

**HOUSE . . . . . No. 1426**

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

*Jay D. Livingstone and Rob Consalvo*

*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 guarantee a tenant’s first right of refusal.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>2/18/2021</i>
<i>Rob Consalvo</i>	<i>14th Suffolk</i>	<i>2/18/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/18/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/23/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/23/2021</i>
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>2/25/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>2/26/2021</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/26/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/26/2021</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/26/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>2/26/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>3/2/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>3/4/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/8/2021</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>3/4/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>3/2/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>3/5/2021</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>3/8/2021</i>

<i>Nick Collins</i>	<i>First Suffolk</i>	<i>3/11/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>3/12/2021</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>3/16/2021</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>3/24/2021</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>4/5/2021</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>4/11/2021</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>4/20/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>4/26/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>4/29/2021</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>5/6/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>5/10/2021</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>5/14/2021</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>6/3/2021</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>6/14/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>7/22/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>7/29/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>8/10/2021</i>
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>8/23/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>8/30/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>9/22/2021</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>9/27/2021</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/4/2022</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>4/11/2022</i>

**HOUSE . . . . . No. 1426**

By Messrs. Livingstone of Boston and Consalvo of Boston, a petition (accompanied by bill, House, No. 1426) of Jay D. Livingstone, Rob Consalvo and others relative to tenant’s first right of refusal. Housing.

**The Commonwealth of Massachusetts**

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

An Act to guarantee a tenant’s first right of refusal.

*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. Chapter 184 of the General Laws as appearing in the 2016 Official Edition  
2 is hereby amended by the adding after section 21, the following new section:

3 Section 21A: Municipal Local Option for a Tenant’s Opportunity to Purchase

4 (a) For the purposes of this section, the following words shall, unless the context clearly  
5 requires otherwise, have the following meanings:

6 "Affiliate" an entity owned or controlled by an owner or under common control with the  
7 owner.

8 “Auction” or "public auction", the sale of a housing accommodation, under power of sale  
9 in a mortgage loan, by public bidding.

10 “Borrower”, a mortgagor of a Mortgage Loan.

11 "Deed in lieu," a deed for the collateral property, that the mortgagee accepts from the  
12 borrower in exchange for the release of the borrower's obligation under the mortgage loan.

13 "Department", Department of Housing and Community Development, or its successor  
14 agency.

15 "Designee", a nonprofit organization established pursuant to chapter 180, a local housing  
16 authority, or a controlled nonprofit or for-profit affiliate of either such entity; provided that the  
17 parent organization has requisite experience in developing, owning and/or operating residential  
18 real estate and with the financial capacity to secure the financing of the purchase transaction;  
19 provided that any purchase by a Designee under this section shall be for the purpose of the use of  
20 the property as long-term affordable rental housing set out in a recorded restriction.

21 "Elderly Tenant Household" a tenant household in which 1 or more of the residents are  
22 age 65 or older.

23 "Foreclosure," a proceeding to terminate a borrower's interest in property instituted by  
24 the mortgagee.

25 "Housing accommodation," a building or buildings, structure or structures, or part  
26 thereof, rented or offered for rent for living or dwelling purposes, including, without limitation,  
27 houses, apartments, condominium units, cooperative units and other multi-family residential  
28 dwellings; provided, however, that a housing accommodation shall not include a group  
29 residence, homeless shelter, lodging house, orphanage, temporary dwelling structure or  
30 transitional housing; and provided, further that a housing accommodation shall not include 1-4  
31 unit borrower-occupied housing accommodation if the borrower is domiciled in the housing  
32 accommodation at the initiation of the short-sale, deed in lieu, or foreclosure process.

33 "Immediate Family Member", the parent, offspring, sibling, or spouse of the Owner.

34 "Member", a natural person who is a member of a Tenant Association.

