

SENATE No. 880

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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 adoption of the accompanying bill:

An Act to guarantee a tenant’s first right of refusal.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Adam Gomez</i>	<i>Hampden</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/31/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/31/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/3/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/10/2023</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/23/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/23/2023</i>

SENATE No. 880

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 880) of Patricia D. Jehlen, Adam Gomez, Sal N. DiDomenico, Jack Patrick Lewis and other members of the General Court for legislation to guarantee a tenant’s first right of refusal. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 890 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to guarantee a tenant’s first right of refusal.

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 184 of the General Laws as appearing in the 2020 Official Edition
2 is hereby amended by adding after section 21, the following new section:

3 Section 21A: Municipal Local Option for a Tenant’s Opportunity to Purchase

4 (a) For the purposes of this section, the following words shall, notwithstanding any
5 general or special law to the contrary, or unless the context clearly requires otherwise, have the
6 following meanings:

7 "Affiliate" an entity owned or controlled by an Owner or under common control with the
8 Owner.

9 “Auction” or "Public Auction", the sale of a Housing Accommodation, under power of
10 sale in a Mortgage Loan, by public bidding.

11 “Borrower", a mortgagor of a Mortgage Loan.

12 "Deed in Lieu," a deed for the collateral property, that the Mortgagee accepts from the
13 Borrower in exchange for the release of the Borrower’s obligation under the Mortgage Loan.

14 “Department”, Department of Housing and Community Development, or its successor
15 agency.

16 “Designee", a nonprofit organization established pursuant to chapter 180, a local housing
17 authority, or a controlled nonprofit or for-profit Affiliate of either such entity; provided that the
18 parent organization has requisite experience in developing, owning and/or operating residential
19 real estate and with the financial capacity to secure the financing of the purchase transaction;
20 provided that any purchase by a Designee under this section shall be for the purpose of the use of
21 the property as Long-Term Affordable Housing set out in a recorded restriction.

22 "Foreclosure," a proceeding to terminate a Borrower’s interest in property instituted by
23 the Mortgagee.

24 “Housing Accommodation," a building or buildings, structure or structures, or part
25 thereof, rented or offered for rent for living or dwelling purposes, including, without limitation,
26 houses, apartments, condominium units, cooperative units and other multi-family residential
27 dwellings; provided, however, that a Housing Accommodation shall not include a group
28 residence, homeless shelter, lodging house, orphanage, temporary dwelling structure or
29 transitional housing; and provided, further that a Housing Accommodation shall not include 1-4

30 unit Borrower-occupied Housing Accommodation if the Borrower is domiciled in the Housing
31 Accommodation at the initiation of the Short-sale, Deed in Lieu, or Foreclosure process.

32 “Immediate Family Member”, the parent, offspring, sibling, or spouse of the Owner, or a
33 trust in which the beneficiaries immediately after the creation are the Owner and the parent,
34 child, sibling and/or spouse of the Owner.

35 “Long-Term Affordable Housing”, for rental housing: housing where forty percent of the
36 housing units are affordable to households with incomes at or below sixty percent of the Area
37 Median Income as established by the U.S. Department of Housing and Urban Development
38 (AMI), and where these restrictions shall be in effect for at least thirty years and recorded in a
39 deed restriction; for homeownership housing: housing where all units are both (a) set at prices
40 affordable to, and (b) limited to purchase by, buyers whose incomes are at or below 100 percent
41 of the AMI, and at least fifty percent of the units are both (a) set at prices affordable to, and (b)
42 limited to purchase by, buyers with incomes at or below eighty percent of the AMI, and where
43 these restrictions shall be in effect for at least thirty years and recorded in a deed restriction.

44 "Member", a natural person who is a member of a Tenant Association.

