

SENATE . . . . . No. 728

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 unnecessary vacancies in foreclosed homes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	Middlesex and Worcester
Chris Walsh	6th Middlesex
Tom Sannicandro	7th Middlesex
Kay Khan	11th Middlesex
Christine E. Canavan	10th Plymouth
Benjamin Swan	11th Hampden
Michael D. Brady	9th Plymouth
Gloria L. Fox	7th Suffolk
Mary S. Keefe	15th Worcester
Gale D. Candaras	First Hampden and Hampshire
James J. O'Day	14th Worcester
Martha M. Walz	8th Suffolk
Sal N. DiDomenico	Middlesex and Suffolk
Carl M. Sciortino, Jr.	34th Middlesex
Antonio F. D. Cabral	13th Bristol
Dennis A. Rosa	4th Worcester
Timothy R. Madden	Barnstable, Dukes and Nantucket
Anne M. Gobi	5th Worcester

*Denise Andrews*

*2nd Franklin*

**SENATE . . . . . No. 728**

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 728) of James B. Eldridge, Chris Walsh, Tom Sannicandro, Kay Khan and other members of the General Court for legislation to prevent unnecessary vacancies in foreclosed homes. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 767 OF 2011-2012.]

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act preventing unnecessary vacancies in foreclosed homes.

*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 1 of chapter 186A of the General Laws, as appearing in  
2 the 2010 Official Edition, is hereby amended by striking out the definition of “Bona fide lease or  
3 bona fide tenancy.”

4 SECTION 2. Said section 1 of said chapter 186A of the General Laws, as so appearing,  
5 is hereby further amended by inserting the following definition:-

6 “Fair Market Rent,” an amount equal to that established by the United States Department  
7 of Housing and Urban Development pursuant to 42 U.S.C. c § 1437f(o), as it exists or may be  
8 amended, for a unit of comparable size in the area in which the property is located

9 SECTION 3. Said section 1 of said chapter 186A of the General Laws, as so appearing,  
10 is hereby further amended by inserting in line 26 after the words “Federal Home Loan Mortgage  
11 Corporation” the following words:- or the Federal Deposit Insurance Corporation

12 SECTION 4. Said section 1 of said chapter 186A of the General Laws, as so appearing, is  
13 hereby further amended by inserting the following definition:-

14 “Foreclosure Sale Purchaser” or “Purchaser”, either a foreclosing owner or a person or  
15 entity which purchases a housing accommodation from a foreclosing owner, not intending to

16 reside or have a family member reside in such housing accommodation as the primary residence  
17 of such person or individual in control of such entity.”

18 SECTION 5. Said section 1 of said chapter 186A of the General Laws, as so appearing,  
19 is hereby further amended in the definition of “Just cause” by striking subsection (1) and  
20 inserting in place thereof the following subsection:-

21 (1) the tenant has failed to pay the rent in effect prior to the foreclosure or, in the case of  
22 the former mortgagor and any household members, monthly rent payments in an amount agreed  
23 to by the mortgagor and purchaser or, in the absence of such agreement, a Fair Market Rent as  
24 long as the foreclosure sale purchaser notified the tenant in writing of the amount of rent, the  
25 agreed upon monthly rent payments or Fair Market Rent that was to be paid and to whom it was  
26 to be paid.

27 SECTION 6. Said section 1 of said chapter 186A of the General Laws, as so appearing, is  
28 hereby further amended by striking the definition of “tenant” and inserting in place thereof the  
29 following definition:-

30 “Tenant”, a person or group of persons who at the time of foreclosure is entitled to  
31 occupy a housing accommodation. A person who moves into the housing accommodation  
32 owned by the foreclosure sale purchaser, subsequent to the foreclosure sale, without the express  
33 written permission of the foreclosure sale purchaser shall not be considered a tenant under this  
34 chapter.

35 SECTION 7. Said chapter 186A of the General Laws, as so appearing, is hereby further  
36 amended in Sections 2,3,4,5, and 6 by striking out each appearance of the words “foreclosing  
37 owner” in each section and replacing them with the following words:- foreclosure sale purchaser

38 SECTION 8. Section 3 of said chapter 186A of the General Laws, as so appearing, is  
39 hereby amended by striking the first sentence and inserting in place thereof the following  
40 sentence:-

41 Within 30 days of the foreclosure, the foreclosure sale purchaser shall post in a prominent  
42 location in the building a written notice stating the names, addresses, telephone numbers and  
43 telephone contact information of the foreclosure sale purchaser, the building manager or other  
44 representative of the foreclosure sale purchaser responsible for the management of such building  
45 and stating the address to which the rent, or, in the case of the former mortgagor and any  
46 household members, the agreed upon monthly rent payments or Fair Market Rent shall be sent.

47 SECTION 9. Section 4 of said chapter 186A of the General Laws, as so appearing, is  
48 hereby amended in subsection (a) by striking clause (i) and inserting in place thereof the  
49 following clause:-

50 (i) the tenant has failed to pay the rent in effect prior to the foreclosure or, in the case of  
51 the former mortgagor and any household members, the agreed upon monthly rent payments or  
52 Fair Market Rent, as long as the foreclosing owner notified the tenant in writing of the amount of  
53 rent that was to be paid and to whom it was to be paid;

54 SECTION 10. Section 5 of said chapter 186A of the General Laws, as so appearing, is  
55 hereby amended by striking the second sentence and inserting in place thereof the following  
56 sentence:-

57 A bona fide lease between the foreclosed-upon owner and the lessee or proof of rental  
58 payment to the foreclosed-upon owner or a Fair Market Rent shall be presumed reasonable.

59 SECTION 11. Section 6 of said chapter 186A of the General Laws, as so appearing, is  
60 hereby amended by striking the second paragraph and inserting in place thereof the following  
61 paragraph:-

62 A foreclosure sale purchaser that evicts a tenant in violation of this chapter or any  
63 ordinance or by-law adopted pursuant to this chapter, shall be punished by penalty of not less  
64 than \$5,000 to be paid to the tenant upon order of the court. Each such illegal eviction shall  
65 constitute a separate offense.