

HOUSE No. 4142**The Commonwealth of Massachusetts**

PRESENTED BY:

Chynah Tyler

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 The Jim Brooks Stabilization Act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>11/13/2017</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>11/30/2017</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>	<i>11/28/2017</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>11/27/2017</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>11/30/2017</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>	<i>11/27/2017</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>11/22/2017</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>	<i>12/5/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>11/29/2017</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	<i>12/7/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>11/30/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>12/5/2017</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>11/30/2017</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>	<i>11/30/2017</i>
<i>Adrian Madaro</i>	<i>1st Suffolk</i>	<i>12/5/2017</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>12/1/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>12/5/2017</i>

HOUSE No. 4142

By Ms. Tyler of Boston, a petition (accompanied by bill, House, No. 4142) of Chynah Tyler and others (with the approval of the mayor and city council) relative to the rights and evictions of certain tenants of post-foreclosure rental housing in the city of Boston. The Judiciary. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act The Jim Brooks Stabilization Act.

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 I. DECLARATION OF EMERGENCY

2 The general court finds and declares that a serious public emergency exists with
3 respect to housing in the City of Boston and in particular the displacement of tenants of rental
4 housing through evictions and declares that deferred operation of this Act would tend to defeat
5 its purpose, which is to protect forthwith the citizens and neighborhoods of Boston, and therefore
6 it is hereby declared to be an emergency law, necessary for the immediate preservation of the
7 public convenience.

8 SECTION 2. PURPOSE

9
10 The purpose of this act is to defend, preserve, and promote the stability of housing
11 and neighborhoods in the City of Boston and maintain diversity in Boston neighborhoods and

communities by protecting residential tenants and former homeowners living in their homes post-foreclosure against arbitrary, unreasonable, discriminatory, or retaliatory evictions. The act is also intended to ensure that tenants and former homeowners are aware of their rights under state law. It is intended to address housing problems in the City of Boston so as to preserve the public health, safety, and welfare.

SECTION 3. DEFINITIONS

“Applicable laws” means, all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders that have the effect of law, as well as all applicable final, non-appealable judicial opinions.”

“Entity” means a business organization, or any other kind of organization including without limitation, a corporation, partnership, trust, limited liability corporation, limited liability partnership, joint venture, sole proprietorship, development or project, or any other category of organization, and any employee, agent, servant, or other representative of such entity.

“Former Homeowner” means any natural person or group of natural persons who, prior to foreclosure of a housing accommodation had been the title owner or owners of such housing accommodation, or who has a legal or beneficial interest in the housing accommodation by dissolution of marriage, separation agreement, survivorship, devise, or intestate succession, and who at the time of foreclosure actually occupied such housing accommodation as a resident or residents.

“Foreclosing Owner” means any natural person or entity that holds title in any capacity, directly or indirectly, without limitation, whether in its own name, as trustee or as beneficiary, to a housing accommodation that has been foreclosed upon and either: (1) held or owned a

mortgage or other security interest in the housing accommodation at any point prior to the foreclosure of the housing accommodation or is the subsidiary, parent, trustee, or agent thereof; or (2) is an institutional mortgagee that acquires or holds title to the housing accommodation within 3 years of the filing of the foreclosure deed on the housing accommodation; or (3) is the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

“Health Facility” means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, and treatment of human illness, physical or mental, including convalescence and rehabilitation, and including care during and after pregnancy, or for any one or more of these purposes.

“Housing Accommodation” means a building or structure, or part thereof or land appurtenant thereto, and any other real or personal property used, rented or offered for rent for living or dwelling purposes, together with all services connected with the use or occupancy of such property, in the City of Boston.

“Landlord” means owner of record, or lessor or sublessor of an owner of record, or any other person, project, housing development, or other entity entitled either to receive rent for the use or occupancy of any rental unit to maintain an action for possession of a rental unit, or an agent, representative, successor, or assignee of any of the foregoing.

“Lease nonrenewal or expiration” means, a provision in a written rental agreement for a housing accommodation or rental unit that the lease will expire either as of a fixed date, or at the election of the owner or the failure of the tenant to take certain affirmative action.

“Notice to quit” means any written notice sent by a landlord or a foreclosing owner to a tenant or former homeowner of a residential rental unit or housing accommodation seeking to

56 terminate the tenant's tenancy or the former homeowner's occupancy of such rental unit or
57 housing accommodation.

