

SENATE No. 626

The Commonwealth of Massachusetts

PRESENTED BY:

Lydia Edwards

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 for a right of first refusal for foreclosed property (Foreclosure TOPA).

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>2/5/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/9/2023</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/11/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/11/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/15/2023</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>3/2/2023</i>

SENATE No. 626

By Ms. Edwards, a petition (accompanied by bill, Senate, No. 626) of Lydia Edwards, Steven Owens, Joanne M. Comerford, Sal N. DiDomenico and other members of the General Court for legislation for a right of first refusal for foreclosed property (Foreclosure TOPA). Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act for a right of first refusal for foreclosed property (Foreclosure TOPA).

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 2020 Official Edition,
2 is hereby amended by inserting after section 21 the following section:-

3 Section 21A.community development corporation(a) For the purposes of this section, the
4 following words shall have the following meanings unless the context clearly requires
5 otherwise,:

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 "Community development corporation", a nonprofit corporation, as defined in section 2
12 of chapter 40H.

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

15 "Department", the department of housing and community development, or its successor
16 agency.

17 "Eligible organization", a nonprofit corporation established pursuant to section 3 of
18 chapter 180, a controlled nonprofit or for-profit affiliate of a community development
19 corporation or housing authority, or such other entity or organization, including a tenant
20 association, public agency, mixed-income neighborhood trust, and a limited equity cooperative
21 housing corporation organized under or subject to chapter 157B, which the community
22 development corporation serving the neighborhood, municipality, or region of the
23 commonwealth where the housing accommodation is located determines to be engaged primarily
24 in activities intended to contribute to the preservation of existing or the creation of affordable
25 housing and has the requisite experience in developing, owning, and operating residential real
26 estate and with the capacity to secure financing of the purchase transaction; provided, however,
27 that any purchase by an eligible organization under this section shall be for the use of a housing
28 accommodation as long-term affordable housing set out in a recorded restriction.

29 "Eligible organization list", a list maintained by a community development corporation of
30 all of eligible organizations within the neighborhoods or municipalities, a region of the
31 commonwealth or a constituency that is economically disadvantaged served by a community
32 development corporation.

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

35 "Housing accommodation", a building or buildings, structure or structures, or part
36 thereof, containing not less than 6 units rented or offered for rent for living or dwelling purposes,
37 including, without limitation, houses, apartments, condominium units, cooperative units and
38 other multi-family residential dwellings; provided, however, that a housing accommodation shall
39 not include a group residence, homeless shelter, lodging house, orphanage, temporary dwelling
40 structure or transitional housing, hospital, convent, monastery, skilled nursing facility, health
41 facility, extended care facility, convalescent home, dormitories owned by educational
42 institutions, properties licensed as hotels and motels, residential properties that an owner is
43 refinancing in order to maintain ownership of such properties.

44 "Housing Authority", a housing authority created under sections 3 and 3A of chapter
45 121B.

46 "Immediate Family Member", the parent, offspring, sibling, or spouse of the owner, or a
47 trust in which the beneficiaries immediately after the creation are the owner and the parent, child,
48 sibling or spouse of the owner.

49 "Long-term affordable housing", (i) for rental housing: housing where forty percent of
50 the housing units are affordable to households with incomes at or below 60 per cent of the Area
51 Median Income (AMI) as established by the United States Department of Housing and Urban
52 Development, and where these restrictions shall be in effect for at not less than 30 years and
53 recorded in a deed restriction; (ii) for homeownership housing: housing where all units are both
54 (A) set at prices affordable to, and (B) limited to purchase by, buyers whose incomes are at or

55 below 100 per cent of the AMI, and at not less than 50 per cent of the units are both (1) set at
56 prices affordable to, and (2) limited to purchase by, buyers with incomes at or below 80 per cent
57 of the AMI, and where these restrictions shall be in effect for at least thirty years and recorded in
58 a deed restriction.

59 "Member", a natural person who is a member of a tenant association.

