

SENATE No. 635

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to Creating a Statutory Housing Restriction and Providing Remedies Related To Statutory Housing. ..

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. Chapter 183 of the General Laws is hereby amended by adding the
2 following new sections:

3 Section 17A. Statutory Form of Housing Restriction.

4 A deed, covenant or restriction in substance following the form entitled Deed with
5 Statutory Housing Restriction or the form entitled Statutory Housing Restriction shall when duly
6 executed have the force and effect of an affordable housing restriction as defined in section 31 of
7 chapter 184, without limitation as to enforcement thereof as stated in section 32 of chapter 184,
8 to the use of the holder and the holder's successors and assigns with statutory housing covenants,
9 upon the statutory housing condition and with the statutory housing power to sell, as defined in
10 the following sections 17B, 17C and 17D, to secure the performance of the statutory housing
11 restriction and any obligation therein specified. The parties may insert in such restriction any
12 other lawful agreement or condition reasonably related to the creation, maintenance and
13 preservation of the premises as statutory housing premises.

Section 17B. Meaning of "Statutory Housing Covenants".

In a conveyance of real estate the words "statutory housing covenants" shall have the full force, meaning and effect of the following words, and shall be applied and construed accordingly: "The grantor, for the grantor and the grantor's heirs, executors, administrators, and successors and assigns, covenants with the holder and its successors and assigns,

a) that the granted statutory housing premises are free from all encumbrances made by the grantor,

b) that the grantor will, and the grantor's heirs, executors, administrators, successors and assigns shall, warrant and defend the same to the holder and the holder's successors and assigns forever against the lawful claims and demands of all persons claiming by, through or under the grantor, but against none other;

c) that the grantor and the grantor's heirs, successors or assigns, during their respective ownership of the statutory housing premises, will comply fully with the statutory housing condition; and

d) that the grantor and the grantor's heirs, successors or assigns, in case a sale shall be made under the statutory housing power to sell, will, upon request, execute, acknowledge and deliver to the purchaser or purchasers a deed or deeds of release confirming such sale, and that the holder and the holder's successors and assigns are appointed and constituted the attorney or attorneys-in-fact irrevocable of the said grantor to execute and deliver to the said purchaser or purchasers such deed or deeds and a full transfer of all policies of insurance on the buildings upon the land covered by the statutory housing restriction at the time of such sale.

Section 17C. Meaning of “Statutory Housing Condition”.

The following "condition" shall be known as the "Statutory Housing Condition", and may be incorporated in any deed, covenant or restriction by reference:

The grantor intends, declares, and covenants on behalf of the grantor and grantor's heirs, successors and assigns that the grantor and the grantor's heirs, successors and assigns shall:

(a) occupy the dwelling unit on the statutory housing premises as the principal residence of the grantor and the grantor's eligible household;

(b) pay and discharge when due and payable all debts secured by the statutory housing premises, including without limitation taxes, mortgages and other voluntary liens, and judgments and other involuntary liens, and reimburse the holder on demand for all amounts paid by the holder to discharge such debts with interest thereon until reimbursement at the rate applicable to damages in actions for breach of contract obligations.

(c) not encumber the statutory housing premises or any portion thereof in an amount in excess of their affordable value, nor convey, transfer or otherwise dispose of the statutory housing premises or any portion thereof other than as statutory housing premises; and

(d) upon disposition, convey any fee interest in the statutory housing premises only to one or more members of an eligible household approved in writing by the holder for consideration not exceeding the affordable value thereof at the time of the conveyance; provided however that a continuing or newly acquired ownership., with continued occupancy as principal residence during his or her lifetime, by the surviving spouse of a qualified owner in the eligible household who resided at said statutory housing premises as his or her last principal residence

prior to the qualified owner's death, without regard to the surviving spouse's income, shall not constitute a breach of this condition.

Section 17D. Meaning of “Statutory Housing Power to Sell”.