45 "Minimum Tenant Participation”, the minimum percentage of Tenant-occupied housing
46 units that must participate as Members of the Tenant Association, which shall be 51 per cent of
47 the Tenant-occupied housing units. The Minimum Tenant Participation percentage shall be
48 calculated (rounded up) based on the number of Tenant-occupied housing units in a property,
49 rather than the number of individual Tenants. If there is more than 1 Tenant residing in a unit,
50 any of the Tenants in the unit may participate as Members of the Tenant Association for the unit

51 to be counted towards the participating percentage of units. The Minimum Tenant Participation
52 will be presumed to have been achieved for a period of 1 year after it is initially established.

53 "Mortgage Loan," a loan secured wholly or partially by a mortgage on a Housing
54 Accommodation.

55 "Mortgagee," an entity to whom property is mortgaged, the mortgage creditor or lender
56 including, but not limited to, mortgage servicers, lenders in a mortgage agreement and any agent,
57 servant or employee of the Mortgagee or any successor in interest or assignee of the Mortgagee's
58 rights, interests or obligations under the mortgage agreement.

59 "Owner", a person, firm, partnership, corporation, trust, organization, limited liability
60 company or other entity, or its successors or assigns, that holds title to real property.

61 "Purchaser", a party who has entered into a purchase contract with an Owner and who
62 will, upon performance of the purchase contract, become the new Owner of the property.

63 "Purchase Contract", a binding written agreement whereby an Owner agrees to sell
64 property including, without limitation, a purchase and sale agreement, contract of sale, purchase
65 option or other similar instrument.

66 "Sale", an act by which an Owner conveys, transfers or disposes of property by deed or
67 otherwise, whether through a single transaction or a series of transactions, within a 3 year period;
68 provided, that a disposition of housing by an Owner to an Affiliate of such Owner shall not
69 constitute a Sale.

70 "Short-Sale," a Sale approved by the Mortgagee to a bona fide Purchaser at a price that is
71 less than the Borrower's existing debt on the Housing Accommodation.

72 "Successor", the entity through which a Tenant Association may take title to the
73 residential property, including any of the following: (i) a non-profit or for-profit entity
74 controlled by the Tenant Association; or (ii) a limited equity cooperative organized under
75 Chapter 157B or non-profit corporation organized under Chapter 180, in either case controlled
76 by the Tenants of the property; or (iii) a joint venture between any of the entities in (i) or (ii) and
77 another party (including non-profit and for-profit entities) with: (a) the requisite experience in
78 acquiring, developing and owning residential property, and (b) the financial capacity to secure
79 financing of the purchase transaction; any such joint venture shall be for the purpose of the use
80 of the property as Long-Term Affordable Housing set out in a recorded restriction.

81 "Tenant", a person entitled to possession or occupancy of a rental unit within residential
82 housing, including a subtenant, lessee and sublessee.

83 "Tenant Association", an organization with a membership limited to present Tenants of a
84 property that: (i) is registered with, or if no registry exists has provided a letter stating its
85 formation to, the municipality that has adopted an ordinance consistent with this section; or (ii) is
86 a non-profit organization incorporated under chapter 180; provided that an organization shall not
87 be a Tenant Association if there is evidence that it was organized by the Owner.

88 "Third-Party Offer", an offer to purchase the mortgaged property for valuable
89 consideration by an arm's length Purchaser; provided, that a Third-Party Offer shall not include
90 an offer by the Borrower or the Tenants.

91 "Third-party Purchaser", a Purchaser that is not the Tenant Association at the property, or
92 its Designee, Successor, or an Affiliate.

93 (b) A city or town may adopt this section in the manner provided in section 4 of chapter
94 4. The acceptance of this local option by a municipality shall take effect no later than 180 days
95 after such adoption. A city or town may at any time revoke the acceptance of this section in the
96 manner provided in section 4 of chapter 4. The revocation shall not affect agreements relative to
97 Tenants' rights to purchase that have already been asserted, that is, when a Tenant Association,
98 its Successor, Designee or Assignee, have submitted an offer to the Owner, or executed the
99 proposed purchase contract or other agreement acceptable to both parties, prior to the revocation.

