BILL SUMMARIES

Massachusetts House of Representatives
Bill Summary

Bill No: S 621

Title: An Act creating the Massachusetts Mortgage Resolution System

Sponsor: Senator Scott Brown

Committee: Housing

Hearing Date: 5.19.09

Similar Matters: None.

Prior History: None

Current Law: M.G.L. Chapter 23B, Chapter 244

Summary:

SECTION 1: Creates M.G.L. Chapter 23B Section 30

(a) Creates under the Department of Housing and Community Development the Massachusetts Mortgage Resolution System which shall list and put up for sale for a period no longer than 60 days any property in the Commonwealth in which the mortgagee has met the requirements to obtain a conditional judgment containing a power of sale.

(b) The director shall design, operate, and maintain the system within the official website of the Commonwealth and it shall be accessible to the public

(c) Any proceeds from the sale pursuant to Chapter 244 Section 17C shall be first used to satisfy the principal and interest due to the first lien holder, then to the second if applicable. Remaining proceeds shall be distributed as follows:

(1) 4-percent to the mortgagee or holder of the mortgage note
(2) 3-percent to the seller of the property provided it is not the mortgagee
(3) remaining balance shall revert to the General Fund

(d) The Director shall promulgate rules and regulations pursuant to this section

SECTION 2: Creates M.G.L. Chapter 244 Section 17D

Once the mortgagee has met the requirements to obtain a conditional judgment upon a mortgage containing the power of sale, the mortgager shall offer the property for sale by listing the property with the Massachusetts Mortgage

Resolution System for a period of 60 days at a price equal to the first lien plus the second lien plus 10-percent.

If a purchase and sale agreement is executed on the property during the 60 day period and includes no greater than a 30 day closing, the sale shall go forward and the sale proceeds distributed as described in Section 1c. If the property does not sell in this time period, a conditional judgment shall be entered upon the mortgage.

Massachusetts House of Representatives
Bill Summary

Bill No: S 637

Title: An Act to encourage homeownership in foreclosed properties

Sponsor: Senator Galluccio

Committee: Housing

Hearing Date: 5.19.09

Similar Matters: None.

Prior History: None.

Current Law: New task force

Summary:

SECTION 1: Instructs the Department of Housing and Community Development to establish a task force to review the current practices by nonprofit organizations that purchase foreclosed properties and to recommend mechanisms to require a percentage of these properties be reintroduced for homeownership.

The task force shall explore:

1. Appropriate ratios relative to rental and homeownership opportunities for foreclosed properties purchased by nonprofit organizations
2. Formulate criteria limiting the length of time such foreclosed properties can be held before being reintroduced for homeownership
3. Methods to assist nonprofit organizations in renegotiating mortgages and marketing properties for homeownership
4. *Availability of resources to qualify new homebuyers for purchase*
5. Availability of new lending opportunities for minorities
6. Other issues the task force deems relevant

The task force shall consist of 9 members, one from each organization:

1. Department of Housing and Community Development, Chair
2. Executive Office of Administration and Finance
3. House chair of the committee on Housing
4. Senate chair of the committee on Housing
5. A member appointed by the state Senate President
6. A member appointed by the state Speaker of the House
7. Massachusetts Housing Partnership

8. Citizens' Housing and Planning Association
9. Massachusetts Municipal Association

No later than 5 months of the effective date of this act, the task force shall submit a report to the Governor and the clerks of the House and Senate.

Massachusetts House of Representatives
Bill Summary

Bill No: S 1379

Title: An Act to stabilize neighborhoods

Sponsor: Senator Susan Tucker

Committee: Housing

Hearing Date: 5.19.09

Similar Matters: H 3571

Prior History: None.

Current Law: M.G.L. Chapter 186A, Chapter 266, Chapter 255

Summary:

EMERGENCY PREAMBLE

SECTION 1: Adds clause 56 of Section 5 of Chapter 59 excluding from real estate taxation properties owned by a charitable organization for the purpose of creating community housing (low and moderate income housing, including senior housing). The organization must have purchased the property under the state's foreclosure sale laws. This is applicable from the date of acquisition until the property is leased, rented, or disposed of and shall not extend beyond one year. This clause is effective upon acceptance by any city or town.

SECTION 2: Foreclosing entity pursuing a foreclosure where a tenant is receiving a government subsidy must assume the lease and subsidy contract with the administrator of the subsidy.

SECTION 3: Creates Chapter 186A - Tenants in Foreclosed Properties

Section 1: Definitions

Section 2: A foreclosing owner shall not evict a tenant except for just cause or if the building is purchased by a third party, then the foreclosing owner may provide the tenant with a notice to quit, serve the tenant with summary process, and eviction within 45 days of the closing date of the agreement.

Section 3: If the foreclosing owner disagrees with the amount of rent the tenant-at-will pays the foreclosing owner, the owner may bring a claim to court

to set a new use and occupancy rate. A lease shall have a presumption of reasonableness.

Section 4: An owner found in violation of this act or any by-laws of this act shall be fined no less than $10,000. Each eviction done in violation of this act counts as a separate offense. The district and superior courts, and the housing courts shall have jurisdiction over such actions.