The following "power" shall be known as the "Statutory Housing Power to Sell", and may be incorporated in any deed, covenant or restriction by reference:

But upon any default in the performance or observance of the foregoing or other condition reasonably related to maintaining the premises as statutory housing premises, the holder or its successors or assigns may sell the statutory housing premises or such portion thereof as may remain subject to the statutory housing restriction, together with all improvements that may be thereon, by deed, first complying with the statutes relating to the holder's sale of statutory housing premises by the exercise of the statutory housing power to sell, and may convey the same by proper deed or deeds to the purchaser or purchasers absolutely and in fee simple but subject always to the statutory housing covenants, on the statutory housing condition and with the statutory housing power to sell; and such sale shall forever bar the grantor and all persons claiming rights of fee simple ownership under the grantor or claiming mortgages or other liens against the statutory housing premises in excess of such affordable value from all right and interest in said statutory housing premises, whether at law or in equity.

Section 17E. Definitions Related to Statutory Form of Housing Restriction.

Affordable Value Defined The "Affordable Value" of the statutory housing premises under the statutory housing condition and the statutory housing power to sell, unless otherwise defined in the restriction, shall be equal to the consideration paid for the said premises by the eligible household owning said premises subject to the statutory housing restriction adjusted in

proportion to any increase of the area median income from the date the eligible household acquired said premises to the date next preceding the sale for which such information is publicly available. In a restriction stating an alternate means of determining the value of the statutory housing premises, affordable value shall be the amount determined as stated in that restriction.

Area Median Income Defined “Area median income” means the median income for the standard metropolitan statistical area or equivalent area for the statutory housing premises in which the statutory housing premises are located, adjusted for household size, published by the United States Department of Housing and Urban Development, or such other standard adopted by the Massachusetts Department of Housing and Community Development to measure individual and household incomes in Massachusetts.

Eligible Household Defined "Eligible household" means the owner and all persons residing together with the owner at the statutory housing premises and whose household income determined in connection with the acquisition of said statutory housing premises did not exceed the maximum household income established by the holder at the time of such acquisition as stated in the deed, covenant or restriction restricting the statutory housing premises, or if no maximum household income is stated in a deed, covenant or restriction, did not exceed 80% of the area median income, adjusted for the number of individuals in the eligible household. The term “grantor” includes any person granting a restriction on the statutory housing condition and with the statutory housing power to sell, and also any individual acquiring the premises subject to such a restriction previously granted.

Household Income Defined “Household income” means the aggregate combined gross income of all members of a household under standards established by the United States

Department of Housing and Urban Development, or such other standards established by the Massachusetts Department of Housing and Community Development to measure individual and household incomes in Massachusetts.

Statutory Housing Premises Defined “Statutory housing premises” means residential real property subject to a statutory housing restriction.

Statutory Housing Restriction Defined “Statutory housing restriction” means a restriction containing the statutory housing covenants, the statutory housing condition or the statutory housing power to sell.

Section 17F. Entities Eligible to be Holder of Statutory Housing Restriction.

The entities eligible to be a holder of a statutory housing restriction shall be a governmental body or any agency thereof, nonprofit organizations, churches, employers, universities or or entities that are otherwise administering government sponsored, federal, state, or local subsidy programs, and any other entity so authorized by the Massachusetts Department of Housing and Community Development (or any successor agency); provided, however, that no restriction granted on the statutory housing power to sell shall be invalid by reason of being held by other than an eligible entity provided that it is assigned to an eligible entity prior to exercise of the statutory housing power to sell. "Governmental body", as referred to in this section means the United States or the commonwealth, acting through any of its departments, divisions, commissions, boards or agencies, or any political subdivision or public instrumentality thereof or any public authority or any quasi-public entity or any instrumentality created pursuant to chapter forty F, whether acting for its own account, or as agent or designee for or assignees of any private individual or private entity which has been required to place such restriction in its chain

of title as a condition to receiving financial or other assistance from the United States or the commonwealth.