35 "Minimum Tenant Participation Percentage", the minimum percentage of tenant-  
36 occupied housing units that must participate as members of the Tenant Association, as stated in  
37 the municipal ordinance or bylaw; provided, that the Minimum Tenant Participation Percentage  
38 shall be not less than 51 per cent of the tenant-occupied housing units. The Minimum Tenant  
39 Participation Percentage shall be calculated (rounded up) based on the number of tenant-  
40 occupied housing units in a property, rather than the number of individual tenants. If there is  
41 more than 1 tenant residing in a unit, any of the tenants in the unit may participate as members of  
42 the Tenant Association for the unit to be counted towards the participating percentage of units.  
43 The Minimum Tenant Participation Percentage will be presumed to have been achieved for a  
44 period of 1 year after it is initially established.

45 "Mortgage loan," a loan secured wholly or partially by a mortgage on a housing  
46 accommodation.

47 "Mortgagee," an entity to whom property is mortgaged, the mortgage creditor or lender  
48 including, but not limited to, mortgage servicers, lenders in a mortgage agreement and any agent,  
49 servant or employee of the mortgagee or any successor in interest or assignee of the mortgagee's  
50 rights, interests or obligations under the mortgage agreement.

51 "Owner", a person, firm, partnership, corporation, trust, organization, limited liability  
52 company or other entity, or its successors or assigns, that holds title to real property.

53 "Purchaser", a party who has entered into a purchase contract with an owner and who  
54 will, upon performance of the purchase contract, become the new owner of the property.

55 "Purchase contract", a binding written agreement whereby an owner agrees to sell  
56 property including, without limitation, a purchase and sale agreement, contract of sale, purchase  
57 option or other similar instrument.

58 "Sale", an act by which an owner conveys, transfers or disposes of property by deed or  
59 otherwise, whether through a single transaction or a series of transactions, within a 3 year period;  
60 provided, that a disposition of housing by an owner to an affiliate of such owner shall not  
61 constitute a sale.

62 "Short-sale," a sale approved by the mortgagee to a bona fide purchaser at a price that is  
63 less than the borrower's existing debt on the housing accommodation.

64 "Successor", the entity through which a Tenant Association may take title to the  
65 residential property, including any of the following: (i) a nonprofit or for-profit entity controlled  
66 by the Tenant Association, or (ii) a limited equity cooperative organized under Chapter 157B or  
67 tenant controlled non-profit corporation organized under Chapter 180, in either case controlled  
68 by the tenants of the property, or (iii) a joint venture between any of such entities and another  
69 party with: (a) the requisite experience in acquiring, developing and owning residential property,  
70 and (b) the financial capacity to secure financing of the purchase transaction; any such joint  
71 venture shall be for the purpose of the use of the property as long-term affordable rental housing  
72 set out in a recorded restriction.

73 "Tenant", a person entitled to possession or occupancy of a rental unit within residential  
74 housing, including a subtenant, lessee and sublessee.

75 "Tenant Association", an organization with a membership limited to present tenants of a  
76 property that: (i) is registered with, or if no registry exists, has provided a letter stating its  
77 formation to the municipality that has adopted an ordinance consistent with this section, or (ii) is  
78 a non-profit organization incorporated under chapter 180.

79 "Third-party offer", an offer to purchase the mortgaged property for valuable  
80 consideration by an arm's length purchaser; provided, that a third-party offer shall not include an  
81 offer by the borrower or the tenants.

82 "Third-party purchaser", a purchaser that is not the Tenant Association at the property, or  
83 its Designee, Successor, or an Affiliate.

84 (b) A city or town may adopt this section in the manner provided in section 4 of chapter  
85 4. The acceptance of this local option by a municipality shall take effect no later than 180 days  
86 after such adoption. A city or town may at any time revoke the acceptance of this section in the  
87 manner provided in section 4 of chapter 4. The revocation shall not affect agreements relative to  
88 tenants' rights to purchase that have already been asserted, that is, when a Tenant Association,  
89 it's Successor, Designee or Assignee, have submitted an offer to the owner, or executed the  
90 proposed purchase contract or other agreement acceptable to both parties, prior to the revocation.

