

SENATE No. 865

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz, (BY REQUEST)

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 displacement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Melinda Stewart</i>	<i>27 Julian St Boston, MA</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>5/12/2021</i>

SENATE No. 865

By Ms. Chang-Diaz (by request), a petition (accompanied by bill, Senate, No. 865) of Melinda Stewart for legislation to prevent displacement. Housing.

The Commonwealth of Massachusetts

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

An Act to prevent displacement.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith the citizens and neighborhoods of Boston and in particular the displacement of tenants of rental housing through evictions, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

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. PURPOSE

2 The purpose of this act is to defend, preserve, and promote the stability of housing and
3 neighborhoods in the City of Boston and maintain diversity in Boston neighborhoods and
4 communities by protecting residential tenants and former homeowners living in their homes
5 post-foreclosure against arbitrary, unreasonable, discriminatory, or retaliatory evictions. The act
6 is also intended to ensure that tenants and former homeowners are aware of their rights under
7 state law. It is intended to address housing problems in the City of Boston so as to preserve the
8 public health, safety, and welfare.

9 SECTION 2. DEFINITIONS

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

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

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

23 “Foreclosing Owner” means any natural person or entity that holds title in any capacity,
24 directly or indirectly, without limitation, whether in its own name, as trustee or as beneficiary, to
25 a housing accommodation that has been foreclosed upon and either: (1) held or owned a
26 mortgage or other security interest in the housing accommodation at any point prior to the
27 foreclosure of the housing accommodation or is the subsidiary, parent, trustee, or agent thereof;
28 or (2) is an institutional mortgagee that acquires or holds title to the housing accommodation
29 within 3 years of the filing of the foreclosure deed on the housing accommodation; or (3) is the
30 Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

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

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

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

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

46 “Notice to quit” means any written notice sent by a landlord or a foreclosing owner to a
47 tenant or former homeowner of a residential rental unit or housing accommodation seeking to
48 terminate the tenant’s tenancy or the former homeowner’s occupancy of such rental unit or
49 housing accommodation.

50 “Office of Housing Stability” means the office of the City of Boston created to address
51 the problem of displacement in the city, or any subsequent or successor office or entity similarly

52 empowered with like purpose or responsibility, or if no such office exists the city office or entity
53 with the closest corresponding such purpose or responsibility.

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

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

60 “Rental Agreement” means any express or implied agreement for use and occupancy of a
61 dwelling unit.

62 “Rental Unit” means a non-owner occupied room or group of related rooms within a
63 dwelling used or intended for use by one family or household for living, sleeping, cooking and
64 eating.

65 “Skilled Nursing Facility” means a health facility or a distinct part of a hospital that
66 provides, at a minimum, skilled nursing care and supportive care to patients whose primary
67 medical need is the availability of skilled nursing care on an extended basis. Such facility must
68 provide twenty-four (24) hour inpatient care, an activity program, and medical, nursing, dietary,
69 and pharmaceutical services. Additionally, the facility must provide effective arrangements,
70 confirmed in writing, through which services required by the patients but not regularly provided
71 within the facility can be obtained promptly when needed.

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

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

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

79 SECTION 3. APPLICABILITY

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

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

88 B. Rental units in a nonprofit facility that has the primary purpose of providing short term
89 treatment, assistance, or therapy for alcohol, drug, or other substance abuse provided that such
90 housing is incident to the recovery program, and where the client has been informed in writing of
91 the temporary or transitional nature of the housing at its inception.

92 C. Rental units in a nonprofit facility which provides a structured living environment that
93 has the primary purpose of helping homeless persons obtain the skills necessary for independent

94 living in permanent housing and where occupancy is restricted to a limited and specific period of
95 time of not more than twenty-four (24) months and where the client has been informed in writing
96 of the temporary or transitional nature of the housing at its inception.

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

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

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

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

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

113 I. Reverse mortgages can lead to unnecessary monthly notices, whereas only two notices
114 are needed: end-of-year mortgage statement and verification of living statement. Homeowner

115 should be given the right to begin paying off mortgage without any unreasonable interruptions or
116 processes, such as paying off all excess charges before allowing payment to begin or putting
117 down a large payment in advance before they can begin repayment. These excess fees and
118 processes are discriminatory and lead to destabilization.

119 SECTION 4. CITY RIGHTS NOTICE

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

138 Stability, and also filed with the court with any summary process summons and complaint. The
139 burden of proof in any proceeding for summary process subject to the provisions of this
140 paragraph shall be on the landlord or foreclosing owner to demonstrate compliance with the
141 requirements of this paragraph.

142 SECTION 4A. HOMEOWNER JUST CAUSE EVICTION

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

161 amended, and such local legislation as the City of Boston has adopted, as may be amended, or
162 may adopt, regarding condominium/cooperative conservation-related eviction.

163 SECTION 5. REMEDIES

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

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

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

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

176 SECTION 6. CONFIDENTIALITY

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

180 SECTION 7. NON-WAIVABILITY

181 The provisions of this Act may not be waived, and any term of any lease, contract, or
182 other agreement which purports to waive or limit a tenant's or former homeowner's substantive
183 or procedural rights under this ordinance are contrary to public policy, unenforceable, and void,
184 unless and to the extent permitted by Applicable Laws.

185 SECTION 8. PARTIAL INVALIDITY

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