

Massachusetts Alliance Against Predatory Lending

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AN ACT TO PREVENT UNNECESSARY VACANCIES IN FORECLOSED HOMES: FACT SHEET

Senate Bill 767, Main Sponsor: Senator Eldridge
House Bill 493, Main Sponsor: Representative Sanchez

What Does This Bill Do?

This Bill adds a section to the Massachusetts foreclosure law, G.L. c. 244, to allow homeowners and their families, if they fulfill the responsibilities of tenancy, to remain in their homes and pay rent after foreclosure under certain limited circumstances and for a limited period of time.

In order for the former owner to remain as an occupant after foreclosure, several conditions must be met: 1) the purchaser at foreclosure must be either the holder of the mortgage or in the mortgage business. If someone not in the mortgage business and not connected to the mortgage holder buys the property at foreclosure, that person may file an eviction against the former owner as allowed by current law; 2) The former homeowner must comply with basic occupancy obligations – pay the rent (equal to HUD fair market rent), not cause a nuisance, not commit illegal acts, etc.; 3) If the former homeowner does not comply with these standard rules, the purchaser at foreclosure can bring an eviction action against the former homeowner; 4) The purchaser at foreclosure may also bring an eviction action against the former homeowner if there is a binding purchase and sale agreement on the property with a bona fide purchaser or if the property is sold.

Three other bills filed:

Mandatory Foreclosure Mediation with Judicial Review
Judicial Foreclosure
Judicial Clarification of Ownership in Evictions

How Will Preventing Unnecessary Vacancies in Foreclosed Homes Help?

In 2010, the Massachusetts state legislature passed critical, ground breaking legislation protecting the rights of former tenants post-foreclosure as part of An Act Relative to Foreclosures. MAAPL was proud to be the central advocate for such legislation. We are now reaching out to former tenants in foreclosed buildings across the state about their new-gained rights. However, last year's bill protections do not extend to the majority of post-foreclosure occupants: the many prior homeowner residents who become tenants-at-sufferance, by state law, upon foreclosure.

Preventing Unnecessary Vacancies in Foreclosed Homes extends the benefits of on-going, responsible occupancy across our entire state. With those benefits, come increased neighborhood stability while decreasing the economic costs to our communities and overall economy. This protects the fabric of our neighborhood, ensures the housing stock and maintains assets as a revenue stream for the lenders until resale. In multi-unit buildings, the emptying out of just the former owner's household undermines the safety and well-being of the remaining prior tenant households and the surrounding neighborhood. Vacating of a foreclosed property compounds the damage of foreclosure; in Boston, for example, the vacating of one property costs neighbors, residents and the City between \$190 thousand to \$1.072 million

Won't Protecting Former Tenants Post-Foreclosure Have a Big enough Impact?

In 2010, 53% of occupants post-foreclosure were actually former homeowners, not prior renters. This percentage continues to increase as the foreclosure crisis spreads geographically into all areas of the state with fewer tenants and increased numbers of owner-occupants. The majority of foreclosures initially hit working class, urban, gateway cities and towns such as Chelsea, Worcester, Lynn, Brockton, and

Framingham but now reach Massachusetts' rural communities and into the heart of wealthy suburbs. A 2010 January MassHousing Partnership study states "The majority of distressed or bank-owned properties are located throughout scores of the state's outlying communities.... The rural towns of Winchendon, Ashburnham, and Athol have some of highest concentrations of foreclosures in the state." RealtyTrac, which follows foreclosures nationally, says "2011 is going to be the peak."

This bill prevents the eviction of tenants in foreclosed properties who were previously owner occupants if they are willing and able to be responsible tenants. It requires they meet all the standard tenant responsibilities to protect the property, not create a nuisance, pay fair market rents as defined by the federal government. Research shows that length of occupancy is even more important to commitment to upkeep of property and stabilization of a community.

How do Former Homeowners Now Become Tenants by State Law? Could They Ever be Evicted under this New Bill?

Massachusetts law separates the rights and responsibilities of homeownership from those of occupancy. By law, homeowners post foreclosure become tenants-at-sufferance and already have some of the rights and responsibilities of regular tenants such as eviction only through court. This Bill applies to occupants in residential property while it is owned and managed by foreclosing lenders. It defines the circumstances for eviction and requires former homeowners to meet tenant obligations such as paying rent.

The tenancy rights and responsibilities extended by this bill does not represent a barrier to repurchase of the property. Responsible tenants are an attraction to investors looking to purchasing property. In the case of potential new owner-occupants, the signing of a purchase and sale agreement triggers the right of the lending institution currently owning the property to evict existing occupants before resale.

Why Do We Need to Prevent Unnecessary Vacancies in Foreclosed Homes?

Benefits to individuals, neighborhoods and municipalities are starting to flow from the new law's implementation, protecting the numerous households prepared to pay and be responsible tenants. Insuring properties remain occupied while awaiting resale to longer term owner occupants and investors has provided protection to Massachusetts' critical housing stock. It also bolsters our neighborhoods, schools and religious institutions by preserving the presence of long-term households in our communities. Stopping the vacating of post-foreclosure homes while they are being held by a foreclosing lender also arrests increased blight, neglect and the downward impact on property values.

In addition, the presence of tenants ensures a revenue stream for lenders and protects their assets as their residential properties' longevity is protected and extended by responsible occupancy. It avoids the additional economic harm of vacancy on top of foreclosure to our property values, municipal tax bases, system of homeless services and portfolios of our community banks and credit unions. Tenant protections enacted in 2010 has primarily benefited those urban, "gateway" communities with high percentages of renters in residential properties. **We need to extend these vital economic benefits across the state.**

***MAAPL MEMBERS/SUPPORTING ORGANIZATIONS:** Action for Boston Community Development, Inc., Action for Regional Equity, Alliance of Providers of Legal Services to Individuals Facing Foreclosure, ARISE for Social Justice, Arlington Community Trabajando, Boston Tenants Coalition, Brazilian Women's Group, Brockton Interfaith Community, 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, Lynn United for Change, Legal Assistance Corporation of Central Mass, 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-Nighbor, Neighborhood Legal Services, New England United for Justice, North Shore Labor Council, ¿Oiste?, Organization for a New Equality, Painters District Council 35, Pleasant St. Neighborhood Network Center, Southbridge Community Connections, Springfield No One Leaves Coalition, 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, Worcester Anti-Foreclosure Team.*

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