58 "Office of Housing Stability" means the office of the City of Boston created to address
59 the problem of displacement in the city, or any subsequent or successor office or entity similarly
60 empowered with like purpose or responsibility, or if no such office exists the city office or entity
61 with the closest corresponding such purpose or responsibility.

62 "Owner" means any person or entity who holds title to one or more dwelling units in any
63 manner including but not limited to a partnership, corporation or trust. For purposes of this act
64 the term "owner" shall include one who manages, controls, and/or customarily accepts rent on
65 behalf of the owner.

66 "Property" means a parcel of land, along with all fixtures, structures, and improvements
67 thereupon, located in the City of Boston that is assessed and taxed as an undivided whole.

68 "Rental Agreement" means any express or implied agreement for use and occupancy of a
69 dwelling unit.

70 "Rental Unit" means a non-owner occupied room or group of related rooms within a
71 dwelling used or intended for use by one family or household for living, sleeping, cooking and
72 eating.

73 "Skilled Nursing Facility" means a health facility or a distinct part of a hospital that
74 provides, at a minimum, skilled nursing care and supportive care to patients whose primary
75 medical need is the availability of skilled nursing care on an extended basis. Such facility must
76 provide twenty-four (24) hour inpatient care, an activity program, and medical, nursing, dietary,

and pharmaceutical services. Additionally, the facility must provide effective arrangements, confirmed in writing, through which services required by the patients but not regularly provided within the facility can be obtained promptly when needed.

“Tenancy” means occupation or use of a dwelling unit under a rental agreement.

“Tenant” means any person who inhabits or is entitled to inhabit a dwelling unit under a rental agreement.

“Tenants’ Rights Organization” means any unincorporated or incorporated association, nonprofit, or City of Boston department or office, that is determined by the Office of Housing Stability as providing housing assistance or tenants’ rights advocacy or foreclosure prevention and post-foreclosure assistance to homeowners or former homeowners.

SECTION 4. APPLICABILITY

The provisions of this act shall apply to all rental units and housing accommodations in the City of Boston, in whole or in part, including where a notice to quit or other notice of lease nonrenewal or expiration has been served or should have been served on the tenant or former homeowner of any such rental unit or housing accommodation as of the effective date of this act, but where any such rental unit or housing accommodation has not yet been vacated or a final order of judgment for possession has not entered as of the effective date of this act. However, the provisions of this act shall not apply to the following types of units:

A. Rental units in any hospital, skilled nursing facility, or health facility.

B. Rental units in a nonprofit facility that has the primary purpose of providing short term treatment, assistance, or therapy for alcohol, drug, or other substance abuse provided that

such housing is incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.

C. Rental units in a nonprofit facility which provides a structured living environment that has the primary purpose of helping homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is restricted to a limited and specific period of time of not more than twenty-four (24) months and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.

D. Rental units in a residential property where the owner of record occupies a unit in the same property as his or her principal residence and regularly shares in the use of kitchen or bath facilities with the tenants of such rental units. For purposes of this subsection 4(d), the term owner shall not include any person who claims a real estate property tax exemption on any other residential real property in the Commonwealth of Massachusetts.

E. Public housing units managed by the Boston Housing Authority and other residential rental units, such as federal public housing, that are subsidized and regulated under federal laws, to the extent such applicable federal laws expressly preempt the provisions of this act.

F. Any residential property where the owner is a natural person who owns six (6) or fewer residential rental units in the City of Boston and the owner resides in the Commonwealth of Massachusetts.

G. Any unit that is held in trust on behalf of a developmentally disabled individual who permanently occupies the unit, or a unit that is permanently occupied by a developmentally disabled parent, sibling, child, or grandparent of the owner of that unit.

H. Any rental unit that is owned or managed by a college or university for the express purpose of housing undergraduate students.

