SENATE DOCKET, NO. 1867 FILED ON: 1/21/2011

SENATE . . . . . No. 857

The Commonwealth of Massachusetts

PRESENTED BY:

Richard J. Ross

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:

An Act relative to mandatory rent escrowing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard J. Ross	*Norfolk, Bristol, and Middlesex*
Bruce E. Tarr	
	☐ *[District]*
	☐

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SENATE . . . . . No. 857

By Mr. Ross, a petition (accompanied by bill, Senate, No. 857) of Richard J. Ross and Bruce E. Tarr for legislation relative to mandatory rent escrowing. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to mandatory rent escrowing.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 8A of chapter 239 of the General Laws, is hereby amended by striking out, after the words "section unless: (1)" in the second paragraph, the following text:- "the owner or his agents, servants, or employees, or the person to whom the tenant or occupant customarily paid his rent knew of such conditions before the tenant or occupant was in arrears in his rent; (2) the plaintiff does not show that such conditions were caused by the tenant or occupant or any other person acting under his control; except that the defendant shall have the burden of proving that any violation appearing solely within that portion of the premises under his control and not by its nature reasonably attributable to any action or failure to act of the plaintiff was not so caused; (3) the premises are not situated in a hotel or motel, nor in a lodging house or rooming house wherein the occupant has maintained such occupancy for less than three consecutive months; and (4) the plaintiff does not show that the conditions complained of cannot be remedied without the premises being vacated; provided, however, that nothing in this clause shall be construed to deprive the tenant or occupant of relief under this section when the premises are temporarily vacated for purposes of removal or covering of paint, plaster, soil or other accessible materials containing dangerous levels of lead pursuant to section one hundred and ninety-seven of chapter one hundred and eleven.", and inserting in place thereof the following text:- "the tenant or occupant deposits with the clerk all rent due prior to final disposition of the plaintiff's action; (2) the owner or his agents, servants or employees, or the person to whom the tenant or occupant customarily paid his rent was given written notice of such conditions before the tenant or occupant was in arrears in his rent; (3) the plaintiff does not show that such conditions were caused by the tenant or occupant or any other person acting under his control; except that the defendant shall have the burden of proving that any violation appearing solely within that portion of the premises under his control and not by its nature reasonably attributable to any action of failure to act of the plaintiff was not so caused; (4) the premises are not situated in a hotel or motel, nor in a lodging house or rooming house wherein the occupant has maintained such occupancy for less than three consecutive months; and (5) the plaintiff does

not show that the conditions complained of cannot be remedied without the premises being vacated; provided, however, that nothing in this clause shall be construed to deprive the tenant or occupant of relief under this section when the tenant otherwise applies rent pursuant to section one hundred twenty-seven of chapter one hundred eleven L or when the premises are temporarily vacated for purposes of removal or covering of paint, plaster, soil or other accessible materials containing dangerous levels of lead pursuant to section one hundred and ninety-seven of chapter one hundred and eleven."

SECTION 2. Section 8A of chapter 238 of the General Laws, is hereby amended by striking out, after the words, "chapter by the landlord" in the fourth paragraph, the word:- "voluntarily".

SECTION 3. Section 8A of chapter 238 is hereby further amended by striking out, after the words "the case may require" in the fourth paragraph, the following:- "the tenant or occupant claiming under this section to pay to".

SECTION 4. Section 8A of chapter 238 is hereby further amended by inserting, after the words "clerk of the court" in the fourth paragraph, the following:- "to pay to the landlord, from the deposit required by the second paragraph,".

SECTION 5. Section 8A of chapter 238 is hereby further amended by striking out, after the words "any amount for rent" in the fourth paragraph, the following:- "or for use and occupation".

SECTION 6. Section 8A of chapter 238 is hereby further amended by striking out, after the words, "after hearing the case" in the fourth paragraph, the word:- "may" and inserting in place thereof the word:- "shall".

SECTION 7. Section 8A of chapter 238 is hereby further amended by striking out, after the words, "provisions of this section" in the fourth paragraph, the word:- "may" and inserting in place thereof the word:- "shall".