SENATE DOCKET, NO. 1867 FILED ON: 1/21/2011

SENATE . . . . . No. 857

The Commonwealth of Massachusetts

PRESENTED BY:

Richard J. Ross

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 relative to mandatory rent escrowing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard J. Ross	*Norfolk, Bristol, and Middlesex*
Bruce E. Tarr	

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SENATE . . . . . No. 857

By Mr. Ross, a petition (accompanied by bill, Senate, No. 857) of Richard J. Ross and Bruce E. Tarr for legislation relative to mandatory rent escrowing. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to mandatory rent escrowing.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 8A of chapter 239 of the General Laws, is hereby amended by striking out, after the words "section unless: (1)" in the second paragraph, the following text:- "the owner or his agents, servants, or employees, or the person to whom the tenant or occupant customarily paid his rent knew of such conditions before the tenant or occupant was in arrears in his rent; (2) the plaintiff does not show that such conditions were caused by the tenant or occupant or any other person acting under his control; except that the defendant shall have the burden of proving that any violation appearing solely within that portion of the premises under his control and not by its nature reasonably attributable to any action or failure to act of the plaintiff was not so caused; (3) the premises are not situated in a hotel or motel, nor in a lodging house or rooming house wherein the occupant has maintained such occupancy for less than three consecutive months; and (4) the plaintiff does not show that the conditions complained of cannot be remedied without the premises being vacated; provided, however, that nothing in this clause shall be construed to deprive the tenant or occupant of relief under this section when the premises are temporarily vacated for purposes of removal or covering of paint, plaster, soil or

15 other accessible materials containing dangerous levels of lead pursuant to section one hundred
16 and ninety-seven of chapter one hundred and eleven.", and inserting in place thereof the
17 following text:- "the tenant or occupant deposits with the clerk all rent due prior to final
18 disposition of the plaintiff's action; (2) the owner or his agents, servants or employees, or the
19 person to whom the tenant or occupant customarily paid his rent was given written notice of such
20 conditions before the tenant or occupant was in arrears in his rent; (3) the plaintiff does not show
21 that such conditions were caused by the tenant or occupant or any other person acting under his
22 control; except that the defendant shall have the burden of proving that any violation appearing
23 solely within that portion of the premises under his control and not by its nature reasonably
24 attributable to any action of failure to act of the plaintiff was not so caused; (4) the premises are
25 not situated in a hotel or motel, nor in a lodging house or rooming house wherein the occupant
26 has maintained such occupancy for less than three consecutive months; and (5) the plaintiff does
27 not show that the conditions complained of cannot be remedied without the premises being
28 vacated; provided, however, that nothing in this clause shall be construed to deprive the tenant or
29 occupant of relief under this section when the tenant otherwise applies rent pursuant to section
30 one hundred twenty-seven of chapter one hundred eleven L or when the premises are temporarily
31 vacated for purposes of removal or covering of paint, plaster, soil or other accessible materials
32 containing dangerous levels of lead pursuant to section one hundred and ninety-seven of chapter
33 one hundred and eleven."

34 SECTION 2. Section 8A of chapter 238 of the General Laws, is hereby amended by
35 striking out, after the words, "chapter by the landlord" in the fourth paragraph, the word:-
36 "voluntarily".

37 SECTION 3. Section 8A of chapter 238 is hereby further amended by striking out, after
38 the words “the case may require” in the fourth paragraph, the following:- “the tenant or occupant
39 claiming under this section to pay to”.

40 SECTION 4. Section 8A of chapter 238 is hereby further amended by inserting, after the
41 words “clerk of the court” in the fourth paragraph, the following:- “to pay to the landlord, from
42 the deposit required by the second paragraph,”.

43 SECTION 5. Section 8A of chapter 238 is hereby further amended by striking out, after
44 the words “any amount for rent” in the fourth paragraph, the following:- “or for use and
45 occupation”.

46 SECTION 6. Section 8A of chapter 238 is hereby further amended by striking out, after
47 the words, “after hearing the case” in the fourth paragraph, the word:- “may” and inserting in
48 place thereof the word:- “shall”.

49 SECTION 7. Section 8A of chapter 238 is hereby further amended by striking out, after
50 the words, “provisions of this section” in the fourth paragraph, the word:- “may” and inserting in
51 place thereof the word:- “shall”.