100 (c) A city or town's ordinance or bylaw accepting this Section may contain provisions
101 that establish:

102 additional tenancy protections for Tenant households that do not participate in the Tenant
103 Association; additional penalties, municipal enforcement authority, and enforcement
104 mechanisms, in addition to recorded restrictions, for enforcing the ordinance and provisions of
105 this section, and/or rules and regulations implementing this section; mandated use of a standard
106 purchase contract, prepared or approved by the municipality and consistent with this Section, for
107 Owners to provide to the Tenant Association, its Designee or Successor, under paragraph (d)(4);
108 for housing transferred under this section, additional affordability restrictions on the total
109 percentage of affordable units, the level of affordability, and/or the length of time such
110 restrictions shall be in place; and/or creating confidentiality agreement forms for Owners to use
111 to protect against the public disclosure of information provided pursuant to subsection (d)(5)(ii).

112 (d) In any city or town that adopts the provisions of this section:

113 (i) an Owner of a residential building shall notify the municipality and each Tenant
114 household, in writing by hand delivery and United States' mail, of the Owner's intention to sell

115 the property, with copy of the municipality's prepared summary of the ordinance adopted
116 hereunder, which shall include a reference to the lists in (ii).

117 (ii) The municipality shall maintain a list of qualified affordable housing developers and
118 of qualified technical assistance providers for residents and provide these lists to the residents.

119 A Tenant Association with the Minimum Tenant Participation may select a Successor
120 entity or a Designee to act on its behalf as purchaser of the property and shall give the Owner
121 and the municipality notice of its selection.

122 (i) An Owner of a residential building, unless the Owner is exempt from this Section and
123 it is the Owner's burden to provide proof of qualification for an exemption, shall provide to the
124 Tenant Association with Minimum Tenant Participation (if such association exists) or its
125 Successor or Designee, an opportunity to purchase the property pursuant to the time periods
126 contained in this Section, but no Owner shall be under any obligation to enter into an agreement
127 to sell such property to the Tenant Association, its Successor or Designee under this subsection
128 (d)(3).

129 (ii) A Tenant Association with the Minimum Tenant Participation, or its Successor or
130 Designee, may, within 30 days after receipt of the Owner's intention to sell, submit an offer to
131 the Owner to purchase the property. Failure to submit an offer within thirty days shall constitute
132 an irrevocable waiver of the Tenants' rights under this paragraph (3). An Owner also may accept
133 an offer and execute a purchase contract with a third party during this thirty-day period, subject
134 to paragraphs (4) to (7), inclusive.

135 Upon execution of any purchase contract with a third party, the Owner shall, unless the
136 Owner can prove they are exempt from this Section, within 7 days, submit: a copy of the

137 executed contract and proof that the deposit toward the purchase has been paid by the third party
138 along with a proposed purchase contract for execution by Tenant Association or its Successor, or
139 Designee (collectively, “the Purchase Documents”), and if no Tenant Association or Successor
140 or Designee exists, the Owner shall provide the Purchase Documents to the municipality and
141 provide a summary of the Purchase Documents (including purchase price, amount and schedule
142 of deposits, length of due diligence/ deposit refundability period, and closing date) to each
143 Tenant household, by hand delivery and United States' mail.

144 If (i) at least 30 days has passed from the Tenant households’ receipt of notice of the
145 Owner’s intention to sell (provided for in (d)(1)) and their receipt of the summary of the
146 Purchase Documents, and if a Tenant Association, with or without Minimum Tenant
147 Participation, or its Successor or Designee does not exist, then the Owner may immediately
148 proceed with the purchase contract with the third party; if (ii) less than 30 days have passed and
149 no Tenant Association with Minimum Tenant Participation has been formed, the Tenants shall
150 have 45 days after the receipt of the summary of the Purchase Documents, to form a Tenant
151 Association with Minimum Tenant Participation, select a Designee or Successor if they choose,
152 and have the Tenant Association or its Successor or its Designee execute the proposed purchase
153 contract or such other agreement as is acceptable to both parties; and

154 (iii) in all other cases, if the Tenant Association, or its Successor or, its Designee, elect to
155 purchase the property, the Tenant Association, or its Successor, or its Designee, shall within 21
156 days after the receipt of the third-party purchase contract and the proposed purchase contract,
157 execute the proposed purchase contract or such other agreement as is acceptable to both parties.

