

SENATE No. 779

The Commonwealth of Massachusetts

PRESENTED BY:

Jennifer L. Flanagan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to rent escrow.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Jennifer L. Flanagan

Elmir Simov

39 Adams Street Leominster, MA 01453

SENATE No. 779

By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 779) of Jennifer L. Flanagan for legislation relative to rent escrow. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to rent escrow.

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 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by striking out the second paragraph and inserting in place
3 thereof the following: “Whenever any counterclaim or claim of defense under this section is
4 based on any allegation concerning the condition of the premises or the services or equipment
5 provided therein, the tenant or occupant shall not be entitled to relief under this section unless:
6 (1) the owner or his agents, servants, or employees, or the person to whom the tenant or occupant
7 customarily paid his rent was given in writing a notice of such conditions before the tenant or
8 occupant was in arrears in his rent; (2) the plaintiff does not show that such conditions were
9 caused by the tenant or occupant or any other person acting under his control; except that the
10 defendant shall have the burden of proving that any violation appearing solely within that portion
11 of the premises under his control and not by its nature reasonably attributable to any action or
12 failure to act of the plaintiff was not so caused; (3) the premises are not situated in a hotel or
13 motel, nor in a lodging house or rooming house wherein the occupant has maintained such
14 occupancy for less than three consecutive months; (4) the plaintiff does not show that the

15 conditions complained of cannot be remedied without the premises being vacated and (5) the
16 tenant or occupant deposits with the clerk all rent due prior to asserting a defense of rent
17 withholding and counterclaims against landlord using code violations and then continues to pay
18 the contractual amount of rent into escrow with the clerk for each month until final disposition
19 provided, however, that nothing in this clause shall be construed to deprive the tenant or
20 occupant of relief under this section when the premises are temporarily vacated for purposes of
21 removal or covering of paint, plaster, soil or other accessible materials containing dangerous
22 levels of lead pursuant to section one hundred and ninety-seven of chapter one hundred and
23 eleven and nothing in this clause shall be construed to deprive the tenant or occupant of relief per
24 MGL 111, 127L.”

25 SECTION 2. Section 8A of chapter 239 of the General Laws, as appearing in the 2006
26 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place
27 thereof the following:“The escrowed rent may be expended for the repair of the premises by such
28 persons as the court after a hearing may direct, including if appropriate a receiver appointed as
29 provided in section one hundred and twenty-seven H of chapter one hundred and eleven. When
30 all of the conditions found by the court have been corrected, the court shall direct that the
31 balance of funds, if any, remaining with the clerk be paid to the landlord.”