SECTION 4: Changes the minimum right to cure time period from "90 days" to "150 days" unless a lender certifies that the lender and homeowner were unsuccessful in resolving their dispute after mediation. Mediation must involve one session with the homeowner in person using services approved by the Trial Court and the services are paid for by the lender. If the homeowner declines or fails to respond to mediation, the right to cure shall not be less than 90 days.

SECTION 5: Creates M.G.L. Chapter 266, Section 35A - Residential Mortgage Fund

(a) Any person who:
  (1) makes any false material statement or material omission knowingly in connection with the mortgage lending process with the intent the statement be relied upon during the mortgage lending process
  (2) uses any false material statement or material omission knowingly in connection with the mortgage lending process with the intent the statement be relied upon during the mortgage lending process
  (3) receives any proceeds or other funds in connection with a residential mortgage closing, knowing such proceeds were made in violation of clause 1 or 2
  (4) files with a registrar of deeds any document that contains a false material statement or material omission knowingly
  (5) coerces a real estate appraiser to inflate the value of real property used as collateral for a mortgage loan
  (6) implies an appraiser will not be selected unless the appraiser agrees in advance to a certain value for the real property
  (7) implies the appraiser will not be paid unless the appraiser agrees in advance to a certain value for the real property
  (8) conspires to violate any of the provisions 1-7 of this subsection shall be punished with imprisonment in the state for not more than 5 years; or by imprisonment in the house of correction for not more than 2 ½ years; or by a fine of not more than $10,000 in the case of a natural person; or not more than $100,000 in the case of any other person; or by both such fine and imprisonment.
  Any person who engages in a pattern of residential mortgage fraud shall be punished by imprisonment in the state prison for not more than 15 years or by a fine of not more than $50,000 or in the case of a natural person, not

more than $500,000 in the case of any other person, or by fine and imprisonment.

(b-f) Definitions

Any violation of this section may be prosecuted and punished in:
- the county in which the property is located
- any county in which any act was performed in violation
- any county in which any violator had control or possession of proceeds
- any county in which a closing on the loan occurred
- any county in which a document containing a deliberate misstatement is filed with a registrar of deeds

SECTION 6: Amends M.G.L. Chapter 266 Section 33 and creates Section 34

The change to section 33 amends the law regarding larceny under false pretenses to contract to include mortgage lenders and the value of larceny. Violators of this section shall be punished by imprisonment in jail for not more than 1 year or by a fine of not more than $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250, the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

Section 34 to include anyone who, with intent to defraud and by false pretence, induces another to part with property described in Section 33 shall be guilty of larceny. Violators of this section shall be imprisoned in jail for not more than 1 year or by a fine of $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250, the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

SECTION 7: Amends M.G.L. Chapter 266 Section 34 – Larceny; inducement to part with property:

> Whoever with intent to defraud induces another to part with property as described in Section 33 shall be guilty of larceny. If the dollar amount of the credit or value parted with exceeds $250 the party shall be punished as if he had stolen property exceeding $250 as provided in Section 30(1).

SECTION 9: Sections 3 and 4 shall cease to have effect on December 31, 2013.

Massachusetts House of Representatives
Bill Summary

Bill No: H 1232

Title: An Act to protect tenants in foreclosed properties from evictions.

Sponsor: Rep. Malia

Committee: Housing

Hearing Date: May 19, 2009

Similar Matters:

Prior History:

Current Law:

Summary:

EMERGENCY PREAMBLE

SECTION 1: Creates M.G.L. Chapter 186A - Tenant Protections in Foreclosed Properties

Section 1: Definitions

Section 2: The foreclosing owner shall not evict a tenant or former owner-occupant except for just cause, including non-payment of rent, violation of lease, causing a nuisance or damage, or a binding purchase and sale where the purchaser intends to occupy the unit as primary residence.

Existing tenants rent shall be the amount of their rent immediately preceding the foreclosure. Former owners rent shall be Fair Market Value as determined by the US Department of Housing and Urban Development.

Section 3: Any foreclosing owner that evicts a tenant in violation of the provisions of this Act shall be punished by a fine of not less than $10,000. Each eviction done in violation of this Act constitutes a separate offense. The district and superior courts and the housing courts in the Commonwealth shall have jurisdiction.

Section 4: This act shall cease to have effect on December 31, 2013.

SECTION 2: Provides further protection of tenants in a foreclosed property who are now considered "tenants at will" by instructing the entity pursuing a foreclosure to assume the lease and subsidy contract with the administrator of the state or federal program.

Massachusetts House of Representatives
Bill Summary

Bill No: H 3571

Title: An Act to stabilize neighborhoods through the protection of tenants in foreclosed properties.

CHAPA - Sean Caron
MBHP

Sponsor: Rep. Kevin G. Honan

Committee: Housing

Hearing Date: 5.19.09

Similar Matters: S 1379, H 3692

Prior History: None.

Current Law: M.G.L. Chapter 186A, Chapter 266, Chapter 255

Summary:

EMERGENCY PREAMBLE.

SECTION 1: Adds clause 56 of Section 5 of Chapter 59 excluding from real estate taxation properties owned by a charitable organization for the purpose of creating community housing (low and moderate income housing, including senior housing). The organization must have purchased the property under the state's foreclosure sale laws. This is applicable from the date of acquisition until the property is leased, rented, or disposed of and shall not extend beyond one year. This clause is effective upon acceptance by any city or town.

