
By Mr. Timilty, a petition (accompanied by bill, Senate, No. 1650) of Joseph F. Timilty, Ronald A. Pina and Thomas H. D. Mahoney for legislation to require mortgagees to make repairs under certain circumstances. Urban Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Five.

AN ACT REQUIRING MORTGAGEES TO MAKE REPAIRS UNDER CERTAIN CIRCUMSTANCES.

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 127A of chapter 111 as most recently
2 amended by chapter 261 of the Acts of 1971 is hereby further
3 amended by adding the following paragraph at the end of said
4 section:

5 Local boards of health as used in this chapter shall in the
6 city of Boston, include the commissioner of housing inspection.

1 SECTION 2. Section 127B of chapter 111 as most recently
2 amended by chapter 522 of the Acts of 1972 is hereby further
3 amended by striking all that appears after the fourth sentence
4 of said section and substituting in place thereof the following
5 sentences:

6 A copy of such written notice shall be served upon any mort-
7 gagee of record, by sending the same by registered mail, re-
8 turn receipt requested. If the owner or occupant fails to take
9 any action to comply with such order within fifteen days of
10 receiving it or fails to completely comply with such order with-
11 in forty-five days of its receipt, the mortgagee or mortgagees
12 of record notified under this section, shall repair any condi-
13 tions cited in said order which may endanger or materially im-
14 pair the health or safety of the tenant within thirty days of
15 the failure of the owner or occupant to comply with the order;
16 provided however, that mortgagees shall be responsible for
17 such repairs only in cases where the premises cited for viola-

18 tions are controlled rental units as defined in section 3(b) of
19 chapter 842 of the Acts of 1970. If the owner, occupant, or any
20 mortgagee responsible under this section refuses to comply
21 with such order or refuses to make such repairs, the board of
22 health may cause the premises to be properly repaired at the
23 expense of the owner, occupant and mortgagee, remove the
24 occupant forcibly and close up the premises, or bring a petition
25 in equity in the Superior Court to enforce the order against
26 the owner, occupant and any mortgagee responsible under this
27 section. The Superior Court shall have jurisdiction in equity,
28 by injunction or otherwise, to enforce the requirements of the
29 board of health. Premises closed up under the provisions of
30 this section shall not be occupied as a human habitation with-
31 out written permission of the board of health. If compliance
32 with the regulations contained in said code has not been ef-
33 fected within one year from the date the premises have been
34 so closed up the board of health may cause such structure to be
35 demolished or removed; provided, however, that said board,
36 upon written certification to it by the head of the local health
37 department that immediate demolition or removal is essential
38 to protect the health and safety of the public, may cause such
39 demolition or removal within ninety days of said closing. A
40 claim for the expense incurred by said board in repairing the
41 premises or in causing such structure to be demolished or re-
42 moved shall constitute a debt due the city or town upon the
43 completion of the work and the rendering of an account there-
44 for to the owner of such structure, and to any mortgagee re-
45 sponsible under this section, and shall be recoverable from such
46 owner and mortgagee, jointly and severally in an action of
47 contract.

48 Notwithstanding any provision of any mortgage agreement
49 to the contrary, mortgagees shall have a right of entry on such
50 premises for the purpose of making such repairs as may be re-
51 quired under this section.

1 SECTION 3. Section 127D of G.L. chapter 111 as most re-
2 cently amended by section 3 of chapter 898 of the Acts of
3 1965 is hereby further amended by inserting after the words
4 "owner of record" in the third line of said section the follow-
5 ing new words:

6 and, in the case of any controlled rental unit as defined in
7 section 3 of chapter 842 of the Acts of 1970, any mortgagee of
8 record.

1 SECTION 4. Section 127H of chapter 111 of the General Laws
2 as most recently amended by chapter 201 of the Acts of 1972
3 is hereby further amended by inserting after the words "owner
4 of said building" in the first sentence of said section the words,
5 "and, in the case of any controlled rental unit as defined in
6 section 3 of chapter 842 of the Acts of 1970 any mortgagee of
7 record"; and by inserting after the word "lienors of record" in
8 the last sentence of said section the following words "who are
9 not respondents"; and by adding the following new sentence
10 to the end of said section 127H:

11 A board of health or local code enforcement agency may
12 file a petition under this section.

1 SECTION 5. Section 127J of chapter 111 of the General Laws
2 as most recently amended by section 3 of chapter 898 of the
3 Acts of 1965 is hereby further amended by striking the sec-
4 ond sentence of the fourth paragraph thereof and substituting
5 in place of said sentence the following sentence:

6 The balance owed by the receiver to the Commonwealth
7 shall, together with interest thereon at the rate of 6% per
8 annum, constitute a debt due the Commonwealth, upon the
9 rendering of an account therefor to the owner of record and,
10 in cases where a mortgagee is also liable under this chapter,
11 to the owner and mortgagee jointly and severally and shall be
12 recoverable from such owner or owner and mortgagee in an
13 action of contract.

1 SECTION 6. Section 127K of chapter 111 of the General Laws
2 as most recently amended by section 2 of chapter 404 of the
3 Acts of 1968 is hereby further amended by adding the follow-
4 ing new paragraph thereto:

5 Any provision in any mortgage instrument relating to any
6 controlled rental unit as defined by section 3 of chapter 842
7 of the Acts of 1970 the effect of which is to waive the liabil-
8 ity under this chapter of any mortgagee for violations of the
9 State Sanitary Code or any regulation of any local board of
10 health shall be deemed to be against public policy and void.

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9 Any provision in any contract instrument relating to any

8 certified contract shall be subject to section 2 of chapter 212

7 of the Acts of 1910 the effect of which is to waive the limit-

6 212 as to the effect of any provision of any lease bond of

5 212 as to the effect of any provision of any lease bond of

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