60 "Mortgage loan", a loan secured wholly or partially by a mortgage on a housing
61 accommodation.

62 "Mortgagee", an entity to whom a housing accommodation is mortgaged, the mortgage
63 creditor or lender including, but not limited to, mortgage servicers, lenders in a mortgage
64 agreement and any agent, servant or employee of the mortgagee or any successor in interest or
65 assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

66 "Owner", a person, firm, partnership, corporation, trust, organization, limited liability
67 company or other entity, or its successors or assigns, that holds title to a housing
68 accommodation.

69 "Purchaser", a party who has entered into a purchase contract with an owner and who
70 will, upon performance of the purchase contract, become the new owner of a housing
71 accommodation.

72 "Purchase contract", a binding written agreement whereby an owner agrees to sell a
73 housing accommodation including, without limitation, a purchase and sale agreement, contract of
74 sale, purchase option or other similar instrument.

75 "Sale", an act by which an owner conveys, transfers or disposes of a housing
76 accommodation by deed or otherwise, whether through a single transaction or a series of
77 transactions, within 3 years; provided, however, that a disposition of housing by an owner to an
78 affiliate of such owner shall not constitute a sale.

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

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

83 "Tenant Association", an organization with a membership limited to present tenants of a
84 housing accommodation that: (i) is registered with, or if no registry exists, has provided a letter
85 stating its formation to the municipality that has adopted an ordinance consistent with this
86 section; or (ii) is a non-profit organization incorporated under section 3 of chapter 180.

87 "Third-party offer", a bona fide offer to purchase the mortgaged housing accommodation
88 for valuable consideration by a purchaser; provided, however, that a third-party offer shall not
89 include an offer by the borrower or the tenants.

90 "Third-party purchaser", a purchaser that is not a municipality, housing authority,
91 community development corporation, and eligible organization or their designees, successors, or
92 an affiliate.

93 (b) A municipality may adopt this section in a city having a Plan D or a Plan E charter by
94 majority vote of its city council and approved by the manager; in any other city by majority vote
95 of the city council and approved by the mayor; or in a town by vote of the board of selectmen.

96 The acceptance of this local option by a municipality shall take effect no later than 180 days after
97 such adoption. A municipality may at any time revoke the acceptance of this section in the
98 manner provided in section 4 of chapter 4. The revocation shall not affect agreements relative to
99 the right to purchase of a municipality, housing authority, community development corporation
100 and eligible organization evidenced by the submission of an offer to the owner, an executed
101 purchase contract or other agreement acceptable to both parties, prior to the revocation. A
102 municipality that adopts this section shall establish an ordinance or by-law to enforce this
103 section.

104 (c) An ordinance or by-law of a municipality accepting this section may contain
105 provisions that establish:

106 (i) additional penalties, municipal enforcement authority and enforcement mechanisms,
107 in addition to recorded restrictions, for enforcing the ordinance and provisions of this section,
108 and rules and regulations implementing this section; and

109 (ii) mandated use of a standard purchase contract, prepared or approved by the
110 municipality and consistent with this section, for owners to provide to the municipality, housing
111 authority, community development corporation and an eligible organization under clause (iv) of
112 subsection (e); and

113 (iii) additional affordability restrictions on the total percentage of affordable units, the
114 level of affordability, and the length of time such restrictions shall be in place; provided,
115 however, that affordability restrictions do not result in the displacement of current tenants.

116 (d) An ordinance or by-law of a municipality accepting this section shall:

117 (i) require an owner of a housing accommodation to file annually a written return
118 requested by a board of the assessor under section 38D of chapter 59 to include a current rent roll
119 with names of all tenants; a statement under oath attesting to all operating expenses for the prior
120 2 years, including utilities, insurance premiums and repairs, and to capital improvements;
121 provided, however, that the written return shall be attached to the notice submitted by an owner
122 in clauses (i) through (iii), inclusive, of paragraph (1) of subsection (e); and

123 (ii) develop and post on the public website of the municipality a document that includes:
124 (A) a summary of the ordinance adopted hereunder by the municipality; (B) a summary of the
125 potential impact on tenants; and (C) resources for tenants who have questions.