SECTION 2: Foreclosing entity pursuing a foreclosure where a tenant is receiving a government subsidy must assume the lease and subsidy contract with the administrator of the subsidy.

SECTION 3: Creates Chapter 186A - Tenants in Foreclosed Properties

Section 1: Definitions

Section 2: A foreclosing owner shall not evict a tenant except for just cause or if the building is purchased by a third party, then the foreclosing owner may provide the tenant with a notice to quit, serve the tenant with summary process, and eviction within 45 days of the closing date of the agreement.

Section 3: If the foreclosing owner disagrees with the amount of rent the tenant-at-will pays the foreclosing owner, the owner may bring a claim to court to set a new rent. A lease shall have a presumption of reasonableness.

Section 4: An owner found in violation of this act or any by-laws of this act shall be fined no less than $10,000. Each eviction done in violation of this act counts as a separate offense. The district and superior courts, and the housing courts shall have jurisdiction over such actions.

Section 5: This act shall cease to have effect on December 31, 2013

SECTION 4: Changes the minimum time period for the right to cure from "90 days" to "150 days."

SECTION 5: Amends the law regarding larceny under false pretenses to contract to include mortgage lenders. Violators of this section shall be punished by imprisonment in jail for not more than 1 year or by a fine of not more than $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250; the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

SECTION 6: Amends M.G.L. Chapter 266, Section 34 to include anyone who, with intent to defraud and by false pretence, induces another to part with property described in Section 33 shall be guilty of larceny. Violators of this section shall be imprisoned in jail for not more than 1 year or by a fine of $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250, the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

SECTION 7: Creates M.G.L. Chapter 266, Section 35A - Residential Mortgage Fund

(a) Definitions

(b) Whoever:

(1) makes any false material statement or material omission knowingly in connection with the mortgage lending process with the intent the statement be relied upon during the mortgage lending process

(2) uses any false material statement or material omission knowingly in connection with the mortgage lending process with the intent the statement be relied upon during the mortgage lending process

(3) receives any proceeds or other funds in connection with a residential mortgage closing, knowing such proceeds were made in violation of clause 1 or 2
(4) files with a registrar of deeds any document that contains a false material statement or material omission knowingly

Shall be punished with imprisonment in the state for not more than 5 years; or by imprisonment in the house of correction for not more than 2 ½ years; or by a fine of not more than $10,000 in the case of a natural person; or not more than $100,000 in the case of any other person; or by both such fine and imprisonment. Any person who engages in a pattern of residential mortgage fraud shall be punished by imprisonment in the state prison for not more than 15 years or by a fine of not more than $50,000 or in the case of a natural person, not more than $500,000 in the case of any other person, or by fine and imprisonment.

(c) Any violation of this section may be prosecuted and punished in:
- the county in which the property is located
- any county in which any act was performed in violation
- any county in which any violator had control or possession of proceeds
- any county in which a closing on the loan occurred
- any county in which a document containing a deliberate misstatement is filed with a registrar of deeds

(d) If shall be an affirmative defense if a defendant is charged with a violation of this section as a result of conduct by an employee of the defendant if the defendant demonstrates the following by majority of the evidence:
(1) the defendant had in force a written policy that includes:
(i) A prohibition against conduct that violates this section by employees of the defendant
(ii) Penalties for violation of this policy
(iii) A process for educating employees concerning this policy and consequences
(iv) A requirement for criminal history check and a requirement that the defendant will not employ an individual whose history includes fraud
(2) the defendant demonstrates enforcement of written policy (1)
(3) before violating this section, the defendant communicated the written policy and consequences to the employee committing the violation

(e) It shall be a rebuttable assumption that the borrower did not make a false statement or material omission. Two or more incidents of fraud shall be sufficient to overcome this presumption.

SECTION 8: Creates M.G.L. Chapter 255 Section 13. Abandoned Property Registration.

(a) Definitions

(b) Allows cities accepting the provisions of this section to impose an abandoned property registration program. All owners must register abandoned and foreclosed properties with the Commissioner and designate an individual or property management company responsible for the property. Registration must be received within 60 days of abandonment or conclusion of foreclosure.

All property registrations are valid for one year. An annual registration fee not to exceed $100 must accompany registration. Once the property is sold or no longer abandoned, the owner must provide proof to the Commissioner.

(c) Properties subject to this section must comply with Sanitary, Building Codes, and local regulations. Property must contain a visible 24-hour contact number. Compliance does not relieve property owner of obligations set forth in statute or homeowner covenants.

(d) Commissioner has the authority to inspect properties for compliance and issue violations.

(e) Failure to register is punishable by fine not to exceed $500. Failure to identify party responsible for property is punishable by fine not to exceed $500. Failure to maintain the property is punishable by fine not to exceed $500 for each month the property remains out of compliance. Violations of this Chapter shall be treated as a strict liability offence regardless of intent. This shall only take effect in a city or town with local approval.