A city or town, acting, for cities, by the mayor, unless otherwise provided by charter, ordinance, or vote of the city council, and for towns, by the board of selectmen, unless otherwise provided by charter, bylaw, or vote of the town, may acquire by gift, purchase, grant, bequest, devise, lease or otherwise a statutory housing restriction on real property resulting from regulatory action or funding by the city or town, or otherwise authorized by the city or town, and shall have authority to hold and exercise all the holder's rights, including the authority to acquire and re-convey the real property as statutory housing premises, and otherwise administer and enforce the statutory housing restriction.

Section 17G. Holder's Obligation to Issue Affordable Value Certificate.

On written notice from any owner of statutory housing premises, or from any mortgagee, proposed mortgagee or other person holding a lien on said premises, the holder shall state in writing the affordable value of the statutory housing premises as of the nearest date for which such determination can be made from public record and such other facts known to the holder necessary to establish whether the owner or other person is in compliance with the statutory housing restriction, and such certificate shall be conclusive as to any mortgagee or other person relying thereon and providing value to the owner within the affordable value or transferring the property pursuant to the statutory housing restriction. The holder may charge a reasonable fee for providing said certificate.

Section 17H Term. Termination of Statutory Housing Restriction.

A statutory housing restriction shall continue until terminated by agreement of the holder, or by legislative or judicial action, or otherwise according to law unless a term of years is stated in the restriction. On termination of a statutory housing restriction for any reason prior to expiration of its term, and after payment of the affordable value to the owner, mortgagees and other lien holders according to the priority established by law, the holder (and no other person) shall be entitled to receive the difference between the affordable value of the statutory housing premises immediately before termination (regardless of the remaining term of the statutory housing restriction) and the fair market value of those premises immediately after termination. Such amount shall be considered a first priority lien in the event that the statutory housing restriction is terminated by judicial action in a bankruptcy proceeding.

The statutory housing covenants, statutory housing condition and statutory housing power to sell shall not be subject to section 23 and sections 26 through 30 of chapter 184 and shall have the benefits of section 32 of chapter 184 without approval otherwise required thereunder, but all non-statutory provisions of a statutory housing restriction shall remain subject to section 23 and sections 26 through 30 and shall have the benefits of section 32 only if approved as stated therein.

Section 17I. Effect of Mortgage or Other Foreclosure or Sale on Statutory Housing Restriction.

Unless otherwise agreed in an instrument appearing of record, following a mortgagee's foreclosure by a regulated for-profit, not-for-profit or governmental mortgagee holding a first mortgage on statutory housing premises which was subordinate to a statutory housing restriction, only the statutory housing covenants, the statutory housing condition and the statutory housing

power to sell, to the extent appearing in the statutory housing restriction, shall continue in effect binding the statutory housing premises and all other provisions of the restriction shall be extinguished.

Section 17J. Ownership of Statutory Housing Premises by Holder, Mortgagee or Other Lien Holder.

Ownership of statutory housing premises, either by the executor or administrator of an owner in an eligible household, or by the holder or by a mortgagee or other lien holder, or its designee, or by any entity eligible to be a holder of a statutory housing restriction, pursuant to exercise of lawful remedies against the owner, shall not constitute a violation of the statutory housing covenants or the statutory housing condition so long as the premises are being held for re-sale to, and are re-sold to, an eligible household as statutory housing premises for an amount not exceeding the affordable value, provided that said premises may not be rented, leased or otherwise occupied by a household that is not an eligible household during the period in which said premises are being held for re-sale.

Appendix to G.L. c 183

The following new forms 17, 18, 19, 20, 21, 22 and 23 are added to the Appendix Statutory Forms of Instruments Relating to Real Estate following chapter 183:

(17) Deed with Statutory Housing Restrictions ----- of -----, ----- County, ----- for consideration of ----- dollars paid, grant to ----- of ----- with quitclaim covenants and with statutory housing covenants, upon the statutory housing condition, for any breach of which the holder shall have the statutory housing power to sell the land in ----- (description and

186 encumbrances, if any). Witness ----- hand and seal this ----- day of ----- (Here add
187 acknowledgment.)

