

HOUSE No.

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

James J. O'Day

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 protecting tenants from unjustified evictions on foreclosed properties in the city of Worcester .

PETITION OF:

NAME:

James J. O'Day

DISTRICT/ADDRESS:

14th Worcester District

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT PROTECTING TENANTS FROM UNJUSTIFIED EVICTIONS ON FORECLOSED PROPERTIES IN THE CITY OF WORCESTER .

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. As used in this Act, the following words shall, unless the context clearly requires otherwise,
2 have the following meanings:

3 “Entity”, a business organization, or any other kind of organization, including without limitation, a
4 corporation, partnership, trust, limited liability corporation, limited liability partnership, joint venture,
5 sole proprietorship, or any other category of organization, and any employee, agent, servant or other
6 representative of such entity.

7 “Eviction”, any action, without limitation, by a foreclosing owner of a housing accommodation which is
8 intended to compel a tenant or occupant to vacate or to be constructively evicted from such housing
9 accommodation.

10 “Foreclosing owner”, an entity that both (1) held or owned a mortgage or other security interest in the
11 housing accommodation at any point prior to the foreclosure of the housing accommodation or is the
12 subsidiary, parent, or agent of , or otherwise is related to any entity which held or owned the mortgage
13 or other security interest in the housing accommodation at any time prior to the foreclosure of the
14 housing accommodation; and (2) holds title to this housing accommodation that it acquired at a
15 foreclosure sale or by any other method of foreclosure.

16 For the purpose of this definition, the phrase “holds title” shall include an entity which holds title in any
17 capacity, directly or indirectly, without limitation, whether in its own name, as trustee, or as beneficiary.
18 Any entity which attempts to evict tenants from the housing accommodation, whether in its own name,
19 as trustee, as mortgage servicer, or as beneficiary, or in any other role, without limitation, shall be
20 considered to “hold title” for the purpose of this definition.

21 Any institutional mortgagee that holds title to a housing accommodation that has been foreclosed upon
22 within the last three years shall be considered to be a foreclosing owner for the purpose of this act.

23 “Foreclosure”, a legal proceeding to terminate a mortgagor’s interest in property, instituted by the
24 mortgagee, either to gain title or to force a sale in order to satisfy the unpaid debt secured by the
25 property, including, without limitation, foreclosure by action, by bill in equity, by entry and continuation
26 of possession for three years, and by sale under the power of sale in a mortgage as described in chapter
27 244 of the General Laws.

28 “Foreclosure sale”, the foreclosure of a mortgage by sale of a housing accommodation pursuant to a
29 power of sale in a mortgage deed, as described in section 14 of chapter 244 of the General Laws.

30 “Housing accommodation”, any building or buildings, structure or structures, or part thereof or land
31 appurtenant thereto, or any other real or personal property used, rented or offered for rent for living or
32 dwelling purposes, together with all services connected with the use or occupancy of such property.

33 “Institutional mortgagee”, any entity that holds or owns mortgages or other security interest in three or
34 more properties in the city of Worcester, or acts as a mortgage servicer of three or more mortgages of
35 properties in the city of Worcester, or is the subsidiary, parent, or agent of, or otherwise related to any
36 entity which holds or owns mortgages or other security interests in three or more properties in the city
37 of Worcester or acts as a mortgage servicer of three or more mortgages of properties in the city of
38 Worcester.

39 “Just Cause”, shall be at least one of the following:

40 (a) the tenant or occupant has failed to pay the rent in effect prior to the foreclosure or failed to
41 pay use and occupancy charges, but only if the foreclosing owner notified the tenant or
42 occupant in writing of the amount of rent or use and occupancy that was to be paid and to
43 whom it was to be paid;

44 (b) the tenant or occupant has violated an obligation or covenant of the tenancy or occupancy
45 other than the obligation to surrender possession upon proper notice and has failed to cure
46 such violation within a reasonable time after having received written notice thereof from the
47 foreclosing owner;

48 (c) the tenant or occupant is committing or permitting to exist a nuisance in, or is causing
49 substantial damage to, the unit, or is creating a substantial interference with the quiet
50 enjoyment of other occupants;

51 (d) the tenant or occupant is convicted of using or permitting the unit to be used for any illegal
52 purpose;

53 (e) the tenant or occupant who had a written lease or other rental agreement which terminated
54 on or after this act has taken effect, has refused, after written request or demand by the
55 foreclosing owner to execute a written extension or renewal thereof for a further term of like

56 duration and in such terms that are not inconsistent with or violative of any provisions of this
57 act;

58 (f) the tenant or occupant has refused the foreclosing owner reasonable access to the unit for
59 the purpose of making necessary repairs or improvement required by the laws of the United
60 States, the commonwealth of Massachusetts or the city of Worcester, or for the purpose of
61 inspection as permitted or required by agreement or by law or for the purpose of showing the
62 rental housing unit to a prospective purchaser or mortgagee.

63 “Mortgagee”, an entity to whom property is mortgaged; the mortgage creditor, or lender, including, but
64 not limited to, mortgage servicers, lenders in a mortgage agreement and any agent, servant, or
65 employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee’s rights,
66 interests or obligations under the mortgage agreement.

67 “Mortgage Servicer”, an entity which administers or at any point administered the mortgage, including,
68 but not limited to, calculating principal and interest, collecting payments from the mortgagor, acting as
69 an escrow agent, and foreclosing in the event of a default.

70 “Post-foreclosure eviction”, an eviction of a tenant by a foreclosing owner.

71 “Tenant or occupant”, any person or group of persons entitled to occupy a housing accommodation
72 pursuant to a written lease, tenancy at will, tenancy at sufferance or otherwise.

73 “Unit” or “residential unit”, the room or group of rooms within a housing accommodation which is used
74 or intended for use as a residence by one household.

75 SECTION 2. Notwithstanding any other special or general law to the contrary, the foreclosing owner shall
76 not evict a tenant or occupant except for just cause.

77 SECTION 3. Any foreclosing owner that evicts tenants or occupants in violation of any provisions of this
78 act, or any ordinance or by-law adopted pursuant to this act, shall be punished by a fine of not less than
79 ten thousand dollars. Each eviction done in violation of this act constitutes a separate offense.

80 The district and superior courts, and the housing courts in the city of Worcester, shall have jurisdiction
81 over an action arising from any violation of this act, or any ordinance adopted pursuant to this act, and
82 shall have jurisdiction in equity to restrain any such violation. No tenant shall be evicted in violation of
83 any provision of this act or any ordinance adopted pursuant to this act. It shall be a defense to eviction
84 that the foreclosing owner attempted to evict tenants in violation of any provision of this act or any
85 ordinance adopted pursuant to this act.

86 SECTION 4. This act shall take effect upon passage and shall cease to have effect on December 31, 2013.