Massachusetts House of Representatives
Bill Summary

Bill No: H 3692

Title: An Act relative to stabilizing communities

Sponsor: Representative Martin Walsh

Committee: Housing

Hearing Date: 5.19.09

Similar Matters: H 3571

Prior History: None

Current Law: M.G.L. Chapter 186A, Chapter 266, Chapter 255

Summary:

EMERGENCY PREAMBLE

SECTION 1: Adds clause 56 of Section 5 of Chapter 59 excluding from real estate taxation properties owned by a charitable organization for the purpose of creating community housing (low and moderate income housing, including senior housing). The organization must have purchased the property under the state's foreclosure sale laws. This is applicable from the date of acquisition until the property is leased, rented, or disposed of and shall not extend beyond one year. This clause is effective upon acceptance by any city or town.

SECTION 2: Foreclosing entity pursuing a foreclosure where a tenant is receiving a government subsidy must assume the lease and subsidy contract with the administrator of the subsidy.

SECTION 3: Creates Chapter 186A - Tenants in Foreclosed Properties

Section 1: Definitions

Section 2: A foreclosing owner shall not evict a tenant except for just cause or if the building is purchased by a third party, then the foreclosing owner may provide the tenant with a notice to quit, serve the tenant with summary process, and eviction within 45 days of the closing date of the agreement.

Section 3: If the foreclosing owner disagrees with the amount of rent the

tenant-at-will pays the foreclosing owner, the owner may bring a claim to court to set a new rent. A lease shall have a presumption of reasonableness.

Section 4: An owner found in violation of this act or any by-laws of this act shall be fined no less than $10,000. Each eviction done in violation of this act counts as a separate offense. The district and superior courts, and the housing courts shall have jurisdiction over such actions.

Section 5: This act shall cease to have effect on December 31, 2013

SECTION 4: Changes the minimum time period for the right to cure from "90 days" to "150 days."

SECTION 5: Amends the law regarding larceny under false pretenses to contract to include mortgage lenders. Violators of this section shall be punished by imprisonment in jail for not more than 1 year or by a fine of not more than $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250, the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

SECTION 6: Amends M.G.L. Chapter 266, Section 34 to include anyone who, with intent to defraud and by false pretence, induces another to part with property described in Section 33 shall be guilty of larceny. Violators of this section shall be imprisoned in jail for not more than 1 year or by a fine of $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250, the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

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(a) Definitions

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(3) receives any proceeds or other funds in connection with a residential mortgage closing, knowing such proceeds were made in violation of clause 1 or 2

(4) files with a registrar of deeds any document that contains a false material statement or material omission knowingly

Shall be punished with imprisonment in the state for not more than 5 years; or by imprisonment in the house of correction for not more than 2 ½ years; or by a fine of not more than $10,000 in the case of a natural person; or not more than $100,000 in the case of any other person; or by both such fine and imprisonment.
Any person who engages in a pattern of residential mortgage fraud shall be punished by imprisonment in the state prison for not more than 15 years or by a fine of not more than $50,000 or in the case of a natural person, not more than $500,000 in the case of any other person, or by fine and imprisonment.

(c) Any violation of this section may be prosecuted and punished in:
- the county in which the property is located
- any county in which any act was performed in violation
- any county in which any violator had control or possession of proceeds
- any county in which a closing on the loan occurred
- any county in which a document containing a deliberate misstatement is filed with a registrar of deeds

(d) If shall be an affirmative defense if a defendant is charged with a violation of this section as a result of conduct by an employee of the defendant if the defendant demonstrates the following by majority of the evidence:
(1) the defendant had in force a written policy that includes:
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(ii) Penalties for violation of this policy
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(iv) A requirement for criminal history check and a requirement that the defendant will not employ an individual whose history includes fraud
(2) the defendant demonstrates enforcement of written policy (1)
(3) before violating this section, the defendant communicated the written policy and consequences to the employee committing the violation

(e) It shall be a rebuttable assumption that the borrower did not make a false statement or material omission. Two or more incidents of fraud shall be sufficient to overcome this presumption.

SECTION 8: Creates M.G.L. Chapter 255 Section 13. Abandoned Property Registration.

(a) Definitions

(b) Allows cities accepting the provisions of this section to impose an

abandoned property registration program. All owners must register abandoned and foreclosed properties with the Commissioner and designate an individual or property management company responsible for the property. Registration must be received within 60 days of abandonment or conclusion of foreclosure.

All property registrations are valid for one year. An annual registration fee not to exceed $100 must accompany registration. Once the property is sold or no longer abandoned, the owner must provide proof to the Commissioner.

(c) Properties subject to this section must comply with Sanitary, Building Codes, and local regulations. Property must contain a visible 24-hour contact number. Compliance does not relieve property owner of obligations set forth in statute or homeowner covenants.

(d) Commissioner has the authority to inspect properties for compliance and issue violations.

(e) Failure to register is punishable by fine not to exceed $500. Failure to identify party responsible for property is punishable by fine not to exceed $500. Failure to maintain the property is punishable by fine not to exceed $500 for each month the property remains out of compliance. Violations of this Chapter shall be treated as a strict liability offence regardless of intent. This shall only take effect in a city or town with local approval.

fav
H 3692

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

MARTIN J. WALSH
REPRESENTATIVE
13TH SUFFOLK DISTRICT

VICE CHAIRMAN
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May 13, 2009

The Honorable Sue Tucker, Senate Chair
The Honorable Kevin Honan, House Chair
Committee on Housing
State House, Room 38
Boston, MA 02133

Dear Chairmen ~~Kevin Honan~~: Rep

I am writing today to express my support for the following bill that will be heard before the Joint Committee on Housing on May 19th.