158 The time periods set forth in this subsection may be extended by agreement between the
159 Owner and the Tenant Association, its Successor or its Designee. Except as otherwise specified
160 in subsection (5), the terms and conditions of the proposed purchase contract offered to the
161 Tenant Association, Successor, or its Designee, shall be the same as those of the executed third-
162 party purchase contract. The Tenant Association or its Successor or Designee must include
163 reasonable evidence of Minimum Tenant Participation with its proposed purchase contract.

164 Any purchase contract offered to, or proposed by, the Tenant Association, its Successor
165 or its Designee shall provide at least the following terms: the earnest money deposit shall not
166 exceed the lesser of: the deposit in the third-party purchase contract; 5 per cent of the Sale price;
167 or \$250,000; provided, however, that the Owner and the Tenant Association, or its Successor, or
168 its Designee, may agree to modify the terms of the earnest money deposit; provided, further, that
169 the earnest money deposit shall be held under commercially-reasonable terms by an escrow
170 agent selected jointly by the Owner and the Tenant Association, its Successor or its Designee;
171 the Owner must provide the following information, documentation, and permissions, within 20
172 days of the date of the purchase contract of the Tenant Association, its Designee or Successor:
173 the current rent roll by unit size without tenant names or other identifying information; the
174 expiration date of every lease (if there is a lease); documentation of all operating expenses for the
175 prior two years, including utilities, insurance premiums, bills for repairs, and capital
176 improvements; permission to inspect all common and maintenance service areas of the property,
177 including roof, boiler room, electrical and telecommunications rooms; permission to conduct
178 inspections and tests for the presence of lead paint and asbestos; and permission to do tests for
179 regulated environmental toxins on unbuilt areas of the property, if required by the lender of the
180 Tenant Association, or its Designee or Successor; the contract will contain all reasonable

181 contingencies, including financing, marketability of title, and appraisal contingencies; the earnest
182 money deposit shall be refundable for not less than 60 days from the date of execution of the
183 purchase contract or such greater period as provided for in the third-party purchase contract (due
184 diligence period); provided, however, that if the Owner unreasonably delays the buyer's ability to
185 conduct due diligence during the 60 day period, the earnest money deposit shall continue to be
186 refundable for an additional period of one day for every day beyond 20 days that the Owner has
187 not complied with the provisions of subsection (5) (ii) above. After the expiration of the
188 specified time period, the earnest money deposit shall become non-refundable but shall continue
189 to be a deposit toward the full purchase price.

190 Real estate broker commissions or fees that are associated with the third-party purchase
191 transaction shall be payable upon the closing of the purchase.

192 Closing date: The Tenant Association or its Successor, or Designee, shall have 60 days
193 for a property of 1 to 5 units, 75 days for a property of 6 to 20 units, and 120 days for a property
194 of 21 or more units, from execution of the purchase contract to perform all due diligence, secure
195 financing for and close on the purchase of the building; provided, however, that if the Owner
196 unreasonably delays the buyer's ability to conduct due diligence, the closing date shall be
197 extended for an additional period of one day for every day beyond the required 30 days that the
198 Owner has not complied with the provisions of subsection (d) (5) (ii) above. Failure to exercise
199 the purchase option by the closing date shall constitute a waiver of the purchase option by the
200 Tenant Association, its Successor, or its Designee. The closing date may be extended by
201 agreement of both parties.

