

SENATE No. 948

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 promoting rental housing stability.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>	<i>2/3/2017</i>

SENATE No. 948

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 948) of Bruce E. Tarr and Ryan C. Fattman for legislation to promote rental housing stability. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 906 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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 2016
2 Official Edition, is hereby amended by inserting at the end thereof 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 said chapter 239, as so appearing, is hereby amended by
8 striking the second paragraph in its entirety and inserting in place thereof 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:

12 (1) the owner or his agents, servants, or employees, or the person to whom the tenant or
13 occupant customarily paid his rent knew of such conditions before the tenant or occupant was in
14 arrears in his rent;

15 (2) the tenant, within 7 days of the typical rent payment date, deposited the withheld rent
16 with the clerk to be held in escrow;

17 (3) the plaintiff does not show that such conditions were caused by the tenant or occupant
18 or any other person acting under his control; except that the defendant shall have the burden of
19 proving that any violation appearing solely within that portion of the premises under his control
20 and not by its nature reasonably attributable to any action or failure to act of the plaintiff was not
21 so caused;

22 (4) the tenant shows that, upon reasonable notice by the owner, they did not unreasonably
23 deny access to the owner or owner's representative to make the repairs or alterations;

24 (5) the premises are not situated in a hotel or motel, nor in a lodging house or rooming
25 house wherein the occupant has maintained such occupancy for less than three consecutive
26 months; and

27 (6) the plaintiff does not show that the conditions complained of cannot be remedied
28 without the premises being vacated; provided, however, that nothing in this clause shall be
29 construed to deprive the tenant or occupant of relief under this section when the premises are

30 temporarily vacated for purposes of removal or covering of paint, plaster, soil or other accessible
31 materials containing dangerous levels of lead pursuant to section one hundred and ninety-seven
32 of chapter one hundred and eleven.

33 SECTION 3. Said section 8A of said chapter 239, as so appearing, is hereby further
34 amended in the last sentence of the fourth paragraph by striking, in line 74, the word “may” and
35 inserting in place thereof the following word:- “shall”.

36 SECTION 4. Said section 8A of said chapter 239, as so appearing, is hereby further
37 amended by inserting at the end thereof the following paragraph:-

38 Any rent withheld and placed in escrow with the clerk based on any allegation
39 concerning the condition of the premises or the services or equipment provided therein, shall be
40 released to the owner or owner’s representative within 21 days following cure of the defect for
41 which rent was withheld, provided that the local board of health has inspected the property and
42 certified that the defect has been cured.