SENATE DOCKET, NO. 396 FILED ON: 1/16/2017

SENATE . . . . . No. 841

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*	
José F. Tosado	*9th Hampden*	*1/25/2017*
Kay Khan	*11th Middlesex*	*1/30/2017*
Denise Provost	*27th Middlesex*	*1/30/2017*
Mike Connolly	*26th Middlesex*	*1/30/2017*
Angelo J. Puppolo, Jr.	*12th Hampden*	*2/1/2017*
Thomas M. McGee	*Third Essex*	*2/3/2017*
Elizabeth A. Malia	*11th Suffolk*	*2/3/2017*
Eric P. Lesser	*First Hampden and Hampshire*	*2/3/2017*
Patricia D. Jehlen	*Second Middlesex*	*2/3/2017*

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By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 841) of James B. Eldridge, Jose F. Tosado, Kay Khan, Denise Provost and other members of the General Court for legislation to prevent unnecessary vacancies in foreclosed homes. The Judiciary.

The Commonwealth of Massachusetts

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

An Act preventing unnecessary vacancies in foreclosed homes.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect citizens of the Commonwealth involved in the mortgage foreclosure crisis, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. Section 1 of chapter 186A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out the definition of "Bona fide lease or bona fide tenancy."

SECTION 2. Said section 1 of said chapter 186A of the General Laws, as so appearing, is hereby further amended by inserting the following definition:- "Fair Market Rent," an amount equal to that established by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437f(c), as it exists or may be amended, for a unit of comparable size in the area in which the property is located

SECTION 3. Said section 1 of said chapter 186A of the General Laws, as so appearing, is hereby further amended by inserting in line 28 after the words “Federal Home Loan Mortgage Corporation” the following words:- or the Federal Deposit Insurance Corporation

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

“Foreclosure Sale Purchaser” or “Purchaser”, either a foreclosing owner or a person or entity which purchases a housing accommodation from a foreclosing owner, not intending to reside or have a family member reside in such housing accommodation as the primary residence of such person or individual in control of such entity.”

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

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

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

"Tenant", a person or group of persons who at the time of foreclosure is an occupant of such housing accommodation. A person who moves into the housing accommodation owned by the foreclosure sale purchaser, subsequent to the foreclosure sale, without the express written permission of the foreclosure sale purchaser shall not be considered a tenant under this chapter.

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

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

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

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

(i) the tenant has failed to pay the rent in effect prior to the foreclosure or, in the case of the former mortgagor and any household members, the agreed upon monthly rent payments or

Fair Market Rent, as long as the foreclosing owner notified the tenant in writing of the amount of rent that was to be paid and to whom it was to be paid;

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

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

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

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