House Bill 3692, an act Relative to Stabilizing Communities.

Thank you kindly for your consideration. I am confident that with your leadership on this matter we can respond to the growing needs that this bill addresses. Should you have any questions or concerns, please feel free to contact my office.

Sincerely,

MARTIN J. WALSH
State Representative

Thank you for giving me this time to speak to you. I am Judy Deutsch, a retired Unitarian Universalist minister emerita, and I live in Sudbury.

The last thing Massachusetts needs and wants is more homeless people. The psychological and physical harm to them, and the financial cost to the state that homelessness entails are what we need to eliminate, not increase. Something else that we do not need or want, is the danger to lives and property that accompanies people losing their homes.

That is why this bill, The Tenant Protection Bill, is so important.

It changes the reasons why lenders who purchase foreclosed property can use the courts to evict tenants.

Presently the new owners may evict post-foreclosure tenants at will,

Such actions will put thousands of people out on the street, leaving properties vacant and thus open to problems of destruction, looting, fire, being used for illegal purposes, etc., as has been so widely reported throughout our nation.

But the Tenant Protection Bill will allow legally-defined tenants to remain in foreclosed properties held by foreclosing entities just so long as the tenants fulfill their reponsibilites as tenants – just so long as they pay reasonable rent, maintain the property, do not commit illegal acts, etc..

Thus this bill promotes the best interests of foreclosing entities, of tenants, and of the Commonwealth. Foreclosing owners would be ensured of steady sources of income; neighborhoods would be stabilized and escape the deterioration of property values and the properties themselves; and people would not be left homeless.

It would truly be a win-win situation.

For all these reasons, I urge you to see that this bill is passed and implemented.

May 19, 2009

Massachusetts House of Representatives
Bill Summary

Bill No: S 621

Title: An Act creating the Massachusetts Mortgage Resolution System

Sponsor: Senator Scott Brown

Committee: Housing

Hearing Date: 5.19.09

Similar Matters: None.

Prior History: None

Current Law: M.G.L. Chapter 23B, Chapter 244

Summary:

SECTION 1: Creates M.G.L. Chapter 23B Section 30

(a) Creates under the Department of Housing and Community Development the Massachusetts Mortgage Resolution System which shall list and put up for sale for a period no longer than 60 days any property in the Commonwealth in which the mortgagee has met the requirements to obtain a conditional judgment containing a power of sale.

(b) The director shall design, operate, and maintain the system within the official website of the Commonwealth and it shall be accessible to the public

(c) Any proceeds from the sale pursuant to Chapter 244 Section 17C shall be first used to satisfy the principal and interest due to the first lien holder, then to the second if applicable. Remaining proceeds shall be distributed as follows:

(1) 4-percent to the mortgagee or holder of the mortgage note
(2) 3-percent to the seller of the property provided it is not the mortgagee
(3) remaining balance shall revert to the General Fund

(d) The Director shall promulgate rules and regulations pursuant to this section

SECTION 2: Creates M.G.L. Chapter 244 Section 17D

Once the mortgagee has met the requirements to obtain a conditional judgment upon a mortgage containing the power of sale, the mortgager shall offer the property for sale by listing the property with the Massachusetts Mortgage

Resolution System for a period of 60 days at a price equal to the first lien plus the second lien plus 10-percent.

If a purchase and sale agreement is executed on the property during the 60 day period and includes no greater than a 30 day closing, the sale shall go forward and the sale proceeds distributed as described in Section 1c. If the property does not sell in this time period, a conditional judgment shall be entered upon the mortgage.

Massachusetts House of Representatives
Bill Summary

Bill No: S 637

Title: An Act to encourage homeownership in foreclosed properties

Sponsor: Senator Galluccio

Committee: Housing

Hearing Date: 5.19.09

Similar Matters: None.

Prior History: None.

Current Law: New task force

Summary:

SECTION 1: Instructs the Department of Housing and Community Development to establish a task force to review the current practices by nonprofit organizations that purchase foreclosed properties and to recommend mechanisms to require a percentage of these properties be reintroduced for homeownership.

The task force shall explore:

1. Appropriate ratios relative to rental and homeownership opportunities for foreclosed properties purchased by nonprofit organizations
2. Formulate criteria limiting the length of time such foreclosed properties can be held before being reintroduced for homeownership
3. Methods to assist nonprofit organizations in renegotiating mortgages and marketing properties for homeownership
4. Availability of resources to qualify new homebuyers for purchase
5. Availability of new lending opportunities for minorities
6. Other issues the task force deems relevant

The task force shall consist of 9 members, one from each organization:

1. Department of Housing and Community Development, Chair
2. Executive Office of Administration and Finance
3. House chair of the committee on Housing
4. Senate chair of the committee on Housing
5. A member appointed by the state Senate President
6. A member appointed by the state Speaker of the House
7. Massachusetts Housing Partnership

8. Citizens' Housing and Planning Association
9. Massachusetts Municipal Association

No later than 5 months of the effective date of this act, the task force shall submit a report to the Governor and the clerks of the House and Senate.

