

# Massachusetts Alliance Against Predatory Lending

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## AN ACT TO PROTECT TENANTS FROM EVICTION IN FORECLOSED PROPERTIES

Senate Bill 1609, Main Sponsor: Senator Chandler  
House Bill 1232, Main Sponsor: Representative Malia

### WHAT WILL THIS BILL DO?

- ✓ This bill would deter unnecessary evictions and stabilize communities during the current foreclosure crisis.
- ✓ Under this bill, institutional foreclosing lenders would not be able to evict tenants (of all types) in foreclosed property unless they had a good reason to do so.
- ✓ This bill would only apply to institutional lenders and not to subsequent buyers who purchase foreclosed properties at the foreclosure sale or after.
- ✓ This bill is time limited – it would expire on December 31, 2013.

### UNDER WHAT CIRCUMSTANCES COULD A FORECLOSING ENTITY EVICT A TENANT UNDER THIS BILL?

A foreclosing lender could evict a tenant, including at tenant-at-sufferance (former homeowner), in certain circumstances, including the following:

- A binding purchase and sale agreement with a prospective owner-occupant requires that that portions or all of the property be vacant
- Non-payment of agreed-upon rent
- Criminal behavior
- Refusing access to the owner, and similar violations of standard tenancy obligations

### WHY IS THIS BILL NEEDED?

Under current law, the foreclosing owner does not need to have any justification to evict – simply wanting the resident out is sufficient.<sup>1</sup> The human cost of these mass evictions is heavy as former renters who paid rent and satisfied their tenancy obligations, and former homeowners who are willing to do so, turn to homeless shelters, find it harder to rent elsewhere, and suffer all the destabilizing effects of forced dislocation.

- ✓ In the first 11 months of 2008, 21,000 foreclosure petitions were filed across the state.
- ✓ These petitions could result in as many as 30,000 households being evicted.
- ✓ Massachusetts will face \$2.8 billion lost in property values (half of which is in properties not directly involved in the foreclosure cycle) and \$58.9 billion lost in household wealth in Massachusetts alone by end of 2009.

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<sup>1</sup> One exception is that a foreclosing owner must generally have good cause to evict a Section 8 tenant.

## **HAVEN'T WE ALREADY PASSED LEGISLATION PROTECTING TENANTS IN FORECLOSED BUILDINGS?**

In November 2007 the Legislature passed Chapter 206 of the Acts of 2007 to stem the tidal wave of residential foreclosures hitting the state. Chapter 206 was aimed primarily at preventing future predatory lending schemes and funding pre-foreclosure assistance for owners. Chapter 206 also includes two provisions clarifying that tenancies survive foreclosure, meaning that the foreclosing owners become landlords of remaining tenants. While these requirements have proven helpful for those renters lucky enough to have legal representation in foreclosure evictions, they do not *sufficiently* address the mass evictions that are still going on. This bill builds upon and fills in gaps left by the tenant provisions in Chapter 206.

Also filed are three other bills: *An Act to Protect Tenants from Eviction in Foreclosed Properties, An Act Relative to a Temporary Moratorium on Foreclosures*, and *An Act to Require Judicial Foreclosures*.

## **DO ANY OTHER STATES HAVE EVICTION PROTECTIONS SUCH AS THESE?**

Yes! This bill is modeled on similar laws from New Jersey, New Hampshire, Connecticut and the District of Columbia. And Fannie Mae has recently agreed to let paying tenants remain in their homes after foreclosure, but other foreclosing lenders continue to quickly evict all tenants (including former owners who become tenants-at-sufferance after foreclosure).

## **SOME USEFUL STATISTICS:**

The need for a bill to allow lawful and responsible tenants of all types to remain in their homes after foreclosure is pressing:

- Across the state 11,486 foreclosure deeds on single and multifamily properties were filed during the first 11 months of 2008, up 65 percent from the 6,970 deeds recorded during the same period in 2007. These foreclosures will likely result in the eviction of almost 15,000 households across the state.
- Courts report a heavy increase in eviction cases due to foreclosure evictions of tenants and homeowners. Between January 17 and February 29, 2008, 369 summary process (eviction) cases were listed for trial in the Lynn and Lawrence sessions of the Northeast Housing Court. Of these, 104, *almost one-third*, were filed by institutional lenders.
- And the suburbs, most with high shares of single family homes, are being hit harder as the foreclosure crisis spreads. Of the 762 foreclosure deeds recorded in the Middlesex North Registry of Deeds between January 1, 2007 and June 30, 2008, 38% were from the nine suburbs near Lowell (Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Tewksbury, Tyngsborough, Westford and Wilmington).

**MAAPL MEMBERS/SUPPORTING ORGANIZATIONS:** *Action for Boston Community Development, Inc., Association for Community Organizing for Reform Now (ACORN), Action for Regional Equity, ARISE for Social Justice, Arlington Community Trabajando, Boston Tenants Coalition, Brazilian Women's Group, Carpenters Local 40, Carpenters Local 107, Charles Hamilton Houston Institute For Race & Justice, Chelsea Collaborative, Chinese Progressive Association, City Life/Vida Urbana, Coalition for Social Justice, Community Economic Development Ctr of S.E. MA, Community Labor United, Democratic Socialists of America, Dorchester People for Peace, Era Key Realty Services, ESAC, Fair Housing Center of Greater Boston, Greater Boston Legal Services, Greater Four Corners Action Coalition, Green-Rainbow Party of MA, Harvard Legal Aid Bureau, Homeowner Options for MA Elders, Jewish Alliance for Law and Social Action, Lawrence Community Works, Lawyers' Committee for Civil Rights Under Law, Mass Advocates for Children, Mass AFL-CIO, Mass Coalition for the Homeless, Mass Community Action Network, Massachusetts Fair Housing Center, Mass Jobs With Justice, Mass Law Reform Institute, Mass Welfare Rights Union, Merrimack Valley Labor Council, NAACP N.E. Area Council, National Community Reinvestment Coalition, National Consumer Law Center, National Lawyers Guild, Neighbor-to-Neighbor, Neighborhood Legal Services, North Shore Labor Council, ¿Oiste?, Organization for a New Equality, Painters District Council 35, Pleasant St. Neighborhood Network Center, Southbridge Community Connections, Survivors Inc., Tri-City Community Action Program, UE Northeast Region, Union of Minority Neighborhoods, United Auto Workers Mass CAP, United Food & Commercial Workers 1445, United For a Fair Economy, United Steel Workers Local 5696, Volunteer Lawyers Project.*