91 (c) A city or town's ordinance or bylaw accepting this Section may contain provisions  
92 that establish:

93 (1) tenancy protections for non-elderly tenant households that do not participate in the  
94 Tenant Association;

95 (2) Additional penalties, municipal enforcement authority, and enforcement mechanisms,  
96 in addition to recorded restrictions, for enforcing the ordinance and provisions of this section,  
97 and/or rules and regulations implementing this section; and

98 (3) mandated use of a standard purchase contract, prepared or approved by the  
99 municipality and consistent with this Section, for owners to provide to the Tenant Association,  
100 its Designee or Successor, under paragraph (d)(4).

101 (d) In any city or town that adopts the provisions of this section:

102 (1) an owner of a residential building shall:

103 (i) notify the municipality and each tenant household, in writing by hand delivery and  
104 United States' mail, of the owner's intention to sell the property (including entertaining an  
105 unsolicited offer from a third-party to purchase the property), with copy of the municipality's  
106 prepared summary of the ordinance adopted hereunder; and

107 (ii) provide a Tenant Association with the Minimum Tenant Participation Percentage, an  
108 opportunity to purchase the property prior to entering into an agreement to sell such property  
109 pursuant to the time periods contained in this section, but no owner shall be under any obligation  
110 to enter into an agreement to sell such property to the tenants.

111 (2) A Tenant Association with the Minimum Tenant Participation Percentage may select  
112 a Successor entity or a Designee to act on its behalf as purchaser of the property and shall give  
113 the owner and the municipality notice of its selection.

114 (3) A Tenant Association with the Minimum Tenant Participation Percentage, or its  
115 Successor or Designee, may, within 30 days after receipt of the owner's intention to sell, submit



116 an offer to the owner to purchase the property. Failure to submit a timely offer shall constitute  
117 an irrevocable waiver of the tenants' rights under this paragraph (3) and the owner may enter into  
118 a contract to sell the property to a third-party, subject to paragraphs (4) to (6), inclusive. If the  
119 owner and the Tenant Association, or its Successor, or its Designee, have not entered into an  
120 agreement within 30 days after receipt of the notice of the owner's intent to sell, the owner may  
121 enter into an agreement to sell the property to a third-party, subject to subsections (4) to (7),  
122 inclusive.

123 (4) Upon execution of any purchase contract with a third party, the owner shall, within 7  
124 days, submit a copy of the executed contract and proof that the deposit toward the purchase has  
125 been paid by the third party along with a proposed purchase contract for execution by Tenant  
126 Association or its Successor, or Designee. A Tenant Association that exists at this time can  
127 exercise this right. If the Tenant Association, or its Successor or, its Designee, elect to purchase  
128 the property, the Tenant Association, or its Successor, or its Designee, shall within 30 days after  
129 the receipt of the third-party purchase contract and the proposed purchase contract, execute the  
130 proposed purchase contract or such other agreement as is acceptable to both parties. The time  
131 periods set forth in this subsection may be extended by agreement between the owner and the  
132 Tenant Association, its Successor or its Designee. Except as otherwise specified in subsection  
133 (5), the terms and conditions of the proposed purchase contract offered to the Tenant  
134 Association, Successor, or its Designee, shall be the same as those of the executed third-party  
135 purchase contract. (5) Any purchase contract offered to, or proposed by, the Tenant Association,  
136 its Successor or its Designee shall provide at least the following terms:

137 (i) the earnest money deposit shall not exceed the lesser of:

138 (A) the deposit in the third-party purchase contract;  
139 (B) 5 per cent of the sale price; or  
140 (C) \$250,000; provided, however, that the owner and the Tenant Association, or its  
141 Successor, or its Designee, may agree to modify the terms of the earnest money deposit;  
142 provided, further, that the earnest money deposit shall be held under commercially-reasonable  
143 terms by an escrow agent selected jointly by the owner and the Tenant Association, its Successor  
144 or its Designee;