202 If the Tenant Association, its Designee or Successor, do not exercise their purchase
203 option the Owner may proceed with the sale to the third-party. If the closing date in the third-
204 party contract is extended, for each such extension, the Owner shall provide the municipality and
205 the Tenant Association, Designee or Successor a notarized amendment to the purchase contract
206 extending the date of the closing. Within 7 days of the termination of the third-party purchase
207 contract the Owner shall notify the municipality and the Tenant Association, its Designee or its
208 Successor of the termination. Said notice shall trigger the provisions of paragraphs (d)(1) through
209 (d)(7) of this Section.

210 In any instance where the Tenant Association, its Designee or Successor, is not a
211 successful purchaser, an Owner shall provide evidence of compliance with this Section by filing
212 a affidavit of compliance signed under the penalty of perjury with the municipality, the
213 Department, and the official records of the county where the property is located within seven
214 days of the Sale.

215 The Tenant Association, Successor, or its Designee shall ensure that their purchase of the
216 property will not result in the displacement of any Tenant households existing at the time of
217 purchase based solely on their choice not to participate in the purchase of the property.

218 Any property acquired under this subsection, that is not subject to a Long-Term
219 Affordable Housing requirement, shall be for the purpose of use of the property as: (i) Long-
220 Term Affordable Housing set out in a recorded restriction; (ii) cooperative housing subject to a
221 covenant, satisfactory to the municipality in form and substance and having a term of not less
222 than twenty years, that a majority of residential units be occupied by Tenant-stockholders as their
223 primary residence; or (iii) condominium units subject to a covenant, satisfactory to the

224 municipality in form and substance and having a term of not less than twenty years, that a
225 majority of units be occupied by unit Owners as their primary residence. For purposes of (ii) and
226 (iii) of this requirement, Owner-occupied or Tenant-stockholder occupied includes (i) a person in
227 military service on active duty who intends to occupy the residential unit when not on active
228 duty, and (ii) a disabled occupant where the Owner/Tenant-stockholder is a their parent or legal
229 guardian.

230 This subsection (d) shall not apply to the following:

231 Property that is the subject of a government taking by eminent domain or a negotiated
232 purchase in lieu of eminent domain; a proposed below-market Sale to an organization organized
233 under Section 501(c)(3) of the Internal Revenue Code where the property shall be used or
234 developed as Long-Term Affordable Housing; any Sale of publicly-assisted housing, as defined
235 in section 1 of chapter 40T; rental units in any hospital, skilled nursing facility, or health facility;
236 rental units in a nonprofit facility that has the primary purpose of providing short term treatment,
237 assistance, or therapy for alcohol, drug, or other substance abuse; provided, that such housing is
238 incident to the recovery program, and where the client has been informed in writing of the
239 temporary or transitional nature of the housing; rental units in a nonprofit facility that provides a
240 structured living environment that has the primary purpose of helping homeless persons obtain
241 the skills necessary for independent living in a permanent housing and where occupancy is
242 restricted to a limited and specific period of time of not more than 24 months and where the
243 client has been informed in writing of the temporary or transitional nature of the housing at its
244 inception; public housing units owned or managed by or with a ground lease from the local
245 housing authority; any residential property where the Owner, who owns it directly or through an
246 Affiliate, can show that (i) the Owner is a natural person(s), which natural person(s), together

247 and/or separately, own, either directly and/or through an Affiliate(s), fewer than 10 residential
248 rental units in the municipality.

249 Any unit that is held in trust on behalf of a disabled individual who permanently occupies
250 the unit, or a unit that is permanently occupied by a disabled parent, sibling, child, or grandparent
251 of the Owner of that unit; any property that is owned by a college or university that is occupied
252 exclusively by students; any Sale to an Immediate Family Member of the Owner for a total
253 purchase price at or below the current assessed value of the property; a transfer by devise,
254 descent, or operation of law upon the death of a natural person; a Sale of a newly constructed
255 property for which the initial certificate of occupancy was issued no earlier than three years prior
256 to the date of the purchase contract between a buyer and the party to which the certificate of
257 occupancy was issued; a property of one to four units, where the owner actually maintains and
258 occupies one of the units as his/her residence; any residential property where the Owner directly
259 or indirectly through an Affiliate owns only one unit in the property; or any property with more
260 than 50 residential units, where the median rent of the property is at least 150% of the median
261 rent of the municipality as determined by the most recent American Community Survey of the
262 Census Bureau.

