

SENATE. No. S767

The Commonwealth of Massachusetts

PRESENTED BY:

Senator James B. Eldridge

An Act to Prevent Unnecessary Vacancies in Foreclosed Homes

SECTION 1. Chapter 244 of the Massachusetts General Laws is hereby amended by inserting after Section 14A the following new section:-

Section 14B: Occupant Remaining in Possession after Sale

If at the time of a sale of residential real property conducted in accordance with a power in a mortgage and with Section 14 of this chapter the mortgagor continues to occupy such property in whole or in part, and if the purchaser at such sale is the mortgagee or other person exercising the power of sale or a subsidiary, parent, trustee, or agent of such mortgagee or person or if the purchaser at such sale is any other entity that engages in mortgage lending or servicing or if the purchaser at such sale is the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation or the Federal Deposit Insurance Corporation, the mortgagor, and any household members, shall be permitted to remain until binding purchase and sale agreement has been executed for a bona fide with a purchaser who intends to occupy the housing accommodation as such purchaser's primary residence and who is not a foreclosing owner, where such agreement requires the housing accommodation or some portion thereof to be conveyed vacant, the foreclosure sale purchaser may initiate eviction proceedings against the mortgagor pursuant to the provisions of Chapter 239 of the General Laws.in possession of the property during the time the property is owned by the purchaser, provided the mortgagor

(1) makes monthly rent payments to the purchaser in an amount agreed to by the mortgagor and purchaser or, in the absence of such agreement, an amount equal to the Fair Market Rent as established by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. c § 1437f(o), as it exists or may be amended, for a unit of comparable size in the area in which the property is located;

(2) does not commit a nuisance in the property or cause substantial damage to the property or create a substantial interference with the quiet enjoyment of other occupants of the property;

(3) does not use or permit the property to be used for any illegal purpose; and

(4) does not refuse the purchaser reasonable access to the property for the purpose of making necessary repairs or improvement required by the laws of the United States, the commonwealth or any subdivision thereof, or for the purpose of inspection as permitted or required by agreement or by law or for the purpose of showing the unit to a prospective purchaser or mortgagee provided.

If the mortgagor remaining in possession after sale fails to comply with the conditions set forth in this section or if a binding purchase and sale agreement has been executed for a bona fide third party to purchase the property from the foreclosure sale purchaser, the foreclosure sale purchaser may initiate eviction proceedings against the mortgagor pursuant to the provisions of Chapter 239 of the General Laws.