

**SENATE . . . . . No. 00890**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Bruce E. Tarr*

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*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 promoting rental housing stability .

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PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

**SENATE . . . . . No. 00890**

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By Mr. Tarr, petition (accompanied by bill, Senate, No. 890) of Swan, Levy and Tarr for legislation to promote rental housing stability [Joint Committee on the Judiciary].

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The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act promoting rental housing stability .

*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. Section 1A of Chapter 239 of the General Laws, as appearing in the 2008  
2 Official Edition is hereby amended by adding, at the end thereto, the following paragraph:

3           A lessor of land or tenements used for residential purposes may bring an emergency  
4 action to recover possession upon a showing that significant damage to the premises is occurring  
5 or is likely to result from continued occupancy of the tenant. A hearing on such action shall be  
6 held within 14 days after the action is initiated.

7           SECTION 2. Section 8A of Chapter 239 is hereby amended by striking the second  
8 paragraph and replacing it with the following:

9           Whenever any counterclaim or claim of defense under this section is based on any  
10 allegation concerning the condition of the premises or the services or equipment provided  
11 therein, the tenant or occupant shall not be entitled to relief under this section unless: (1) the

12 owner or his agents, servants, or employees, or the person to whom the tenant or occupant  
13 customarily paid his rent knew of such conditions before the tenant or occupant was in arrears in  
14 his rent; (2) the tenant, within 7 days of the typical rent payment date, deposited the withheld  
15 rent with the clerk to be held in escrow; (3) the plaintiff does not show that such conditions were  
16 caused by the tenant or occupant or any other person acting under his control; except that the  
17 defendant shall have the burden of proving that any violation appearing solely within that portion  
18 of the premises under his control and not by its nature reasonably attributable to any action or  
19 failure to act of the plaintiff was not so caused; (4) the tenant shows that, upon reasonable notice  
20 by the owner, they did not unreasonably deny access to the owner or owner's representative to  
21 make the repairs or alterations; (5) the premises are not situated in a hotel or motel, nor in a  
22 lodging house or rooming house wherein the occupant has maintained such occupancy for less  
23 than three consecutive months; and (6) the plaintiff does not show that the conditions complained  
24 of cannot be remedied without the premises being vacated; provided, however, that nothing in  
25 this clause shall be construed to deprive the tenant or occupant of relief under this section when  
26 the premises are temporarily vacated for purposes of removal or covering of paint, plaster, soil or  
27 other accessible materials containing dangerous levels of lead pursuant to section one hundred  
28 and ninety-seven of chapter one hundred and eleven.

29           SECTION 3. Section 8A of Chapter 239 is further amended in the last sentence of the  
30 fourth paragraph by striking "may" after "invoking the provisions of this section" and replacing  
31 it with "shall".

32           SECTION 4. Notwithstanding any general or special law to the contrary, any rent  
33 withheld and placed in escrow with the clerk based on any allegation concerning the condition of  
34 the premises or the services or equipment provided therein, shall be released to the owner or

35 owner's representative within 21 days following cure of the defect for which rent was withheld,  
36 provided that local board of health has inspected the property and certified that the defect has  
37 been cured.