145 (ii) the Owner must provide the following information, documentation, and permissions,  
146 within 30 days of the date of the purchase contract of the Tenant Association, its Designee or  
147 Successor: the current rent roll with names of all tenants; documentation of all operating  
148 expenses for the prior two years, including utilities, insurance premiums, bills for repairs, and  
149 capital improvements; permission to inspect all common and maintenance service areas of the  
150 property, including roof, boiler room, electrical and telecommunications rooms; permission to  
151 conduct inspections and tests for the presence of lead paint and asbestos, including permission to  
152 do small amounts of demolition that will be restored after said inspections and tests are  
153 completed; and permission to do tests for regulated environmental toxins on unbuilt areas of the  
154 property, if required by the lender of the Tenant Association, or its Designee or Successor;

155 (iii) the contract will contain all reasonable contingencies, including financing,  
156 marketability of title, and appraisal contingencies;

157 (iv) the earnest money deposit shall be refundable for not less than 90 days from the date  
158 of execution of the purchase contract or such greater period as provided for in the third-party  
159 purchase contract; provided, however, that if the owner unreasonably delays the buyer's ability to

160 conduct due diligence during the 90 day period, the earnest money deposit shall continue to be  
161 refundable for an additional period of one day for every day beyond 30 days that the owner has  
162 not complied with the provisions of subsection (5) (ii) above. After the expiration of the  
163 specified time period, the earnest money deposit shall become non-refundable but shall continue  
164 to be a deposit toward the full purchase price; and

165 (v) real estate broker commissions or fees that are associated with the third-party  
166 purchase transaction shall be payable upon the closing of the purchase.

167 (6) The Tenant Association or its Successor, or Designee, shall have 160 days from  
168 execution of the purchase and sale agreement to perform all due diligence, secure financing for  
169 and close on the purchase of the building. Failure to exercise the purchase option within 160  
170 days shall constitute a waiver of the purchase option by the Tenant Association, its Successor, or  
171 its Designee. The 160 day period may be extended by agreement of both parties.

172 (7) If the Tenant Association, its Designee or Successor, do not exercise their purchase  
173 option the Owner may proceed with the sale to the third-party. If the closing date in the third-  
174 party contract is extended, for each such extension, the Owner shall provide the municipality and  
175 the Tenant Association, Designee or Successor a notarized amendment to the purchase contract  
176 extending the date of the closing. Within 7 days of the termination of the third-party purchase  
177 contract the Owner shall notify the municipality and the Tenant Association, its Designee or its  
178 Successor of the termination. Said notice shall trigger the provisions of paragraphs (d)(1) through  
179 (d)(9) of this Section.

180 (8) The Tenant Association, Successor, or its Designee shall ensure that their purchase of  
181 the property will not result in the displacement of any Elderly Tenant Households that choose not  
182 to participate in the purchase of the property.

183 (9) The Department shall enforce this subsection and shall promulgate rules and  
184 regulations necessary for enforcement. The Department shall provide municipalities with sample  
185 purchase contracts incorporating the requirements of this Section that an owner can provide to a  
186 Tenant Association, its Designee or Successor.

187 (e) Short-sales. In any city or town that adopts the provisions of this Section:

188 (1) An owner, other than the owner of a 1- 4 unit owner-occupied property, shall give  
189 notice to each tenant household of a housing accommodation of the intention to sell the housing  
190 accommodation by way of short-sale to avoid foreclosure. Such notice shall be mailed by regular  
191 and certified mail, with a simultaneous copy to the attorney general, and the municipality  
192 adopting this section within 2 business days of the owner's submission of a request or application  
193 to the mortgagee for permission to sell the housing accommodation by way of short-sale or to  
194 accept a deed in lieu. This notice shall also include a notice of the rights provided by this section.

195 (2) No mortgagee may accept any third-party offers or deem the owner's application for  
196 short-sale submitted for review unless and until: the mortgagee receives documentation in a form  
197 approved by the attorney general demonstrating that the tenants of the housing accommodation  
198 have been informed of the owner's intent to seek a short-sale or deed in lieu and the tenants have  
199 had the opportunity to express their interest in exercising a right of first refusal within 60 days or  
200 the opportunity to assigned their right of first refusal, or the tenants have waived those rights. If  
201 tenants have not affirmatively expressed their interest in exercising a right of first refusal or in

202 assigning that right within 60 days, or have not affirmatively waived that right within 60 days,  
203 the tenants' rights are deemed waived.