126 (e) (1) In any municipality that adopts this section where an owner intends to offer for
127 sale a housing accommodation, solicits any offer to purchase from or accepts an unsolicited offer
128 to purchase from, any third-party purchaser an owner of a housing accommodation shall: (i)
129 notify the municipality and the housing authority for the municipality within 14 days, by
130 electronic and United States mail, of receiving of an offer for sale of a housing accommodation
131 that an owner intends to consider, of soliciting an offer to purchase from, or of accepting an
132 unsolicited offer from a third-party purchaser to purchase the housing accommodation of the
133 owner; (ii) notify each tenant within 14 days in writing by hand delivery and United States mail,
134 of the intention of the owner to offer for sale a housing accommodation, to solicit an offer to
135 purchase from, or to accept an unsolicited offer from a third-party purchaser to purchase the
136 housing accommodation of the owner, with copy of the document developed by the municipality
137 under clause (ii) of subsection (d); (iii) notify the community development corporation for the
138 region in which a housing accommodation is located within 14 days, in writing by electronic
139 delivery and United States mail, of receiving of an offer for sale of a housing accommodation

140 that an owner intends to consider, of soliciting an offer to purchase from, or of accepting an
141 unsolicited offer from a third-party purchaser to purchase the housing accommodation of the
142 owner; (iv) provide with the notices required in clauses (i) and (iii) the address of the housing
143 accommodation and contact information for the owner of a housing accommodation; and,
144 notwithstanding section 52B of chapter 59, permission for the municipality, housing authority for
145 the municipality, and the community development corporation for the region to receive from the
146 municipality the information filed in accordance with section 38D of chapter 59, and permission
147 to inspect, conduct inspections and tests as provided under subsection (v); (v) allow the
148 municipality, housing authority, community development corporation and eligible organizations
149 to: (A) inspect all common and maintenance service areas of the housing accommodation,
150 including roof, boiler room, electrical and telecommunications rooms, (B) conduct inspections
151 and tests for the presence of lead paint and asbestos (C) conduct small amounts of demolition
152 that will be restored after said inspections and tests are completed; and (d) run tests for regulated
153 environmental toxins on unbuilt areas of a housing accommodation, if required by the
154 municipality, housing authority, the community development corporation, and an eligible
155 organization or their designees or successors; and (vi) provide the municipality, housing
156 authority, community development corporation and eligible organizations an opportunity to
157 purchase the property pursuant to the time periods contained in this section, prior to the owner
158 entering into an agreement with a third-party purchaser; provided, however, that no owner shall
159 be under any obligation to enter into an agreement to sell such property to the municipality,
160 housing authority, community development corporation or eligible organization.

161 (2) A community development corporation, upon receiving notice under clause (iii) of
162 paragraph (1), shall within 10 days notify the entities on the eligible organization list of receiving
163 a notice and the information in clauses (iii) and (iv) of paragraph (1)

164 (3) A municipality, housing authority, community development corporation or eligible
165 organization may, within 40 days of receipt of the notices required in clauses (i) and (iii) of
166 paragraph (1) submit an offer to the owner to purchase a housing accommodation. Failure to
167 submit a timely offer shall constitute an irrevocable waiver of the rights of the municipality,
168 housing authority, community development corporation and eligible organization under this
169 paragraph and the owner may enter into a contract to sell a housing accommodation to a third-
170 party, subject to paragraph (4). If the owner and a municipality, housing authority, community
171 development corporation or eligible organization have not entered into an agreement within 40
172 days of receipt of the hand-delivered notices required in clauses(i) and (iii), the owner may enter
173 into an agreement to sell a housing accommodation to a third-party, subject to subsection (4).

