terminate
22 a mortgagor's interest in property, instituted by the mortgagee, either to gain title or to force a
23 sale in order to satisfy the unpaid debt secured by the property, including, without limitation,
24 foreclosure by action, by bill in equity, by entry and continuation of possession for three years,
25 and by sale under the power of sale in a mortgage as described in Chapter 244 of the General
26 Laws.

27 'Foreclosure sale', the foreclosure of a mortgage by sale of a housing accommodation
28 pursuant to a power of sale in a mortgage deed, as described in Section 14 of Chapter 244 of the
29 General Laws. 'Housing accommodation', any building or buildings, structure or structures, or
30 part thereof or land appurtenant thereto, or any other real or personal property used, rented or
31 offered for rent for living or dwelling purposes, together with all services connected with the use
32 or occupancy of such property.

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

38 mortgages of properties in the Commonwealth 'Just Cause', shall be at least one of the
39 following: (a) the tenant or occupant has failed to pay the rent in effect prior to the foreclosure or
40 failed to pay use and occupancy charges, but only if the foreclosing owner notified the tenant or
41 occupant in writing of the amount of rent or use and occupancy that was to be paid and to whom
42 it was to be paid; (b) the tenant or occupant has violated an obligation or covenant of the tenancy
43 or occupancy other than the obligation to surrender possession upon proper notice and has failed
44 to cure such violation within a reasonable time after having received written notice thereof from
45 the foreclosing owner; (c) the tenant or occupant is committing or permitting to exist a nuisance
46 in, or is causing substantial damage to, the unit, or is creating a substantial interference with the
47 quiet enjoyment of other occupants; (d) the tenant or occupant is convicted of using or permitting
48 the unit to be used for any illegal purpose; (e) the tenant or occupant who had a written lease or
49 other rental agreement which terminated on or after this Act has taken effect, has refused, after
50 written request or demand by the foreclosing owner to execute a written extension or renewal
51 thereof for a further term of like duration and in such terms that are not inconsistent with or
52 violative of any provisions of this Act; (f) the tenant or occupant has refused the foreclosing
53 owner reasonable access to the unit for the purpose of making necessary repairs or improvement
54 required by the laws of the United States, the Commonwealth or any subdivision thereof, or for
55 the purpose of inspection as permitted or required by agreement or by law or for the purpose of
56 showing the rental housing unit to a prospective purchaser or mortgagee; 'Mortgagee', an entity
57 to whom property is mortgaged; the mortgage creditor, or lender, including, but not limited to,
58 mortgage servicers, lenders in a mortgage agreement and any agent, servant, or employee of the
59 mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or
60 obligations under the mortgage agreement. 'Mortgage Servicer', an entity which administers or

61 at any point administered the mortgage, including, but not limited to, calculating principal and
62 interest, collecting payments from the mortgagor, acting as an escrow agent, and foreclosing in
63 the event of a default. 'Post-foreclosure eviction', an eviction of a tenant by a foreclosing owner.
64 'Tenant or occupant', any person or group of persons entitled to occupy a housing
65 accommodation pursuant to a written lease, tenancy at will, tenancy at sufferance or otherwise.
66 'Unit' or 'residential unit', the room or group of rooms within a housing accommodation which is
67 used or intended for use as a residence by one household. SECTION 2. Notwithstanding any
68 other special or general law to the contrary, the foreclosing owner shall not evict a tenant or
69 occupant except for just cause. SECTION 3. Any foreclosing owner that evicts tenants or
70 occupants in violation of any provisions of this Act, or any ordinance or by-law adopted pursuant
71 to this Act, shall be punished by a fine of not less than ten thousand dollars. Each eviction done
72 in violation of this Act constitutes a separate offense. The district and superior courts, and the
73 housing courts in the Commonwealth, shall have jurisdiction over an action arising from any
74 violation of this Act, or any ordinance, or by-law adopted pursuant to this Act, and shall have
75 jurisdiction in equity to restrain any such violation. No tenant shall be evicted in violation of any
76 provision of this Act, or any ordinance or by-law adopted pursuant to this act. It shall be a
77 defense to eviction that the foreclosing owner attempted to evict tenants in violation of any
78 provision of this Act, or any ordinance or by-law adopted pursuant to this Act.

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