

3592 149P, 149Q, 149R and 149U, as applicable, and motor vehicle manufacturers offering service
3593 contracts on the motor vehicle manufacturer's products shall be exempt from licensure under
3594 subsection (c) of section 149N and the requirements of subsection (d) of section 149N.

3595 SECTION 133A. Chapter 184 of the General Laws is hereby amended by adding the
3596 following section:-

3597 Section 36. (a) For the purposes of this section, the following words shall, unless the
3598 context clearly requires otherwise, have the following meanings:

3599 "Affiliate", an entity owned or controlled by an owner or under common control with an
3600 owner.

3601 "Auction" or "public auction", the sale of a housing accommodation under power of sale
3602 in a mortgage loan by public bidding.

3603 "Borrower", a mortgagor of a mortgage loan.

3604 "Deed in lieu," a deed for the collateral property or the housing accommodation that the
3605 mortgagee accepts from the borrower in exchange for the release of the borrower's obligation
3606 under the mortgage loan.

3607 "Designee", a nonprofit organization, established pursuant to chapter 180, which is
3608 selected by members of a tenant association.

3609 "Elderly tenant household", a tenant household in which 1 or more of the residents are
3610 age 65 or older.

3611 “Executive office”, the executive office of housing and livable communities established
3612 in chapter 23B.

3613 “Foreclosure”, a legal proceeding to terminate a borrower’s interest in property instituted
3614 by a mortgagee and regulated under chapter 244.

3615 “Housing accommodation”, a building, structure or part thereof, rented or offered for rent
3616 for living or dwelling purposes, including, but not limited to, a house, apartment, condominium
3617 unit, cooperative unit and other multi-family residential dwelling; provided, that a housing
3618 accommodation shall not include a group residence, homeless shelter, lodging house, orphanage,
3619 temporary dwelling structure or transitional housing; and provided further, that a housing
3620 accommodation shall not include a borrower-occupied housing accommodation if the borrower
3621 is domiciled in the housing accommodation at the initiation of the short-sale, deed in lieu or
3622 foreclosure process.

3623 “Member”, a natural person who is a member of a tenant association.

3624 “Minimum tenant participation percentage”, the minimum percentage of tenants who
3625 shall participate as members of a tenant association as defined by the city or town in a municipal
3626 ordinance or by-law; provided, that the minimum tenant participation percentage shall be not less
3627 than 51 per cent of the tenant-occupied housing units. The percentage shall be calculated based
3628 on the number of tenant-occupied housing units in a property. If more than 1 person is a lessee in
3629 a unit, all of the tenants who are lessees for that unit shall participate as members of the tenant
3630 association for the unit to be counted toward the participating percentage of units.

3631 “Mortgagee”, an entity to whom property is mortgaged, including, but not limited to,
3632 mortgage servicers, lenders in a mortgage agreement and any agent, servant or employee of the

3633 mortgagee or any successor in interest or assignee of the mortgagee's rights, interests or
3634 obligations under the mortgage agreement.

3635 "Mortgage loan", a loan secured wholly or partially by a mortgage on a housing
3636 accommodation.

3637 "Owner", a person, firm, partnership, corporation, trust, organization, limited liability
3638 company or other entity, or its successors or assigns that holds title to real property.

3639 "Purchase contract", a binding written agreement whereby an owner agrees to sell
3640 property, including, but not limited to, a purchase and sale agreement, contract of sale, purchase
3641 option or other similar instrument.

3642 "Purchaser", a party who has entered into a purchase contract with an owner and who
3643 will, upon performance of the purchase contract, become the new owner of the property.

3644 "Sale", an act by which an owner conveys, transfers or disposes of property by deed or
3645 otherwise, whether through a single transaction or a series of transactions; provided, that a
3646 disposition of housing by an owner to an affiliate of such owner shall not constitute a sale.

3647 "Short-sale", a sale approved by the mortgagee to a bona fide purchaser at a price that is
3648 less than the borrower's existing debt on the housing accommodation.

3649 "Successor", an entity through which a tenant association may take title to the property,
3650 which may be a corporation with the sole stockholder being the tenant association, a housing
3651 cooperative organized under chapter 157B, a limited liability company in which the tenant
3652 association is the member, a limited partnership in which the tenant association is a general
3653 partner or when permitted by the municipality's ordinance, a joint venture between any of such

3654 entities and another party with: (i) the requisite experience in acquiring, developing and owning
3655 residential property; and (ii) the financial capacity to guaranty financing of the purchase
3656 transaction.