SECTION 5. CITY RIGHTS NOTICE

When a landlord or foreclosing owner serves the tenant or former homeowner any notice to quit or other notice of lease nonrenewal or expiration pursuant to Section 4, such landlord or foreclosing owner shall, at the same time, also provide the tenant or former homeowner with a notice of basic housing rights and resources including a list of tenants' rights organizations with their contact information ("City Rights Notice") on a form or forms prepared by the City of Boston's Office of Housing Stability. Where a landlord or foreclosing owner is exercising a right of lease nonrenewal or expiration, the owner shall give a written notice on a form or forms prepared by the City of Boston's Office of Housing Stability ("City Termination Notice") of the exercise of such right to the tenant or former homeowner at least thirty (30) days in advance of commencing any summary process action against the tenant or former homeowner, along with the City Rights Notice. Copies of such notices, including the date the notice was given and the address to which the notice was given, shall be provided to the Office of Housing Stability immediately after the notice is given, and filed with the court at the commencement of any proceeding for summary process. A landlord or foreclosing owner who fails to comply with the provisions of this paragraph shall not be entitled to recover possession in any proceeding for summary process unless the court finds that the City Rights Notice, and notice to quit or other notice of lease nonrenewal or expiration, including any City Termination Notice, were served on the tenant with a copy of the same notices also concurrently sent to the City's Office of Housing Stability, and also filed with the court with any summary process summons and complaint. The burden of proof in any proceeding for summary process subject to the provisions of this

paragraph shall be on the landlord or foreclosing owner to demonstrate compliance with the requirements of this paragraph.

SECTION 5A.HOMEOWNER JUST CAUSE EVICTION

No Foreclosing Owner may recover possession of a housing accommodation in the City of Boston, in any proceeding pursuant to Chapter 239 of the General Laws or otherwise, unless the court finds that (1) the Foreclosing Owner seeks in good faith to recover possession of a residential unit for his or her own use and occupancy or for the use of occupancy by his or her spouse, children, grandchildren, great grandchildren, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law or daughter-in-law, which ground shall be treated as a no-fault eviction under applicable state law; or (2) the Former Homeowner (a) refused to pay a reasonable rent requested in writing by the Foreclosing Owner; (b) has committed or permitted to exist a nuisance in the housing accommodation; (c) has created a substantial interference with the comfort, safety, or enjoyment of the other occupants of the same or any adjacent accommodations; (d) has used or permitted the housing accommodation to be used for illegal purposes; (e) has refused the Foreclosing Owner upon reasonable notice, reasonable access to the housing accommodation for the purpose of making necessary repairs or improvements required by the laws of the Commonwealth or any political subdivision thereof, or for the purpose of inspection as permitted or required by law, or for the purpose of showing the housing accommodation to any prospective purchaser or mortgagee. Any such eviction of a Former Homeowner shall also be subject to any additional restrictions or provisions applicable if it is a condominium/cooperative conversion-related eviction within the meaning of St. 1983, c. 527, as amended, and such local legislation as the City of Boston has adopted, as may be amended, or may adopt, regarding condominium/cooperative conservation-related eviction.

166 SECTION 6. REMEDIES

167 Remedies if a non-exempt landlord or foreclosing owner proceeds with any legal action
168 to recover possession of a residential premises located in the City of Boston in violation of
169 Section 5 shall include the following:

170 1. Failure to provide the tenant or former homeowner or Office of Housing Stability
171 a timely and complete notice of basic housing rights and resources including a list of tenants'
172 rights organizations with their contact information ("City Rights Notice") shall constitute
173 grounds for dismissal of the action.

174 2. Failure to provide the tenant or former homeowner a timely City Termination
175 Notice shall constitute grounds for dismissal of the action.

176 3. The remedies available in this section shall not preclude or be construed to be
177 exclusive, but may be cumulative with any other existing remedies, which may be available to
178 the tenant or former homeowner.

179 SECTION 7. CONFIDENTIALITY

180 Information contained in the City Rights Notices and City Termination Notices may be
181 withheld in whole or in part only in a manner consistent with existing state and federal laws,
182 rules, and regulations regarding public records disclosure.

183 SECTION 8. NON-WAIVABILITY

184 The provisions of this Act may not be waived, and any term of any lease, contract, or
185 other agreement which purports to waive or limit a tenant's or former homeowner's substantive

186 or procedural rights under this ordinance are contrary to public policy, unenforceable, and void,
187 unless and to the extent permitted by Applicable Laws.

188 SECTION 9. PARTIAL INVALIDITY

189 If any provision of this Act or application thereof is held to be invalid or in
190 conflict with Applicable Laws, this invalidity or conflict shall not affect other provisions or
191 applications of this Act which can be given effect without the invalid provisions or applications,
192 and to this end the provisions and applications of this Act are severable.