

**HOUSE . . . . . No. 3282**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Nika C. Elugardo***

*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 to prevent unnecessary vacancies in foreclosed homes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>1/18/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/1/2019</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/1/2019</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/1/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/1/2019</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/1/2019</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>1/31/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/31/2019</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/1/2019</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/1/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/30/2019</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>1/30/2019</i>

**HOUSE . . . . . No. 3282**

By Ms. Elugardo of Boston, a petition (accompanied by bill, House, No. 3282) of Nika C. Elugardo and others for legislation to protect tenants and prevent vacancies in foreclosed homes. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 956 OF 2017-2018.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
In the One Hundred and Ninety-First General Court  
(2019-2020)  
\_\_\_\_\_

An Act to prevent 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:*

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

4 SECTION 2. Said section 1 of said chapter 186A of the General Laws, as so appearing, is  
5 hereby further amended by inserting the following definition:- “Fair Market Rent,” an amount  
6 equal to that established by the United States Department of Housing and Urban Development

7 pursuant to 42 U.S.C. c § 1437f(o), as it exists or may be amended, for a unit of comparable size  
8 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, is  
10 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, is  
19 hereby further amended in the definition of “Just cause” by striking subsection (1) and inserting  
20 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 an occupant of  
31 such housing accommodation. A person who moves into the housing accommodation owned by  
32 the foreclosure sale purchaser, subsequent to the foreclosure sale, without the express written  
33 permission of the foreclosure sale purchaser shall not be considered a tenant under this chapter.

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

37 SECTION 8. Section 2 of said chapter 186A of the General Laws, as so appearing, is  
38 hereby amended by inserting at the end of this section the words: “Nothing in this chapter shall  
39 imply that the foreclosure of this property was legally valid”.

40 SECTION 9. Section 3 of said chapter 186A of the General Laws, as so appearing, is  
41 hereby amended by striking the first sentence and inserting in place thereof the following  
42 sentence:-

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

49 SECTION 10. Section 4 of said chapter 186A of the General Laws, as so appearing, is  
50 hereby amended in subsection (a) by striking clause (i) and inserting in place thereof the  
51 following clause:-

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

56 SECTION 11. Section 5 of said chapter 186A of the General Laws, as so appearing, is  
57 hereby amended by striking the second sentence and inserting in place thereof the following  
58 sentence:-

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

61 SECTION 12. Section 6 of said chapter 186A of the General Laws, as so appearing, is  
62 hereby amended by striking the second paragraph and inserting in place thereof the following  
63 paragraph:-

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