

HOUSE No. 1483

The Commonwealth of Massachusetts

PRESENTED BY:

Peter Capano

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:	DATE ADDED:
<i>Peter Capano</i>	<i>11th Essex</i>	<i>2/19/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/22/2021</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/26/2021</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>3/5/2021</i>

HOUSE No. 1483

By Mr. Capano of Lynn, a petition (accompanied by bill, House, No. 1483) of Peter Capano and others relative to preventing unnecessary vacancies in foreclosed homes. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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 the 2014
2 [2010 IN H.956] Official Edition, is hereby amended by striking out the definition of “Bona fide
3 lease or bona 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. section 1437f(c), as it exists or may be amended, for a unit of comparable
8 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, is
10 hereby further amended by inserting in line 28 after the words “Federal Home Loan
11 Mortgage 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 paragraph (1) and inserting
20 in place thereof the following paragraph:-

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 by striking Section 2 and inserting in place thereof the following:

36 Notwithstanding any general or special law to the contrary, When a mortgage of real
37 estate is foreclosed by a sale under a power contained therein, or otherwise, a foreclosure sale
38 purchaser having a valid title to such estate, shall not evict a tenant except for just cause or
39 unless a binding purchase and sale agreement has been executed for a bona fide third party to
40 purchase the housing accommodation from a foreclosure sale purchaser.

41 SECTION 8. Said chapter 186A of the General Laws, as so appearing, is hereby further
42 amended in Sections 3,4,5, and 6 by striking out each appearance of the words “foreclosing
43 owner” in each section and replacing them with the following words:- foreclosure sale purchaser.

44 SECTION 9. Section 3 of said chapter 186A of the General Laws, as so appearing, is
45 hereby amended by striking the first sentence and inserting in place thereof the following
46 sentence:- Within 30 days of the foreclosure, the foreclosure sale purchaser shall post in a
47 prominent location in the building a written notice stating the names, addresses, telephone
48 numbers and telephone contact information of the foreclosure sale purchaser, the building
49 manager or other representative of the foreclosure sale purchaser responsible for the management
50 of such building and stating the address to which the rent, or, in the case of the former mortgagor
51 and any household members, the agreed upon monthly rent payments or Fair Market Rent shall
52 be sent.

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

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

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

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

65 SECTION 12. Section 6 of said chapter 186A of the General Laws, as so appearing, is
66 hereby amended by striking the first paragraph and inserting in place thereof the following
67 paragraph:-

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

72 SECTION 13.

73 Section 3 of said Chapter 186 of the General Laws, as so appearing, is hereby amended
74 by inserting at its commencement, “as previous tenants at will or under lease and given no
75 challenge to title of a new purchaser,”

76 SECTION 14.

77 Section 13 of said Chapter 186 of the General Laws, as so appearing, is hereby amended
78 by striking “or by foreclosure” and inserting in place thereof the following “or by foreclosure
79 shown to be valid.”

80 SECTION 15

81 Section 6 of said Chapter 239 of the General Laws, as so appearing is hereby amend by
82 striking the first sentence and inserting in pace thereof the following:

83 “If the action is for the possession of land after foreclosure of a mortgage thereon by a
84 sale under a power contained therein, or otherwise, and the person having a valid title to such
85 estate, the condition of the bond shall be for the entry of the action and payment to the plaintiff,
86 if final judgment is in his favor, of all costs and of a reasonable amount as rent of the land from
87 the day when the mortgage was foreclosed until possession of the land is obtained by the
88 plaintiff.”