174 (4) Any purchase contract offered to, or proposed by, a municipality, housing authority,
175 community development corporation or eligible organization shall include at least the following
176 terms: (i) the earnest money deposit shall not exceed the lesser of: (A) 5 per cent of the sale
177 price; or (B) \$250,000; provided, however, that the owner and the municipality, housing
178 authority, community development corporation and eligible organization, their successors or
179 designee, may agree to modify the terms of the earnest money deposit; provided, further, that the
180 earnest money deposit shall be held under commercially-reasonable terms by an escrow agent
181 selected jointly by the owner and the municipality, housing authority, community development
182 corporation or eligible organization, their successors or designees; (ii) all reasonable
183 contingencies, including financing, marketability of title and appraisal contingencies; (iii) the

184 earnest money deposit shall be refundable for not less than 90 days from the date of execution of
185 the purchase contract or such greater period as agreed upon by the owner and purchaser;
186 provided, however, that if the owner unreasonably delays the ability of the purchaser to conduct
187 due diligence during the 90 day period, the earnest money deposit shall continue to be refundable
188 for an additional period of one day for every day beyond 30 days that the owner has not
189 complied with the subsection (5) (ii) above . After the expiration of the specified time period, the
190 earnest money deposit shall become non-refundable but shall continue to be a deposit toward the
191 full purchase price; and (iv) real estate broker commissions or fees associated with the third-
192 party purchase transaction shall be payable upon the closing of the purchase.

193 (5) If an offer from a municipality, housing authority, community development
194 corporation and eligible organization is accepted, a purchaser shall have 90 days from the
195 execution of the purchase contract to perform all due diligence, secure financing for and close on
196 the purchase of the housing accommodation. Failure to close on the purchase of a housing
197 accommodation within 90 days shall constitute a default on the right to purchase by the
198 purchaser; provided, however, if, within 30 days after the date of contracting, the purchaser
199 presents the owner with the written decision of a lending institution or agency that states that the
200 institution or agency estimates that a decision with respect to financing or financial assistance
201 will be made within 120 days after the date of the purchase contract, the owner shall afford the
202 tenant or qualified purchaser an extension of time consistent with the written estimate. The
203 period by which the purchase of the housing accommodation shall close may be extended by
204 agreement of owner and purchaser.

205 (6) If a purchaser does not close on the purchase of a housing accommodation the owner
206 may proceed with a sale to the third party. If the owner and third party fail to close on the

207 purchase of a housing accommodation, the owner shall provide notice to the municipality,
208 housing authority, community development corporation, tenants and eligible organizations that
209 the purchase of a housing accommodation did not close.

210 (7) Any property acquired under this subsection, that is not subject to a long-term
211 affordable housing requirement under this subsection, shall be used as: (i) long-term affordable
212 housing set out in a recorded restriction; (ii) cooperative housing subject to a covenant,
213 satisfactory to the municipality in form and substance and having a term of not less than twenty
214 years, that a majority of residential units be occupied by tenant-stockholders as their primary
215 residence; or (iii) condominium units subject to a covenant, satisfactory to the municipality in
216 form and substance and having a term of not less than twenty years, that a majority of units be
217 occupied by unit owners as their primary residence. For purposes of this paragraph, an owner of
218 a condominium unit or a tenant-stockholder of a cooperative housing unit shall include: (1) a
219 person in military service on active duty who intends to occupy the residential unit when not on
220 active duty; and (2) a parent or child of an occupant who is a disabled Immediate Family
221 Member.

222 (8) The department shall enforce this subsection and shall promulgate rules and
223 regulations necessary for enforcement. Upon request, the department shall provide
224 municipalities with sample purchase contracts incorporating the requirements of this section that
225 an owner can provide to a municipality, housing authority, community development corporation
226 or eligible organization, their designees or successors.

