

SENATE No. 00767

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 preventing unnecessary vacancies in foreclosed homes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>

SENATE No. 00767

By Mr. Eldridge, petition (accompanied by bill, Senate, No. 767) of Walsh, Rushing, Montigny and other members of the General Court for legislation to prevent unnecessary vacancies in foreclosed homes [Joint Committee on the Judiciary].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act preventing unnecessary vacancies in foreclosed homes.

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

3 Section 14B: Occupant Remaining in Possession after Sale

4 If at the time of a sale of residential real property conducted in accordance with a
5 power in a mortgage and with Section 14 of this chapter the mortgagor continues to occupy such
6 property in whole or in part, and if the purchaser at such sale is the mortgagee or other person
7 exercising the power of sale or a subsidiary, parent, trustee, or agent of such mortgagee or person
8 or if the purchaser at such sale is any other entity that engages in mortgage lending or servicing
9 or if the purchaser at such sale is the Federal National Mortgage Association or the Federal
10 Home Loan Mortgage Corporation or the Federal Deposit Insurance Corporation, the mortgagor,
11 and any household members, shall be permitted to remain until binding purchase and sale

12 agreement has been executed for a bona fide purchaser who intends to occupy the housing
13 accommodation as such purchaser's primary residence and who is not a foreclosing owner,
14 where such agreement requires the housing accommodation or some portion thereof to be
15 conveyed vacant, the foreclosure sale purchaser may initiate eviction proceedings against the
16 mortgagor pursuant to the provisions of Chapter 239 of the General Laws in possession of the
17 property during the time the property is owned by the purchaser, provided the mortgagor

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

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

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

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

32 If the mortgagor remaining in possession after sale fails to comply with the conditions
33 set forth in this section or if a binding purchase and sale agreement has been executed for a bona

34 fide third party to purchase the property from the foreclosure sale purchaser, the foreclosure sale
35 purchaser may initiate eviction proceedings against the mortgagor pursuant to the provisions of
36 Chapter 239 of the General Laws.