204 (3) Before a housing accommodation may be transferred by short-sale or deed-in-lieu, the  
205 owner, other than the owner of a 1-4 unit owner-occupied property shall notify each tenant  
206 household, with a simultaneous copy to the attorney general and the municipality adopting this  
207 section, by regular and certified mail, of any bona fide offer that the mortgagee intends to accept.  
208 Before any short-sale or transfer by deed-in-lieu, the owner shall give each tenant household  
209 such a notice of the offer only if households constituting at least 51 per cent of the households  
210 occupying the housing accommodation notify the owner, in writing, that they collectively desire  
211 to receive information relating to the proposed sale. Tenants may indicate this desire within the  
212 same notice described in paragraph (2). Any notice of the offer required to be given under this  
213 subsection shall include the price, calculated as a single lump sum amount and of any promissory  
214 notes offered in lieu of cash payment.

215 (4) A Tenant Association representing at least 51 per cent of the households occupying  
216 the housing accommodation that are entitled to notice under the preceding paragraph (3) shall  
217 have the collective right to purchase, in the case of a third-party offer that the mortgagee intends  
218 to accept, provided that it:

219 (i) submits to the owner reasonable evidence that the tenants of at least 51 per cent of the  
220 occupied units in the housing accommodation have approved the purchase of the housing  
221 accommodation,

222 (ii) submits to the owner a proposed purchase and sale agreement on substantially  
223 equivalent terms and conditions within 60 days of receipt of notice of the offer made under the  
224 preceding paragraph (3),

225 (iii) obtains a binding commitment for any necessary financing or guarantees within an  
226 additional 90 days after execution of the purchase and sale agreement, and

227 (iv) closes on such purchase within an additional 90 days after the end of the 90-day  
228 period described in clause (iii).

229 No owner shall unreasonably refuse to enter into, or unreasonably delay the execution or  
230 closing on a purchase and sale with tenants who have made a bona fide offer to meet the price  
231 and substantially equivalent terms and conditions of an offer for which notice is required to be  
232 given pursuant to paragraph (3). Failure of the tenants to submit such a purchase and sale  
233 agreement within the first 60-day period, to obtain a binding commitment for financing within  
234 the additional 90-day period or to close on the purchase within the second 90-day period, shall  
235 serve to terminate the rights of such tenants to purchase. The time periods herein provided may  
236 be extended by agreement. Nothing herein shall be construed to require an owner to provide  
237 financing to such tenants. A Tenant Association that has the right to purchase hereunder, at its  
238 election, may assign its purchase right hereunder to the city or town in which the housing  
239 accommodation is located, or the housing authority of the city or town in which the housing  
240 accommodation is located, or an agency of the commonwealth, nonprofit, community  
241 development corporation, affordable housing developer, or land trust. A right to purchase  
242 hereunder shall be for the purpose of maintaining the use of the housing accommodation as  
243 permanently affordable rental housing.

244 (5) The right of first refusal created herein shall inure to the tenants for the time periods  
245 hereinbefore provided, beginning on the date of notice to the tenants under paragraph (1). The  
246 effective period for such right of first refusal shall begin anew for each different offer to  
247 purchase that the mortgagee intends to accept. The right of first refusal shall not apply with  
248 respect to any offer received by the owner for which a notice is not required pursuant to said  
249 paragraph (3).

250 (6) In any instance where the tenants are not the successful purchaser of the housing  
251 accommodation, the mortgagee shall provide evidence of compliance with this section by filing  
252 an affidavit of compliance with the attorney general, , and the registry of deeds for the county  
253 and district where the property is located within 7 days of the sale.