227 (f) (1) In any municipality that adopts this section where an owner intends to offer for
228 sale a housing accommodation by short-sale or to accept a deed in lieu an owner of a housing

229 accommodation shall: (i) notify the municipality and the housing authority for the municipality,
230 by electronic and United States mail, with a copy to the attorney general, of the intention of the
231 owner to offer for sale a housing accommodation by short-sale or to accept a deed in lieu; (ii)
232 notify each tenant, in writing by hand delivery and United States mail, of the intention of the
233 owner to offer for sale a housing accommodation by short-sale or to accept a deed in lieu, with
234 copy of the prepared summary of the ordinance adopted hereunder by the municipality; (iii)
235 notify the community development corporation for the region in which a housing
236 accommodation is located, in writing by electronic and United States mail, of the intention of the
237 owner to offer for sale a housing accommodation by short-sale or to accept a deed in lieu; (iv)
238 provide the notices under (i), (ii), and (iii) within 2 business days of the owner's submission of a
239 request or application to the mortgagee for permission to sell the housing accommodation by
240 way of short-sale or to accept a deed in lieu; (v) provide with the notices required in (i) and (iii),
241 the address of the housing accommodation and contact information for the owner of a housing
242 accommodation; and, notwithstanding section 52B of chapter 59, permission for the
243 municipality, housing authority for the municipality, and the community development
244 corporation for the region to receive from the municipality the information filed in accordance
245 with Section 38D of Chapter 59, and permission to inspect, conduct inspections and tests as
246 provided under subsection (v); and (vi) allow the municipality, housing authority, community
247 development corporation and eligible organizations to inspect all common and maintenance
248 service areas of the a housing accommodation, including roof, boiler room, electrical and
249 telecommunications rooms; conduct inspections and tests for the presence of lead paint and
250 asbestos, and to do small amounts of demolition that will be restored after said inspections and
251 tests are completed; and do tests for regulated environmental toxins on unbuilt areas of a housing

252 accommodation, if required by the municipality, housing authority, the community development
253 corporation and an eligible organization, or their designees or successors.

254 (2) A mortgagee may not accept any third-party offers or deem an owner's application for
255 short-sale submitted for review unless and until the mortgagee receives documentation in a form
256 approved by the attorney general demonstrating that the tenants of the housing accommodation
257 have been informed of the intent of the owner to seek a short-sale or deed in lieu and that the
258 municipality, housing authority, community development corporation and eligible organization
259 have had the opportunity to express their interest in exercising a right of first refusal within 60
260 days of the owner providing them notice. If a municipality, housing authority, community
261 development corporation or eligible organization has not affirmatively expressed their interest in
262 exercising a right of first refusal or in assigning that right within 60 days or have not
263 affirmatively waived that right within 60 days, the rights of the municipality, housing authority,
264 community development corporation and eligible organization are deemed waived.

265 (3) Before a housing accommodation may be transferred by short-sale or deed-in-lieu, the
266 owner shall notify the municipality, housing authority, community development corporation and
267 eligible organization with a simultaneous copy to the attorney, by regular and certified mail, of
268 any bona fide offer that the mortgagee intends to accept. Any notice of the offer required to be
269 given under this subsection shall include the price, calculated as a single lump sum amount and
270 of any promissory notes offered in lieu of cash payment.

271 (4) If a mortgagee has received an offer to purchase the housing accommodation that it
272 intends to accept, a municipality, housing authority, community development corporation and
273 eligible organization entitled to notice under paragraph (3) shall have the right to purchase the

274 housing accommodation and have priority over the third party; provided, however, that it: (i)
275 submits to the owner a proposed purchase contract on substantially equivalent terms and
276 conditions within 60 days of receipt of notice of the offer made under paragraph (3); (ii) obtains
277 a binding commitment for any necessary financing or guarantees within an additional 90 days
278 after execution of the purchase and sale agreement; and (iii) closes on such purchase within an
279 additional 90 days after the end of the 90-day period described in clause (ii).

