SENATE DOCKET, NO. 1843 FILED ON: 1/21/2011

SENATE . . . . . No. 890

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 passage of the accompanying:

An Act promoting rental housing stability .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bruce E. Tarr	☐ *[District]* ☐
Steven L. Levy	*4th Middlesex*
Benjamin Swan	*11th Hampden*

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SENATE . . . . . No. 890

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 890) of Bruce E. Tarr, Steven L. Levy and Benjamin Swan for legislation to promote rental housing stability. The Judiciary.

The Commonwealth of Massachusetts

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:

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

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

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

Whenever any counterclaim or claim of defense under this section is based on any allegation concerning the condition of the premises or the services or equipment provided therein, the tenant or occupant shall not be entitled to relief under this section unless: (1) 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 tenant, within 7 days of the typical rent payment date, deposited the withheld rent with the clerk to be held in escrow; (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 or failure to act of the plaintiff was not so caused; (4) the tenant shows that, upon reasonable notice by the owner, they did not unreasonably deny access to the owner or owner's representative to make the repairs or alterations; (5) 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 (6) the plaintiff does not show that the conditions complained 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
30 of the fourth paragraph by striking "may" after "invoking the provisions of this section" and
31 replacing 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.