SENATE DOCKET, NO. FILED ON: 1/13/2009

**SENATE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PRESENTED BY:

**Richard R. Tisei**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*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 passage of the accompanying bill:

An Act relative to rent witholding.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

|  |  |
| --- | --- |
| Name: | District/Address: |
| Richard R. Tisei | Middlesex and Essex |

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00780 OF 2007-2008.]

The Commonwealth of Massachusetts

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act relative to rent witholding.

 *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, as appearing in the 2004 Official Edition, is hereby amended by striking out the second, third and four paragraphs and inserting in place thereof the following 6 paragraphs:—

At any time when a person is entitled to serve a notice to quit upon a tenant or occupant or is otherwise entitled to commence a summary process action pursuant to this chapter, such person may demand, in the notice to quit or by later demand, that the tenant or occupant pay into court all unpaid rent or use and occupancy that is accruing or has accrued since the first day of the sixth full calendar month prior to the date of service of the notice or later demand. Such amount shall be paid within 5 business days following the date of service of the notice or later demand, whichever is later; provided, however, that in the event that the tenant’s or occupant’s rent is subsidized by any governmental agency or governmentally subsidized agency, the amount to be paid shall be limited to only that portion of the rent paid by the tenant or occupant. Any notice to quit or later demand submitted in accordance with this paragraph shall include a statement indicating into which court the deposit shall be made. Such court may be any court which would have jurisdiction over a summary process action against the tenant or occupant. The person making such demand shall file with such court a copy of the notice to quit or later demand, together with a statement under oath by the person who served such notice to quit or later demand indicating how such service was made. Service of such notice to quit or later demand shall be by any means permitted for service of a summary process complaint. Such court shall have jurisdiction over all issues arising out of the demand for such deposit, which shall be considered a separate action from any summary process action against such tenant or occupant and shall be commenced by the filing of the copy of the notice to quit. The person making such demand shall be the plaintiff. The tenant or occupant receiving such demand shall be the defendant. Any notice to quit or later demand submitted in accordance with this paragraph shall contain a statement of the agreed-upon rent rate heretofore payable, the subsidized tenant’s or occupant’s portion of the agreed-upon rent rate, if applicable, and the amount of any and all unpaid rent as defined and limited by this paragraph. Any notice to quit or later demand submitted in accordance with this paragraph shall contain a statement prepared by the department of housing and community development of the tenant’s rights and responsibilities under this section. Such statement shall be prepared by the department within six weeks after passage of this act.

The defendant shall pay into court within 5 business days of service of the notice or later demand the amounts so demanded under the previous paragraph and shall continue to pay into court within 3 business days after its due date the agreed-upon rent rate or the unsubsidized portion thereof that accrues during the pendency of the action demanding deposit in accordance with the preceding paragraph or during the pendency of a companion summary process action; provided, however, that the tenant or occupant may deduct any amounts, documented with copies of receipts, that were reasonably spent by the tenant or occupant pursuant to section 127L of chapter 111. Such copies of receipts shall be deposited in the same manner with the court in lieu of payment. The defendant shall provide the court with the name of the plaintiff in the action demanding deposit or in the companion summary process action. The defendant shall notify the plaintiff in writing of the amounts so deposited and shall provide therewith copies, if any, of all receipts deposited with the court according to this section.