Massachusetts House of Representatives
Bill Summary

Bill No: S 1379

Title: An Act to stabilize neighborhoods

Sponsor: Senator Susan Tucker

Committee: Housing

Hearing Date: 5.19.09

Similar Matters: H 3571

Prior History: None.

Current Law: M.G.L. Chapter 186A, Chapter 266, Chapter 255

Summary:

EMERGENCY PREAMBLE

SECTION 1: Adds clause 56 of Section 5 of Chapter 59 excluding from real estate taxation properties owned by a charitable organization for the purpose of creating community housing (low and moderate income housing, including senior housing). The organization must have purchased the property under the state's foreclosure sale laws. This is applicable from the date of acquisition until the property is leased, rented, or disposed of and shall not extend beyond one year. This clause is effective upon acceptance by any city or town.

SECTION 2: Foreclosing entity pursuing a foreclosure where a tenant is receiving a government subsidy must assume the lease and subsidy contract with the administrator of the subsidy.

SECTION 3: Creates Chapter 186A - Tenants in Foreclosed Properties

Section 1: Definitions

Section 2: A foreclosing owner shall not evict a tenant except for just cause or if the building is purchased by a third party, then the foreclosing owner may provide the tenant with a notice to quit, serve the tenant with summary process, and eviction within 45 days of the closing date of the agreement.

Section 3: If the foreclosing owner disagrees with the amount of rent the tenant-at-will pays the foreclosing owner, the owner may bring a claim to court

to set a new use and occupancy rate. A lease shall have a presumption of reasonableness.

Section 4: An owner found in violation of this act or any by-laws of this act shall be fined no less than $10,000. Each eviction done in violation of this act counts as a separate offense. The district and superior courts, and the housing courts shall have jurisdiction over such actions.

SECTION 4: Changes the minimum right to cure time period from "90 days" to "150 days" unless a lender certifies that the lender and homeowner were unsuccessful in resolving their dispute after mediation. Mediation must involve one session with the homeowner in person using services approved by the Trial Court and the services are paid for by the lender. If the homeowner declines or fails to respond to mediation, the right to cure shall not be less than 90 days.

SECTION 5: Creates M.G.L. Chapter 266, Section 35A - Residential Mortgage Fund

(a) Any person who:
  (1) makes any false material statement or material omission knowingly in connection with the mortgage lending process with the intent the statement be relied upon during the mortgage lending process
  (2) uses any false material statement or material omission knowingly in connection with the mortgage lending process with the intent the statement be relied upon during the mortgage lending process
  (3) receives any proceeds or other funds in connection with a residential mortgage closing, knowing such proceeds were made in violation of clause 1 or 2
  (4) files with a registrar of deeds any document that contains a false material statement or material omission knowingly
  (5) coerces a real estate appraiser to inflate the value of real property used as collateral for a mortgage loan
  (6) implies an appraiser will not be selected unless the appraiser agrees in advance to a certain value for the real property
  (7) implies the appraiser will not be paid unless the appraiser agrees in advance to a certain value for the real property
  (8) conspires to violate any of the provisions 1-7 of this subsection shall be punished with imprisonment in the state for not more than 5 years; or by imprisonment in the house of correction for not more than 2 ½ years; or by a fine of not more than $10,000 in the case of a natural person; or not more than $100,000 in the case of any other person; or by both such fine and imprisonment.
  Any person who engages in a pattern of residential mortgage fraud shall be punished by imprisonment in the state prison for not more than 15 years or by a fine of not more than $50,000 or in the case of a natural person, not

more than $500,000 in the case of any other person, or by fine and imprisonment.

(b-f) Definitions

Any violation of this section may be prosecuted and punished in:
- the county in which the property is located
- any county in which any act was performed in violation
- any county in which any violator had control or possession of proceeds
- any county in which a closing on the loan occurred
- any county in which a document containing a deliberate misstatement is filed with a registrar of deeds

SECTION 6: Amends M.G.L. Chapter 266 Section 33 and creates Section 34

The change to section 33 amends the law regarding larceny under false pretenses to contract to include mortgage lenders and the value of larceny. Violators of this section shall be punished by imprisonment in jail for not more than 1 year or by a fine of not more than $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250, the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

Section 34 to include anyone who, with intent to defraud and by false pretence, induces another to part with property described in Section 33 shall be guilty of larceny. Violators of this section shall be imprisoned in jail for not more than 1 year or by a fine of $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250, the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

SECTION 7: Amends M.G.L. Chapter 266 Section 34 – Larceny; inducement to part with property:

> Whoever with intent to defraud induces another to part with property as described in Section 33 shall be guilty of larceny. If the dollar amount of the credit or value parted with exceeds $250 the party shall be punished as if he had stolen property exceeding $250 as provided in Section 30(1).

SECTION 9: Sections 3 and 4 shall cease to have effect on December 31, 2013.

Massachusetts House of Representatives
Bill Summary

Bill No: H 1232

Title: An Act to protect tenants in foreclosed properties from evictions.