263 The Department shall enforce this subsection (d) and shall promulgate rules and
264 regulations necessary for enforcement. The Department shall provide municipalities with sample
265 purchase contracts incorporating the requirements of this Section that an Owner can provide to a
266 Tenant Association, its Designee or Successor.

267 (e) Short-Sales. In any city or town that adopts the provisions of this Section:

268 An Owner, other than the Owner of a 1- 4 unit Owner-occupied property, shall give
269 notice to each Tenant household of a Housing Accommodation of the intention to sell the
270 Housing Accommodation by way of Short-Sale to avoid Foreclosure. Such notice shall be mailed
271 by regular and certified mail, with a simultaneous copy to the attorney general, and the
272 municipality adopting this section within 2 business days of the Owner's submission of a request
273 or application to the Mortgagee for permission to sell the Housing Accommodation by way of
274 Short-Sale or to accept a Deed in Lieu. This notice shall also include a notice of the rights
275 provided by this section.

276 No Mortgagee may accept any Third-Party Offers or deem the Owner's application for
277 Short-Sale submitted for review unless and until: the Mortgagee receives documentation in a
278 form approved by the attorney general demonstrating that the Tenants of the Housing
279 Accommodation have been informed of the Owner's intent to seek a Short-Sale or Deed in Lieu
280 and the Tenants have had the opportunity to express their interest in exercising a right of first
281 refusal within 60 days or the opportunity to assigned their right of first refusal, or the Tenants
282 have waived those rights. If Tenants have not affirmatively expressed their interest in exercising
283 a right of first refusal or in assigning that right within 60 days, or have not affirmatively waived
284 that right within 60 days, the Tenants' rights are deemed waived.

285 Before a Housing Accommodation may be transferred by Short-Sale or Deed in Lieu, the
286 Owner, other than the Owner of a 1-4 unit owner-occupied property shall notify each Tenant
287 household, with a simultaneous copy to the attorney general and the municipality adopting this
288 section, by regular and certified mail, of any bona fide offer that the Mortgagee intends to accept.
289 Before any Short-Sale or transfer by Deed in Lieu, the Owner shall give each Tenant household
290 such a notice of the offer only if households constituting at least 51 per cent of the households

291 occupying the Housing Accommodation notify the Owner, in writing, that they collectively
292 desire to receive information relating to the proposed Sale. Tenants may indicate this desire
293 within the same notice described in paragraph (2). Any notice of the offer required to be given
294 under this subsection shall include the price, calculated as a single lump sum amount and of any
295 promissory notes offered in lieu of cash payment.

296 A Tenant Association representing at least 51 per cent of the households occupying the
297 Housing Accommodation that are entitled to notice under the preceding paragraph (3) shall have
298 the collective right to purchase, in the case of a Third-Party Offer that the Mortgagee intends to
299 accept, provided that it: submits to the Owner reasonable evidence that the Tenants of at least 51
300 per cent of the occupied units in the Housing Accommodation have approved the purchase of the
301 Housing Accommodation, submits to the Owner a proposed purchase and sale agreement on
302 substantially equivalent terms and conditions within 60 days of receipt of notice of the offer
303 made under the preceding paragraph (3), obtains a binding commitment for any necessary
304 financing or guarantees within an additional 90 days after execution of the purchase and sale
305 agreement, and closes on such purchase within an additional 90 days after the end of the 90-day
306 period described in clause (iii).

