HOUSE DOCKET, NO. 907 FILED ON: 1/15/2013

HOUSE . . . . . No. 1614

The Commonwealth of Massachusetts

PRESENTED BY:

Alan Silvia

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 preventing foreclosures by reducing regulations for small business property owners..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Alan Silvia	*7th Bristol*
Michael D. Brady	*9th Plymouth*
Marcos A. Devers	*16th Essex*
Paul A. Schmid, III	*8th Bristol*

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HOUSE . . . . . No. 1614

By Mr. Silvia of Fall River, a petition (accompanied by bill, House, No. 1614) of Alan Silvia and others relative to summary process for possession of land. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act preventing foreclosures by reducing regulations for small business property owners..

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

SECTION 1. Chapter 239 of the General Laws is hereby amended by striking out sections 3 and 4, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 3. Except as hereinafter provided, if the court finds that the plaintiff is entitled to possession, he shall have judgment and execution for possession and costs, and, if rent is claimed as provided in section two and found due, the judgment and execution shall include the amount of the award. If the plaintiff becomes nonsuit or fails to prove his right to possession, the defendant shall have judgment and execution for costs.

At least forty-eight hours prior to serving or levying upon an execution issued on a judgment for the plaintiff for possession of land or tenements rented or leased for dwelling purposes, the officer serving or levying upon the execution shall give the defendant written notice that at a specified date and time he will serve or levy upon the execution and that at that time he will physically remove the defendant and his personal possessions from the premises if the defendant has not prior to that time vacated the premises voluntarily.

The notice shall contain (1) the signature, full name, full business address and business telephone number of the officer; (2) the name of the court and the docket number of the action; (3) a statement that any personal property remaining on the premises at the time the execution shall be forfeit, shall be catalogued by the officer, and may be auctioned or otherwise disposed of at plaintiff's direction will all profits thereof remaining with plaintiff. The notice referred to in this section shall be served in the same manner as the summary process summons and complaint and shall be filed in the court that issued the execution.

No execution for possession of premises rented or leased for dwelling purposes shall be served or levied upon after five o'clock p.m. or before nine o'clock a.m., nor on a Saturday, Sunday, or legal holiday.

If the underlying money judgment in any summary process action for nonpayment of rent in premises rented or leased for dwelling purposes has been fully satisfied, together with any use and occupancy accruing since the date of judgment, the plaintiff shall be barred from levying on any execution for possession that has issued and shall return the execution to the court fully satisfied. If no execution has issued, the plaintiff shall notify the court of the satisfaction of judgment and no execution shall issue thereafter. If the underlying money judgment has been fully satisfied and use and occupancy fully paid, the defendant shall be considered a lawful tenant and may enforce this right through judicial process, including injunctions barring the issuance of or levying upon the execution and motions to supersede or recall the execution. Notwithstanding this paragraph, the plaintiff shall not be required to accept full satisfaction of the money judgment. Any refusal by the plaintiff to accept full satisfaction of the money judgment under this paragraph shall not be a bar to the enforcement of said judgment in any lawful manner.

In case of appeal from the district court on either or both issues involved or on any counterclaim, the appeal shall be to the appellate division under section 5.