Sponsor: Rep. Malia

Committee: Housing

Hearing Date: May 19, 2009

Similar Matters:

Prior History:

Current Law:

Summary:

EMERGENCY PREAMBLE

SECTION 1: Creates M.G.L. Chapter 186A - Tenant Protections in Foreclosed Properties

Section 1: Definitions

Section 2: The foreclosing owner shall not evict a tenant or former owner-occupant except for just cause, including non-payment of rent, violation of lease, causing a nuisance or damage, or a binding purchase and sale where the purchaser intends to occupy the unit as primary residence.

Existing tenants rent shall be the amount of their rent immediately preceding the foreclosure. Former owners rent shall be Fair Market Value as determined by the US Department of Housing and Urban Development.

Section 3: Any foreclosing owner that evicts a tenant in violation of the provisions of this Act shall be punished by a fine of not less than $10,000. Each eviction done in violation of this Act constitutes a separate offense. The district and superior courts and the housing courts in the Commonwealth shall have jurisdiction.

Section 4: This act shall cease to have effect on December 31, 2013.

SECTION 2: Provides further protection of tenants in a foreclosed property who are now considered "tenants at will" by instructing the entity pursuing a foreclosure to assume the lease and subsidy contract with the administrator of the state or federal program.

Massachusetts House of Representatives
Bill Summary

Bill No: H 3571

Title: An Act to stabilize neighborhoods through the protection of tenants in foreclosed properties.

CHAPA - Sean Caron
MBHP

Sponsor: Rep. Kevin G. Honan

Committee: Housing

Hearing Date: 5.19.09

Similar Matters: S 1379, H 3692

Prior History: None.

Current Law: M.G.L. Chapter 186A, Chapter 266, Chapter 255

Summary:

EMERGENCY PREAMBLE.

SECTION 1: Adds clause 56 of Section 5 of Chapter 59 excluding from real estate taxation properties owned by a charitable organization for the purpose of creating community housing (low and moderate income housing, including senior housing). The organization must have purchased the property under the state's foreclosure sale laws. This is applicable from the date of acquisition until the property is leased, rented, or disposed of and shall not extend beyond one year. This clause is effective upon acceptance by any city or town.

SECTION 2: Foreclosing entity pursuing a foreclosure where a tenant is receiving a government subsidy must assume the lease and subsidy contract with the administrator of the subsidy.

SECTION 3: Creates Chapter 186A - Tenants in Foreclosed Properties

Section 1: Definitions

Section 2: A foreclosing owner shall not evict a tenant except for just cause or if the building is purchased by a third party, then the foreclosing owner may provide the tenant with a notice to quit, serve the tenant with summary process, and eviction within 45 days of the closing date of the agreement.

Section 3: If the foreclosing owner disagrees with the amount of rent the tenant-at-will pays the foreclosing owner, the owner may bring a claim to court to set a new rent. A lease shall have a presumption of reasonableness.

Section 4: An owner found in violation of this act or any by-laws of this act shall be fined no less than $10,000. Each eviction done in violation of this act counts as a separate offense. The district and superior courts, and the housing courts shall have jurisdiction over such actions.

Section 5: This act shall cease to have effect on December 31, 2013

SECTION 4: Changes the minimum time period for the right to cure from "90 days" to "150 days."

SECTION 5: Amends the law regarding larceny under false pretenses to contract to include mortgage lenders. Violators of this section shall be punished by imprisonment in jail for not more than 1 year or by a fine of not more than $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250, the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

SECTION 6: Amends M.G.L. Chapter 266, Section 34 to include anyone who, with intent to defraud and by false pretence, induces another to part with property described in Section 33 shall be guilty of larceny. Violators of this section shall be imprisoned in jail for not more than 1 year or by a fine of $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250, the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

SECTION 7: Creates M.G.L. Chapter 266, Section 35A - Residential Mortgage Fund

(a) Definitions

(b) Whoever:
(1) makes any false material statement or material omission knowingly in connection with the mortgage lending process with the intent the statement be relied upon during the mortgage lending process
(2) uses any false material statement or material omission knowingly in connection with the mortgage lending process with the intent the statement be relied upon during the mortgage lending process

(3) receives any proceeds or other funds in connection with a residential mortgage closing, knowing such proceeds were made in violation of clause 1 or 2
(4) files with a registrar of deeds any document that contains a false material statement or material omission knowingly

Shall be punished with imprisonment in the state for not more than 5 years; or by imprisonment in the house of correction for not more than 2 ½ years; or by a fine of not more than $10,000 in the case of a natural person; or not more than $100,000 in the case of any other person; or by both such fine and imprisonment. Any person who engages in a pattern of residential mortgage fraud shall be punished by imprisonment in the state prison for not more than 15 years or by a fine of not more than $50,000 or in the case of a natural person, not more than $500,000 in the case of any other person, or by fine and imprisonment.