307 No Owner shall unreasonably refuse to enter into, or unreasonably delay the execution or
308 closing on a purchase and sale with Tenants who have made a bona fide offer to meet the price
309 and substantially equivalent terms and conditions of an offer for which notice is required to be
310 given pursuant to paragraph (3). Failure of the Tenants to submit such a purchase and sale
311 agreement within the first 60-day period, to obtain a binding commitment for financing within
312 the additional 90-day period or to close on the purchase within the second 90-day period, shall
313 serve to terminate the rights of such Tenants to purchase. The time periods herein provided may

314 be extended by agreement. Nothing herein shall be construed to require an Owner to provide
315 financing to such Tenants. A Tenant Association that has the right to purchase hereunder, at its
316 election, may assign its purchase right hereunder to the city or town in which the Housing
317 Accommodation is located, or the housing authority of the city or town in which the Housing
318 Accommodation is located, or an agency of the commonwealth, nonprofit, community
319 development corporation, affordable housing developer, or land trust. A right to purchase
320 hereunder shall be for the purpose of maintaining the use of the Housing Accommodation as
321 permanently affordable rental housing.

322 The right of first refusal created herein shall inure to the Tenants for the time periods
323 hereinbefore provided, beginning on the date of notice to the Tenants under paragraph (1). The
324 effective period for such right of first refusal shall begin anew for each different offer to
325 purchase that the Mortgagee intends to accept. The right of first refusal shall not apply with
326 respect to any offer received by the Owner for which a notice is not required pursuant to said
327 paragraph (3).

328 In any instance where the Tenants are not the successful purchaser of the Housing
329 Accommodation, the Mortgagee shall provide evidence of compliance with this section by filing
330 an affidavit of compliance signed under the penalty of perjury with the attorney general, and the
331 registry of deeds for the county and district where the property is located within 7 days of the
332 Sale.

333 The attorney general shall enforce this subsection (e) and shall promulgate rules and
334 regulations necessary for enforcement. The attorney general may seek injunctive, declaratory,
335 and compensatory relief on behalf of Tenants and the Commonwealth in a court of competent

336 jurisdiction. The attorney general shall post a sample intent to sell notice, sample proof of notice
337 to Tenants, sample notice of offer, and other necessary documents.

338 (f) Foreclosures. In any city or town that adopts the provisions of this Section:

339 When a Mortgagee seeks to foreclose, the Mortgagee shall provide copies of all
340 Foreclosure notices required by Chapter 244, sections 14 and 35A, or any other applicable
341 Foreclosure law, by regular and certified mail to the Tenants of the Housing Accommodation
342 and to the municipality adopting this Section. The Mortgagee shall also provide Tenants and the
343 municipality, by regular and certified mail, with a copy of any Complaint filed in Land Court and
344 any Order of Notice issued by the Land Court, pursuant to the Service Members Civil Relief Act
345 if applicable, within five (5) days of issuance.

346 The Mortgagee shall provide each Tenant household and the municipality adopting this
347 Section, by regular and certified mail, a copy of any and all Notices of Sale published pursuant to
348 Section 14 of chapter 244.

349 No later than 5 business days before the Foreclosure Auction of a Housing
350 Accommodation, the Tenants shall inform the Mortgagee, in writing, if a Tenants Association
351 representing at least fifty-one percent of the households occupying the Housing Accommodation
352 or an entity to which they have assigned their right of first refusal intend to exercise their right of
353 first refusal at Auction and desire to receive information relating to the proposed Auction.

354 A Tenants Association representing at least fifty-one percent of the households
355 occupying the Housing Accommodation or their assignee may exercise their collective right to
356 purchase the Housing Accommodation, in the event of a Third-Party Offer at Auction that the
357 Mortgagee receives, provided that the Tenants Association submits to the Mortgagee reasonable

358 evidence that the Tenants of at least fifty-one percent of the occupied homes in the Housing
359 Accommodation have approved the purchase of the Housing Accommodation, submits to the
360 Mortgagee a proposed purchase and sale agreement on substantially equivalent terms and
361 conditions to that received by the Mortgagee in the Third-Party Offer within sixty days of receipt
362 of notice of the bid made under paragraph (3) of this section, obtains a binding commitment for
363 any necessary financing or guarantees within an additional ninety days after execution of the
364 purchase and sale agreement, and closes on such purchase within an additional ninety days after
365 the end of the ninety-day period under clause (iii).