280 (5) No owner shall unreasonably refuse to enter into, or unreasonably delay the execution
281 or closing on a purchase contract with a municipality, housing authority, community
282 development corporation or eligible organization that has made a bona fide offer to meet the
283 price and substantially equivalent terms and conditions of an offer for which notice is required to
284 be given pursuant to paragraph (3) of subsection (e). Failure of the municipality, housing
285 authority, community development corporation and eligible organization to submit such a
286 purchase contract within the first 60 days, to obtain a binding commitment for financing within
287 the additional 90 days or to close on the purchase within the second 90 days, shall serve to
288 terminate the rights of the municipality, housing authority, community development corporation
289 and eligible organization to purchase. The time periods herein provided may be extended by
290 agreement. A right to purchase hereunder shall be for the purpose of maintaining the use of the
291 housing accommodation as permanently affordable rental housing.

292 (6) The right of first refusal under this section shall inure to the municipality, housing
293 authority, community development corporation and eligible organization for the time periods
294 provided in this act, beginning on the date of notice under paragraph(1) of subsection (e). The
295 effective period for such right of first refusal shall begin anew for each different offer to
296 purchase that the mortgagee intends to accept.

297 (7) In any instance where the municipality, housing authority, community development
298 corporation and eligible organization is not the successful purchaser of the housing
299 accommodation, the mortgagee shall provide evidence of compliance with this section by filing
300 an affidavit of compliance with the attorney general and the registry of deeds for the county and
301 district where a housing accommodation is located within 7 days of the sale.

302 (8) The attorney general shall enforce this subsection (e) and shall promulgate rules and
303 regulations necessary for enforcement. The attorney general may seek injunctive, declaratory,
304 and compensatory relief on behalf of tenants and the commonwealth in a court of competent
305 jurisdiction. The attorney general shall post a sample intent to sell notice, sample proof of notice
306 to tenants, sample notice of offer, and other necessary documents.

307 (g)(1) In any municipality that adopts this section where a mortgagee seeks to foreclose
308 on a housing accommodation a mortgagee shall: (i) provide copies of all foreclosure notices
309 required by sections 14 and 35A of chapter 244 or any other applicable foreclosure law by
310 regular and certified mail to the tenants of the housing accommodation, the municipality,
311 housing authority and community development corporation; provided, however, that the
312 mortgagee shall also provide tenants of the housing accommodation, the municipality, housing
313 authority and community development corporation by regular and certified mail, with a copy of
314 any complaint filed in land court and any order of notice issued by the land court, pursuant to the
315 Servicemembers Civil Relief Act if applicable, within 5 days of issuance; and (ii) provide the
316 tenants of the housing accommodation, the municipality, housing authority and community
317 development corporation by regular and certified mail, a copy of any and all notices of sale
318 published pursuant to section 14 of chapter 244.

319 (2) Not later than 5 business days before the foreclosure auction of a housing
320 accommodation, the municipality, housing authority, community development corporation and
321 eligible organization shall inform the mortgagee, in writing, by electronic and United States mail,
322 if they intend to exercise their right of first refusal at auction and desire to receive information
323 relating to the proposed auction.

324 (3) A municipality, housing authority, community development corporation and eligible
325 organization may exercise their right to purchase the housing accommodation, if the mortgagee
326 receives an offer from a third party at the auction; provided, however, that the municipality,
327 housing authority, community development corporation or eligible organization: (i) submits to
328 the mortgagee a proposed purchase contract on substantially equivalent terms and conditions to
329 that received by the mortgagee in the third-party offer within 60 days of receipt of notice of the
330 bid made under (f)(3) of this section; (ii) obtains a binding commitment for any necessary
331 financing or guarantees within an additional 90 days after execution of the purchase and sale
332 agreement; and (iii) closes on such purchase within an additional 90 days after the end of the 90
333 days under clause (ii).

334 (4) No mortgagee shall unreasonably refuse to enter into, or unreasonably delay the
335 execution or closing on a purchase contract with a municipality, housing authority, community
336 development corporation and eligible organization who have made a bona fide offer to meet the
337 price and substantially equivalent terms and conditions of a bid received at auction. Failure of the
338 municipality, housing authority, community development corporation and eligible organization
339 to submit a purchase contract within the first 60 days, to obtain a binding commitment for
340 financing within the additional 90 days or to close on the purchase within the second 90 days,
341 shall serve to terminate the rights of the municipality, housing authority, community

342 development corporation and eligible organization to purchase. The time periods herein provided
343 may be extended by agreement. A right to purchase hereunder shall be for the purpose of
344 maintaining the use of the housing accommodation as permanently affordable rental housing.