(c) Any violation of this section may be prosecuted and punished in:
- the county in which the property is located
- any county in which any act was performed in violation
- any county in which any violator had control or possession of proceeds
- any county in which a closing on the loan occurred
- any county in which a document containing a deliberate misstatement is filed with a registrar of deeds

(d) If shall be an affirmative defense if a defendant is charged with a violation of this section as a result of conduct by an employee of the defendant if the defendant demonstrates the following by majority of the evidence:
(1) the defendant had in force a written policy that includes:
(i) A prohibition against conduct that violates this section by employees of the defendant
(ii) Penalties for violation of this policy
(iii) A process for educating employees concerning this policy and consequences
(iv) A requirement for criminal history check and a requirement that the defendant will not employ an individual whose history includes fraud
(2) the defendant demonstrates enforcement of written policy (1)
(3) before violating this section, the defendant communicated the written policy and consequences to the employee committing the violation

(e) It shall be a rebuttable assumption that the borrower did not make a false statement or material omission. Two or more incidents of fraud shall be sufficient to overcome this presumption.

SECTION 8: Creates M.G.L. Chapter 255 Section 13. Abandoned Property Registration.

(a) Definitions

(b) Allows cities accepting the provisions of this section to impose an abandoned property registration program. All owners must register abandoned and foreclosed properties with the Commissioner and designate an individual or property management company responsible for the property. Registration must be received within 60 days of abandonment or conclusion of foreclosure.

All property registrations are valid for one year. An annual registration fee not to exceed $100 must accompany registration. Once the property is sold or no longer abandoned, the owner must provide proof to the Commissioner.

(c) Properties subject to this section must comply with Sanitary, Building Codes, and local regulations. Property must contain a visible 24-hour contact number. Compliance does not relieve property owner of obligations set forth in statute or homeowner covenants.

(d) Commissioner has the authority to inspect properties for compliance and issue violations.

(e) Failure to register is punishable by fine not to exceed $500. Failure to identify party responsible for property is punishable by fine not to exceed $500. Failure to maintain the property is punishable by fine not to exceed $500 for each month the property remains out of compliance. Violations of this Chapter shall be treated as a strict liability offence regardless of intent. This shall only take effect in a city or town with local approval.

Massachusetts House of Representatives
Bill Summary

Bill No: H 3692

Title: An Act relative to stabilizing communities

Sponsor: Representative Martin Walsh

Committee: Housing

Hearing Date: 5.19.09

Similar Matters: H 3571

Prior History: None

Current Law: M.G.L. Chapter 186A, Chapter 266, Chapter 255

Summary:

EMERGENCY PREAMBLE

SECTION 1: Adds clause 56 of Section 5 of Chapter 59 excluding from real estate taxation properties owned by a charitable organization for the purpose of creating community housing (low and moderate income housing, including senior housing). The organization must have purchased the property under the state's foreclosure sale laws. This is applicable from the date of acquisition until the property is leased, rented, or disposed of and shall not extend beyond one year. This clause is effective upon acceptance by any city or town.

SECTION 2: Foreclosing entity pursuing a foreclosure where a tenant is receiving a government subsidy must assume the lease and subsidy contract with the administrator of the subsidy.

SECTION 3: Creates Chapter 186A - Tenants in Foreclosed Properties

Section 1: Definitions

Section 2: A foreclosing owner shall not evict a tenant except for just cause or if the building is purchased by a third party, then the foreclosing owner may provide the tenant with a notice to quit, serve the tenant with summary process, and eviction within 45 days of the closing date of the agreement.

Section 3: If the foreclosing owner disagrees with the amount of rent the

tenant-at-will pays the foreclosing owner, the owner may bring a claim to court to set a new rent. A lease shall have a presumption of reasonableness.

Section 4: An owner found in violation of this act or any by-laws of this act shall be fined no less than $10,000. Each eviction done in violation of this act counts as a separate offense. The district and superior courts, and the housing courts shall have jurisdiction over such actions.

Section 5: This act shall cease to have effect on December 31, 2013

SECTION 4: *Changes the minimum time period for the right to cure from* "90 days" to "150 days."

SECTION 5: Amends the law regarding larceny under false pretenses to contract to include mortgage lenders. Violators of this section shall be punished by imprisonment in jail for not more than 1 year or by a fine of not more than $300. If the value of the benefit obtained by violation of clause (1) or if the dollar amount of credit obtained by a violation of clause (2) exceeds $250, the violator shall be imprisoned in state prison for not more than 5 years or by a fine of not more than $25,000 and imprisonment in the house of correction for not more than 2 years.

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(2) uses any false material statement or material omission knowingly in connection with the mortgage lending process with the intent the statement be relied upon during the mortgage lending process
(3) receives any proceeds or other funds in connection with a residential mortgage closing, knowing such proceeds were made in violation of clause 1 or 2

(4) files with a registrar of deeds any document that contains a false material statement or material omission knowingly

Shall be punished with imprisonment in the state for not more than 5 years; or by imprisonment in the house of correction for not more than 2 ½ years; or by a fine of not more than $10,000 in the case of a natural person; or not more than $100,000 in the case of any other person; or by both such fine and imprisonment.
Any person who engages in a pattern of residential mortgage fraud shall be punished by imprisonment in the state prison for not more than 15 years or by a fine of not more than $50;000 or in the case of a natural person, not more than $500,000 in the case of any other person, or by fine and imprisonment.

(c) Any violation of this section may be prosecuted and punished in:
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(2) the defendant demonstrates enforcement of written policy (1)
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