366 No Mortgagee shall unreasonably refuse to enter into, or unreasonably delay the
367 execution or closing on a purchase and sale with Tenants who have made a bona fide offer to
368 meet the price and substantially equivalent terms and conditions of a bid received at Auction.
369 Failure of the Tenants to submit such a purchase and sale agreement within the first sixty day
370 period, to obtain a binding commitment for financing within the additional ninety day period or
371 to close on the purchase within the second ninety-day period, shall serve to terminate the rights
372 of such Tenants to purchase. The time periods herein provided may be extended by agreement.

373 Nothing herein shall be construed to require a Mortgagee to provide financing to such
374 Tenants. A Tenant Association which has the right to purchase hereunder, at its election, may
375 assign its purchase right hereunder to the city, town, housing authority, or agency of the
376 commonwealth, nonprofit, community development corporation, affordable housing developer,
377 or land trust; a right to purchase hereunder shall be for the purpose of maintaining the use of the
378 Housing Accommodation as permanently affordable rental housing.

379 If there are no third-party bids at Auction for the Housing Accommodation, the Tenants
380 shall have a right of first refusal whenever the Mortgagee seeks to sell the Housing
381 Accommodation. The Tenants shall be notified of any offers the Mortgagee intends to accept and
382 shall be given an opportunity to meet the price and substantially the terms of a Third-Party Offer
383 based on the same time line described in paragraph (4).

384 The right of first refusal created herein shall inure to the Tenants for the time periods
385 herein before provided, beginning on the date of notice to the Tenants under paragraph (1).

386 In any instance where the Tenants are not the successful purchaser, the seller of such unit
387 shall provide evidence of compliance with this Section by filing an affidavit of compliance
388 signed under the penalty of perjury with the attorney general, the Department, and the official
389 records of the county where the property is located within seven days of the Sale.

390 The attorney general shall enforce this subsection (f) and shall promulgate rules and
391 regulations necessary for enforcement. The attorney general may seek injunctive, declaratory,
392 and compensatory relief on behalf of Tenants and the Commonwealth in a court of competent
393 jurisdiction. The attorney general shall post a sample intent to sell notice, sample proof of notice
394 to Tenants, sample notice of offer, and other necessary documents.

395 (h) Any notice required by this section, except notice provided by a Tenant Association
396 to the municipality, shall be deemed to have been provided when delivered in person or mailed
397 by certified or registered mail, return receipt requested, to the party to whom notice is required;
398 except that with respect to providing notice to Tenants, notice shall be deemed to have been
399 provided when either: (i) the notice is delivered in hand to the Tenant or an adult member of the
400 Tenant's household; or (ii) the notice is sent by first class mail and a copy is left in or under the

401 door of the Tenant's dwelling unit. A notice to the affected municipality shall be sent to the chief
402 executive officer.

403 (i) It is illegal for an Owner or their agent to take any action to evict, threaten, coerce, or
404 retaliate against a Tenant or Tenants in order to avoid application of this Section.

405 (j) A Tenant, Tenant Association, or Successor, Designee or assignee shall not solicit or
406 accept payment or any other consideration for assigning or waiving any rights under this section.

407 (k) Aggrieved Tenants, Tenant Associations, Designees, Successors, assignees, and
408 municipalities may seek damages under chapter 93A and may file a complaint with the attorney
409 general, and may also file a court complaint for equitable and/or monetary relief, including but
410 not limited to damages of a percentage of the sales price and/or injunctive relief in the form of
411 specific performance. Nothing in this Section shall be construed to limit or constrain in any way
412 the rights Tenants currently have under applicable laws, including but not limited to chapters 186
413 and 186A. At all times, all parties must negotiate in good faith.