188 (18) Statutory Housing Restriction of -----, ----- County, ----- for consideration
189 paid, grant to ----- of ----- with statutory housing covenants, the land in ----- (description
190 and encumbrances, if any) upon the statutory housing condition, for any breach of which the
191 holder shall have the statutory housing power to sell. Witness ----- hand and seal this -----
192 day of ----- (Here add acknowledgment.)

193 (19) Extension of Statutory Housing Restriction -----, holder of a statutory housing
194 covenant restriction by ----- to ----- dated ----- recorded ----- with ----- Deeds, book -
195 -----, page -----, and ----- owner of the equity of redemption of the premises, agree each for
196 ----- sel -----, heirs, representatives and assigns, that the term of said housing restriction is
197 hereby extended to -----, and said owner agrees to perform and observe the condition and
198 covenants of said housing restriction as so extended. Witness ----- hand and seal this -----
199 day of ----- (Here add acknowledgment.)

200 (20) Assignment of Statutory Housing Restriction. ----- holder of a statutory housing
201 restriction from ----- to ----- dated ----- recorded with ----- Deeds, book -----, page ---
202 -----, assign said statutory housing restriction to ----- Witness ----- hand and seal this -----
203 day of ----- (Here add acknowledgment.)

204 (21) Statutory Deed under Statutory Housing Power to Sell. ----- holder of a statutory
205 housing restriction from ----- to ----- dated ----- recorded with ----- Deeds, book -----,
206 page -----, by the power conferred by said housing restriction and every other power, for -----
207 - dollars paid, grant to ----- the premises conveyed by said housing restriction, subject to said

208 housing restriction and also to (description and encumbrances, if any) upon the statutory housing
209 condition, for any breach of which the holder shall have the statutory housing power to sell. .

210 Witness ----- hand and seal this ----- day of ----- . (Here add acknowledgment.)

211 (22) Termination of Statutory Housing Restriction -----, holder of a statutory
212 housing restriction from ----- to ----- dated ----- recorded with ----- Deeds, book -----,
213 page -----, releases the same. Witness ----- hand and seal this ----- day of ----- . (Here
214 add acknowledgment.)

215 (23) Affidavit of Sale under Statutory Housing Power to Sell ----- named in the
216 foregoing deed, make oath and say that the statutory housing restriction was breached, and that I
217 published on the ----- day of ----- 20-----, in the -----, a newspaper published or by its
218 title page purporting to be published in ----- aforesaid and having a circulation therein, a notice
219 of which the following is a true copy: ----- (Insert advertisement.) ----- . Pursuant to said
220 notice at the time and place therein appointed, I sold the premises in accordance with the
221 statutory housing power to sell, for ----- dollars, being not in excess of the Affordable Value
222 therefor. Witness ----- hand and seal this ----- day of ----- . (Here add jurat.)

223 (24) Certificate of Compliance under Statutory Housing Power to Sell -----,
224 holder of a statutory housing restriction from ----- to ----- dated ----- recorded with -----
225 Deeds, book -----, page -----, states that a) ----- is a member of an eligible household
226 with respect the residential real property described in the restriction who are obligated to occupy
227 those statutory housing premises as their principal residence, b) the present affordable value of
228 said property is [insert affordable value] and c) to the best of the undersigned's knowledge and

229 belief the owner is otherwise in compliance with said restriction. Witness ----- hand and seal
230 this ----- day of ----- . (Here add jurat.))

231 SECTION 2. The General Laws are hereby amended by inserting after chapter 244 the
232 following new chapter 244A:

233 General Laws Chapter 244A. Foreclosure and Redemption of Statutory Housing
234 Restrictions

235 Section 1. Exercise of Statutory Housing Power to Sell The statutory housing power to
236 sell shall be governed by the provisions of this Chapter 244A.

