

**SENATE . . . . . No. 664**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act relative to rent withholding..

*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 8A of chapter 239, as appearing in the 2004 Official Edition, is  
2 hereby amended by striking out the second, third and four paragraphs and inserting in place  
3 thereof the following 6 paragraphs:—

4 At any time when a person is entitled to serve a notice to quit upon a tenant or occupant  
5 or is otherwise entitled to commence a summary process action pursuant to this chapter, such  
6 person may demand, in the notice to quit or by later demand, that the tenant or occupant pay into  
7 court all unpaid rent or use and occupancy that is accruing or has accrued since the first day of  
8 the sixth full calendar month prior to the date of service of the notice or later demand. Such  
9 amount shall be paid within 5 business days following the date of service of the notice or later  
10 demand, whichever is later; provided, however, that in the event that the tenant’s or occupant’s  
11 rent is subsidized by any governmental agency or governmentally subsidized agency, the amount  
12 to be paid shall be limited to only that portion of the rent paid by the tenant or occupant. Any  
13 notice to quit or later demand submitted in accordance with this paragraph shall include a  
14 statement indicating into which court the deposit shall be made. Such court may be any court

15 which would have jurisdiction over a summary process action against the tenant or occupant.  
16 The person making such demand shall file with such court a copy of the notice to quit or later  
17 demand, together with a statement under oath by the person who served such notice to quit or  
18 later demand indicating how such service was made. Service of such notice to quit or later  
19 demand shall be by any means permitted for service of a summary process complaint. Such court  
20 shall have jurisdiction over all issues arising out of the demand for such deposit, which shall be  
21 considered a separate action from any summary process action against such tenant or occupant  
22 and shall be commenced by the filing of the copy of the notice to quit. The person making such  
23 demand shall be the plaintiff. The tenant or occupant receiving such demand shall be the  
24 defendant. Any notice to quit or later demand submitted in accordance with this paragraph shall  
25 contain a statement of the agreed-upon rent rate heretofore payable, the subsidized tenant's or  
26 occupant's portion of the agreed-upon rent rate, if applicable, and the amount of any and all  
27 unpaid rent as defined and limited by this paragraph. Any notice to quit or later demand  
28 submitted in accordance with this paragraph shall contain a statement prepared by the  
29 department of housing and community development of the tenant's rights and responsibilities  
30 under this section. Such statement shall be prepared by the department within six weeks after  
31 passage of this act.

32 The defendant shall pay into court within 5 business days of service of the notice or later  
33 demand the amounts so demanded under the previous paragraph and shall continue to pay into  
34 court within 3 business days after its due date the agreed-upon rent rate or the unsubsidized  
35 portion thereof that accrues during the pendency of the action demanding deposit in accordance  
36 with the preceding paragraph or during the pendency of a companion summary process action;  
37 provided, however, that the tenant or occupant may deduct any amounts, documented with

38 copies of receipts, that were reasonably spent by the tenant or occupant pursuant to section 127L  
39 of chapter 111. Such copies of receipts shall be deposited in the same manner with the court in  
40 lieu of payment. The defendant shall provide the court with the name of the plaintiff in the action  
41 demanding deposit or in the companion summary process action. The defendant shall notify the  
42 plaintiff in writing of the amounts so deposited and shall provide therewith copies, if any, of all  
43 receipts deposited with the court according to this section.