345 If there are no third-party bids at auction for the housing accommodation, the
346 municipality, housing authority, community development corporation and eligible organization
347 shall have a right of first refusal whenever the mortgagee seeks to sell the housing
348 accommodation. The municipality, housing authority, community development corporation and
349 eligible organization shall be notified of any offers the mortgagee intends to accept and shall be
350 given an opportunity to meet the price and substantially equivalent terms of a third-party offer
351 based on the same timeline described in paragraph (4) of subsection (f).

352 (5) The right of first refusal created herein shall inure to the municipality, housing
353 authority, community development corporation, and eligible organization for the time periods
354 herein before provided, beginning on the date of notice to the tenants under paragraph (1) of
355 subsection (f).

356 (6) The attorney general shall enforce subsection (f) and shall promulgate rules and
357 regulations necessary for enforcement. The attorney general may seek injunctive, declaratory,
358 and compensatory relief on behalf of tenants and the commonwealth in a court of competent
359 jurisdiction. The attorney general shall post a sample intent to sell notice, sample proof of notice
360 to tenants, sample notice of offer, and other necessary documents.

361 (7) In any instance where the municipality, housing authority, community development
362 corporation and eligible organization is not the successful purchaser, the seller of such housing
363 accommodation shall provide evidence of compliance with this section by filing an affidavit of

364 compliance with the attorney general, the department, and the official records of the county
365 where a housing accommodation is located within 7 days of the sale.

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

373 (i) No tenant in a housing accommodation purchased by a municipality, housing
374 authority, community development corporation and eligible organization shall be evicted, except
375 for good cause .

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

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

379 (2) a proposed below-market sale to an organization organized under section 501(c)(3) of
380 the Internal Revenue Code where a housing accommodation shall be used or developed as long-
381 term affordable housing; sale to a purchaser pursuant to terms and conditions that preserve
382 affordability;

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

384 (4) rental units in a nonprofit facility that has the primary purpose of providing short term
385 treatment, assistance or therapy for alcohol, drug, or other substance use; provided, however, that
386 such housing is incidental to the recovery program, and where the resident has been informed in
387 writing of the temporary or transitional nature of the housing;

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

393 (6) public housing units owned or managed by or with a ground lease from the local
394 housing authority;

395 (7) any unit that is held in trust on behalf of a disabled individual who permanently
396 occupies the unit, or a unit that is permanently occupied by a disabled parent, sibling, child, or
397 grandparent of the owner of that unit;

398 (8) any unit that is transferred to any beneficiary in a trust in which beneficial interests
399 are retained by the owner of the housing accommodation or an immediate family member;

400 (9) any sale to an immediate family member of the owner for a total purchase price below
401 the current assessed value of a housing accommodation;

402 (10) a transfer by devise, descent or operation of law upon the death of a natural person;
403 and

404 (11) a sale of a newly constructed property for which the initial certificate of occupancy
405 was issued no earlier than three years prior to the date of the purchase contract between a buyer
406 and the party to which the certificate of occupancy was issued.

407 (k) A municipality, housing authority, community development corporation and eligible
408 organization shall not solicit or accept payment or any other consideration for assigning or
409 waiving any rights under this section.

410 (l) An aggrieved municipality, housing authority, community development corporation
411 and eligible organization may seek damages under chapter 93A, may file a complaint with the
412 attorney general and may file a court complaint for equitable or monetary relief, including, but
413 not limited to, damages of a percentage of the sales price or injunctive relief in the form of
414 specific performance. Nothing in this section shall be construed to limit or constrain in any way
415 the rights tenants currently have under applicable laws, including, but not limited to, chapters
416 186 and 186A.