237 Foreclosure by Sale

238 Section 2 Foreclosure under statutory housing power to sell; procedure; notice; form.

239 The holder of a statutory housing restriction with respect to statutory housing premises or
240 the attorney duly authorized by a writing under seal by the holder acting in the name of such
241 holder may, upon breach of condition and without action, do all the acts authorized or required
242 by the power to convey said premises as statutory housing; but no sale under such power shall be
243 effectual to foreclose the statutory housing restriction and convey statutory housing premises,
244 unless, previous to such sale, notice thereof has been given by registered mail to the owner or
245 owners of record of the equity of redemption in the statutory housing premises as of ninety days
246 prior to the sale, at the premises and also to any other address of such owner or owners appearing
247 on the records of the holder, not less than three times at intervals of not less than seven days,
248 beginning not later than sixty days prior to the date of sale and ending not later than thirty days
249 prior to the date of sale, and notice thereof has been published once in each of three successive

250 weeks, the first publication to be not less than twenty-one days before the day of sale, in a
251 newspaper, if any, published in the town where the land lies or in a newspaper with general
252 circulation in the town where the land lies, and notice has been given by registered mail to the
253 owner or owners of record of the statutory housing premises as of thirty days prior to the date of
254 sale, said notice to be mailed at least fourteen days prior to the date of sale to said owner or
255 owners to the address set forth in section sixty-one of chapter one hundred and eighty-five, if the
256 land is then registered or, in the case of unregistered land, to the last address of the owner or
257 owners of the equity of redemption appearing on the records of the holder of the statutory
258 housing restriction, if any, or if none, to the address of the owner or owners as given on his deed
259 or on the petition for probate by which he acquired title, if any, or if in either case no address
260 appears, then to the address to which the tax collector last sent the tax bill for the statutory
261 housing premises to be sold, or if no tax bill has been sent for the last preceding three years, then
262 to the premises and unless a copy of said notice has been sent by registered mail to all
263 mortgagees and other persons of record as of thirty days prior to the date of sale holding an
264 interest in the property being foreclosed, said notice to be mailed at least fourteen days prior to
265 the date of sale to each such person at the address of such person set forth in any document
266 evidencing the interest or to the last address of such person known to the holder. Any person of
267 record as of thirty days prior to the date of sale holding an interest in the property being
268 foreclosed may waive at any time, whether prior or subsequent to the date of sale, the right to
269 receive notice by mail to such person under this section and such waiver shall be deemed to
270 constitute compliance with such notice requirement for all purposes. If no newspaper is
271 published in such town, or if there is no newspaper with general circulation in the town where
272 the land lies, notice may be published in a newspaper published in the county where the land lies,

273 and this provision shall be implied in every restriction containing the statutory housing power to
274 sell in which it is not expressly set forth. A newspaper which by its title page purports to be
275 printed or published in such town, city or county, and having a circulation therein, shall be
276 sufficient for the purpose.

277 The following form of notice may be used and may be altered as circumstances require;
278 but nothing herein shall be construed to prevent the use of other forms.

279 (Form.)

280 STATUTORY HOUSING RESTRICTION HOLDER'S POWER TO SELL

281 By virtue and in execution of the statutory housing power to sell contained in a certain
282 statutory housing restriction given by _____ to _____ dated _____ and recorded with
283 _____ Deeds, Book _____, page _____, of which housing restriction the
284 undersigned is the present holder,

285 (If by assignment, or in any fiduciary capacity, give reference.)