254 (7) The attorney general shall enforce this subsection (e) and shall promulgate rules and  
255 regulations necessary for enforcement. The attorney general may seek injunctive, declaratory,  
256 and compensatory relief on behalf of tenants and the Commonwealth in a court of competent  
257 jurisdiction. The attorney general shall post a sample intent to sell notice, sample proof of notice  
258 to tenants, sample notice of offer, and other necessary documents.

259 (f) Foreclosures. In any city or town that adopts the provisions of this Section:

260 (1) When a mortgagee seeks to foreclose, the mortgagee shall provide copies of all  
261 foreclosure notices required by Chapter 244, sections 14 and 35A, or any other applicable  
262 foreclosure law, , by regular and certified mail to the tenants of the housing accommodation and  
263 to the municipality adopting this Section. The mortgagee shall also provide tenants and the  
264 municipality, by regular and certified mail, with a copy of any Complaint filed in Land Court and

265 any Order of Notice issued by the Land Court, pursuant to the Servicemembers Civil Relief Act  
266 if applicable, within five (5) days of issuance.

267 (2) The mortgagee shall provide each tenant household and the municipality adopting this  
268 Section, by regular and certified mail, a copy of any and all Notices of Sale published pursuant to  
269 Section 14 of chapter 244. (3) No later than 5 business days before the foreclosure auction of a  
270 housing accommodation, the tenants shall inform the mortgagee, in writing, if a Tenants  
271 Association representing at least fifty-one percent of the households occupying the housing  
272 accommodation or an entity to which they have assigned their right of first refusal intend to  
273 exercise their right of first refusal at auction and desire to receive information relating to the  
274 proposed auction.

275 (4) A Tenants Association representing at least fifty-one percent of the households  
276 occupying the housing accommodation or their assignee may exercise their collective right to  
277 purchase the housing accommodation, in the event of a third-party offer at auction that the  
278 mortgagee receives, provided that the Tenants Association

279 (i) submits to the mortgagee reasonable evidence that the tenants of at least fifty-one  
280 percent of the occupied homes in the housing accommodation have approved the purchase of the  
281 housing accommodation,

282 (ii) submits to the mortgagee a proposed purchase and sale agreement on substantially  
283 equivalent terms and conditions to that received by the mortgagee in the third-party offer within  
284 sixty days of receipt of notice of the bid made under paragraph (3) of this section,

285 (iii) obtains a binding commitment for any necessary financing or guarantees within an  
286 additional ninety days after execution of the purchase and sale agreement, and



287 (iv) closes on such purchase within an additional ninety days after the end of the ninety-  
288 day period under clause (iii).

289 No mortgagee shall unreasonably refuse to enter into, or unreasonably delay the  
290 execution or closing on a purchase and sale with tenants who have made a bona fide offer  
291 to meet the price and substantially equivalent terms and conditions of a bid received at auction.  
292 Failure of the tenants to submit such a purchase and sale agreement within the first sixty day  
293 period, to obtain a binding commitment for financing within the additional ninety day period or  
294 to close on the purchase within the second ninety-day period, shall serve to terminate the rights  
295 of such tenants to purchase. The time periods herein provided may be extended by agreement.

296 Nothing herein shall be construed to require a mortgagee to provide financing to such  
297 tenants. A Tenant Association which has the right to purchase hereunder, at its election, may  
298 assign its purchase right hereunder to the city, town, housing authority, or agency of the  
299 commonwealth, nonprofit, community development corporation, affordable housing developer,  
300 or land trust; a right to purchase hereunder shall be for the purpose of maintaining the use of the  
301 housing accommodation as permanently affordable rental housing.

302 If there are no third-party bids at auction for the housing accommodation, the tenants  
303 shall have a right of first refusal whenever the mortgagee seeks to sell the housing  
304 accommodation. The tenants shall be notified of any offers the mortgagee intends to accept and  
305 shall be given an opportunity to meet the price and substantially the terms of a third-party offer  
306 based on the same time line described in paragraph (4).

307 (5) The right of first refusal created herein shall inure to the tenants for the time  
308 periods herein before provided, beginning on the date of notice to the tenants under paragraph  
309 (1).