286 for breach of the conditions of said housing restriction and for the purpose of the
287 foreclosing and conveying same, whether directly or through an intermediary qualified to hold
288 statutory housing restrictions, to an eligible household as their principal residence, will be sold
289 by (specify either Public Auction or Sale to the Holder or its Designee) at _____ o'clock,
290 __.M. on the _____ day of _____ A.D. (insert year), at _____ (insert place) all
291 and singular the premises described in said housing restriction, subject to the statutory housing
292 covenants, statutory housing condition and statutory housing power to sell contained therein,

To wit: "(Description as in said housing restriction , including all references to title, restrictions, encumbrances, etc., as made in said housing restriction)"

having an affordable value of \$ _____ : (State the amount of the affordable value)

Terms of sale: (State here the amount, if any, to be paid in cash by the purchaser at the time and place of the sale, and the time or times for payment of the balance or the whole as the case may be.)

Other terms to be announced at the sale.

(Signed)

Present holder of said housing restriction

A notice of sale in the above form, published in accordance with the statutory housing power to sell in the statutory housing restriction and with this chapter, together with such other or further notice, if any, as is required by the statutory housing restriction, shall be a sufficient notice of the sale; and the statutory housing premises shall be deemed to have been sold, and the deed thereunder shall convey said premises, subject to and with the benefit of the statutory housing covenants, on the statutory housing condition and with the statutory housing power to sell (but no other provisions of any housing restriction applicable to said premises) and also subject to and with the benefit of all other restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments, liens or claims in the nature of liens, and existing encumbrances of record to the extent they secure debt, whether created prior or subsequent to the statutory housing restriction, that in the aggregate do not exceed the affordable value at the time of sale and are not paid at sale, whether or not reference to such restrictions,

easements, improvements, liens or encumbrances is made in the deed; but no purchaser at a sale by public auction shall be bound to complete the purchase if there are encumbrances which will remain following such payment at sale, other than those included in the notice of sale, which are not stated at the sale and included in the auctioneer's contract with the purchaser.

Exercise of the statutory housing power to sell may be by public auction or purchase by the holder as follows:

a) In the case of sale at public auction, bidding shall be capped at the affordable value and if more than one qualified bidder has bid the affordable value, the premises shall be sold to such of those bidders as is selected by chance.

b) Any purchase of the premises by the holder or its designee pursuant to exercise of the statutory housing power to sell, in lieu of sale by public auction, shall be for the affordable value. The holder may assign its right to acquire the premises at the affordable value to an eligible household appearing on a list of eligible households established for the purpose or maintained by or utilized by the holder generally. The eligible household shall be selected by chance or, if the holder so determines, by seniority.

All proceeds from exercise of the statutory housing power to sell shall be paid to mortgagees and other lien holders appearing of record immediately prior to exercise of the power according to their rights of priority, and any amount remaining shall first be paid to the holder as reimbursement of the holder's reasonable expenses of exercising the power and thereafter be paid to the owner. Any lien on the premises which, in the aggregate with senior liens, exceeds the proceeds from exercise of the statutory housing power to sell shall be extinguished by exercise of the statutory housing power to sell to the extent it exceeds the proceeds of exercise of the power.

336 The provisions of section 15 of chapter 244, substituting statutory housing restriction for
337 mortgage deed and statutory power to sell for power of sale, shall apply in case of foreclosure by
338 sale under this section.

339 A holder conveying title to statutory housing premises pursuant to the provisions of this
340 chapter shall, within thirty days of conveying title, notify all residential tenants of said premises,
341 and the office of the assessor or collector of taxes of the municipality in which the premises are
342 located and any persons, companies, districts, commissions or other entities of any kind which
343 provide water or sewer service to the premises, of said conveying title.