310 (6) The attorney general shall enforce this subsection (f) and shall promulgate rules and  
311 regulations necessary for enforcement. The attorney general may seek injunctive, declaratory,  
312 and compensatory relief on behalf of tenants and the Commonwealth in a court of competent  
313 jurisdiction. The attorney general shall post a sample intent to sell notice, sample proof of notice  
314 to tenants, sample notice of offer, and other necessary documents.

315 (g) In any instance where the tenants are not the successful purchaser, the seller of such  
316 unit shall provide evidence of compliance with this section by filing an affidavit of compliance  
317 with the attorney general, the Department, and the official records of the county where the  
318 property is located within seven days of the sale.

319 (h) Any notice required by this section, except notice provided by a Tenant Association  
320 to the municipality, shall be deemed to have been provided when delivered in person or mailed  
321 by certified or registered mail, return receipt requested, to the party to whom notice is required;  
322 except that with respect to providing notice to tenants, notice shall be deemed to have been  
323 provided when either: (i) the notice is delivered in hand to the tenant or an adult member of the  
324 tenant's household; or (ii) the notice is sent by first class mail and a copy is left in or under the  
325 door of the tenant's dwelling unit. A notice to the affected municipality shall be sent to the chief  
326 executive officer.

327 (i) It is illegal for an owner or their agent to take any action to evict, threaten, coerce, or  
328 retaliate against a tenant or tenants in order to avoid application of this Section.

329 (j) This section shall not apply to the following:

330 (1) property that is the subject of a government taking by eminent domain or a negotiated  
331 purchase in lieu of eminent domain;

332 (2) a proposed sale to a purchaser pursuant to terms and conditions that preserve  
333 affordability;

334 (3) any sale of publicly-assisted housing, as defined in section 1 of chapter 40T;

335 (4) rental units in any hospital, skilled nursing facility, or health facility;

336 (5) rental units in a nonprofit facility that has the primary purpose of providing short term  
337 treatment, assistance, or therapy for alcohol, drug, or other substance abuse; provided, that such  
338 housing is incident to the recovery program, and where the client has been informed in writing of  
339 the temporary or transitional nature of the housing;

340 (6) rental units in a nonprofit facility that provides a structured living environment that  
341 has the primary purpose of helping homeless persons obtain the skills necessary for independent  
342 living in a permanent housing and where occupancy is restricted to a limited and specific period  
343 of time of not more than 24 months and where the client has been informed in writing of the  
344 temporary or transitional nature of the housing at its inception;

345 (7) public housing units owned or managed by or with a ground lease from the local  
346 housing authority;

347 ((8) any residential property where the owner is a natural person(s) who, together and  
348 separately, own no more than 6 residential rental units in the municipality and each of whom  
349 resides in the Commonwealth of Massachusetts;

350 (9) any unit that is held in trust on behalf of a disabled individual who permanently  
351 occupies the unit, or a unit that is permanently occupied by a disabled parent, sibling, child, or  
352 grandparent of the owner of that unit;

353 (10) any property that is owned by a college or university that is occupied exclusively by  
354 students; or

355 (11) any sale to an Immediate Family Member of the owner for a total purchase price  
356 below the current assessed value of the property.

357 (k) A Tenant, Tenant Association, or Successor, Designee or assignee shall not solicit or  
358 accept payment or any other consideration for assigning or waiving any rights under this section.

359 (l) Aggrieved tenants, Tenant Associations, Designees, Successors, assignees, and  
360 municipalities may seek damages under General Law Chapter 93A and may file a complaint with  
361 the attorney general, and may also file a court complaint for equitable and/or monetary relief,  
362 including but not limited to damages of a percentage of the sales price and/or injunctive relief in  
363 the form of specific performance. Nothing in this Section shall be construed to limit or constrain  
364 in any way the rights tenants currently have under applicable laws, including but not limited to  
365 chapters 186 and 186A. At all times, all parties must negotiate in good faith.