344 Redemption

345 Section 4. Redemption. An owner of statutory housing premises under the terms of a
346 statutory housing restriction may, after breach of the statutory housing condition, have
347 redemption in the manner prescribed in and subject to sections 18, 19, 22, 23, 24, 25, 26, 27 and
348 32 of chapter 244, substituting owner for mortgagor, holder for mortgagee, statutory housing
349 power to sell for power of sale, restriction or restricted for mortgage or mortgaged and
350 performance under the restriction for amount due on the mortgage, provided a) the person
351 entitled to redeem shall perform or tender performance of every condition contained in the
352 restriction; and if there has been an action to recover the property, shall pay or tender the costs of
353 such action if unpaid; b) the tender shall be made before a sale pursuant to the statutory power to
354 sell contained in the restriction and if in compliance with the terms of the restriction shall be
355 accepted by the holder and c) following redemption the property shall continue to be subject to
356 the statutory housing restriction.

357 Conforming Amendments

SECTION 3. The first sentence of the third paragraph of section 32 of chapter 184 of the General Laws is amended by inserting after each occurrence of the word “state” the words “or municipal”.

SECTION 4. Chapter 244 of the General Laws is hereby amended by adding the following new section 14A:

Section 14A. Foreclosure under Power of Sale on Property Subject to Statutory Housing Restriction or other Affordable Housing Restriction

In the case of sale by foreclosure under the power of sale in a mortgage of a property subject to a statutory housing restriction, statutory housing condition or statutory housing power to sell or other affordable housing restriction as defined in section 31 of chapter 184 which will remain in effect following foreclosure, the property may, if the mortgagee so determines, be auctioned only to eligible households as defined in section 17E of chapter 183 (together with the mortgagee or its designee and the holder of the housing restriction or its designee or any entity eligible to be a holder of a statutory housing restriction) for an amount not exceeding the affordable value applicable to the property, in which event if more than one eligible household or entity qualified as a bidder has bid at or in excess of the affordable value, then bidding shall be capped at the affordable value and the bidder to whom the property is sold shall be selected by chance from among those bidding who are willing to pay the affordable value.

In lieu of conducting bidding, the mortgagee may elect to sell the property at the affordable value by lottery that includes all eligible households who have been qualified to bid for the property at the public auction. At the request of the mortgagee, the holder shall confirm

379 the status as members of an eligible household or as an entity eligible to be a holder of a
380 statutory housing restriction of any persons or entities identified to it by the mortgagee.

381 If the holder of the restriction tenders the affordable value, then the premises shall be sold
382 to the holder.

383 SECTION 5. Chapter 236 of the General Laws is hereby amended by adding the
384 following new second paragraph section 27:

385 When selling a property subject to a statutory housing restriction under section 17A of
386 chapter 183 or other affordable housing restriction as defined in section 31 of chapter 184 which
387 will remain in effect following foreclosure, the officer may instead make the sale and convey by
388 deed either:

389 a) by public auction only among eligible households as defined in section 17E of chapter
390 183 (together with the holder of the housing restriction or its designee or any entity eligible to be
391 a holder of a statutory housing restriction) for an amount not exceeding the affordable value
392 applicable to the land, in which event if more than one eligible household or entity qualified as a
393 bidder has bid at or in excess of the affordable value, then bidding shall be capped at the
394 affordable value and the bidder to whom the property is sold shall be selected by chance from
395 among those bidding willing to pay the affordable value; or

396 (b) if the holder of the restriction tenders the affordable value, then by deed to the holder.

397 SECTION 6. Section 1(b) of chapter 30B of the General Laws is hereby amended by
398 adding the following new subsection (35):

399 (35) Contracts or other actions to acquire or dispose of statutory housing premises as
400 defined in section 17E of chapter 183, including exercise of the statutory housing power to sell,
401 following which the statutory housing restriction continues in force and effect as to the premises
402 as before shall be exempt from the provisions governing disposition of real estate under Chapter
403 30B.

404 SECTION 7. Chapter. 183 of the General Laws is hereby amended by adding the
405 following new section 22A:

406 Section 22A. Protecting Public Investment.

407 No restriction that has been purchased with state or municipal funds or which has been
408 granted in consideration of a loan or grant made with state or municipal funds shall be released
409 unless it is repurchased by the land owner at its then current fair market value.