3657 “Tenant”, a natural person who has: (i) entered into an express written lease or rental
3658 agreement with the owner for exclusive possession of the premises for at least 6 months; or (ii)
3659 paid rent to the owner and the owner has accepted said rent for at least 6 months.

3660 “Tenant association”, an organization with a membership limited to present tenants of a
3661 property that is: (i) registered with the municipality that has adopted an ordinance or by-law
3662 consistent with this section; or (ii) a non-profit organization incorporated under chapter 180.

3663 “Third-party offer”, an offer to purchase the mortgaged property for valuable
3664 consideration by an arm’s length purchaser; provided, that a third-party offer shall not include an
3665 offer by the borrower or tenants.

3666 “Third-party purchaser”, a purchaser who is not a tenant association, a designee or an
3667 affiliate.

3668 (b)(1) A city or town may accept this section, in the manner provided in section 4 of
3669 chapter 4, through ordinance or by-law, to establish a tenant right to purchase property. This
3670 section shall take effect no later than 180 days after such acceptance. A city or town may at any
3671 time revoke its acceptance of this section by vote of the legislative body, subject to the charter of
3672 the municipality. The revocation shall not affect agreements relative to tenants’ right to purchase
3673 that have already been asserted prior to the revocation.

3674 (2) A municipal ordinance or by-law may contain provisions that establish:

3675 (i) tenancy protections for non-elderly tenant households that do not participate in the
3676 tenant association;

3677 (ii) exclusion of applicability to properties with fewer than a designated number of units;
3678 provided, that different exclusion numbers may be adopted for owner-occupied properties and
3679 properties with no owner occupancy;

3680 (iii) criteria for designees;

3681 (iv) a tenant association's ability to exercise rights pursuant to this section through a joint
3682 venture or partnership with another entity with experience in developing, owning or operating
3683 residential real estate or an entity that has the financial capacity to guaranty the financing of the
3684 purchase transaction; and

3685 (v) exclusion of classes of properties in addition to the classes of properties enumerated
3686 in subsection (k).

3687 (c) In any city or town that votes to adopt this section, an owner of a residential building
3688 shall: (i) notify the municipality and each tenant household, in writing by hand delivery and
3689 United States mail, of the owner's intention to sell the property, with copy of the municipality's
3690 prepared summary of the ordinance adopted hereunder; and (ii) provide a tenant association with
3691 the minimum tenant participation percentage an opportunity to make an offer to purchase the
3692 property prior to entering into an agreement to sell such property pursuant to the time periods in
3693 this section; provided, that no owner shall be under any obligation to enter into an agreement to
3694 sell such property to the tenants.

3695 (d) A tenant association with the minimum tenant participation percentage may select a
3696 successor or a designee to act on its behalf as purchaser of the property and shall give the owner
3697 and the municipality notice of its selection.

3698 (e)(1) A tenant association with the minimum tenant participation percentage, or its
3699 successor or designee, may, within 15 days after receipt of the notice of the owner's intention to
3700 sell, submit an offer to the owner to purchase the property.

3701 (2) A tenant association, successor or designee's failure to submit a timely offer under
3702 paragraph (1) shall constitute an irrevocable waiver of the tenants' rights under this section. If
3703 the owner and the tenant association, successor or designee, have not entered into an agreement
3704 within 15 days after receipt of the notice of the owner's intent to sell, the owner may enter into
3705 an agreement to sell the property to a third party, subject to subsections (f) to (i), inclusive.

3706 (f) Upon execution of any purchase contract with a third party, the owner shall, within 7
3707 days, submit a copy of the contract along with a proposed purchase contract for execution by the
3708 tenant association, successor or designee. If the tenant association, successor or designee elect to
3709 purchase the property, the tenant association, successor or designee shall within 30 days after the
3710 receipt of the third-party purchase contract and the proposed purchase contract, execute the
3711 proposed purchase contract or such other agreement as is acceptable to both parties. The time
3712 periods set forth in this subsection may be extended by agreement between the owner and the
3713 tenant association, successor or designee. Except as otherwise specified in subsection (h), the
3714 terms and conditions of the proposed purchase contract offered to the tenant association,
3715 successor or designee shall be the same as those of the executed third-party purchase contract.

(g) After receipt of the third-party purchase contract pursuant to subsection (f), the tenant association, successor or designee may, within the 15-day time period prescribed in said subsection (f), make a counteroffer by executing and submitting to the owner an amended proposed purchase contract. Failure by the tenant association, successor or designee to execute the purchase contract or submit a counteroffer within the 15-day period in subsection (f) shall constitute a waiver of the tenants' right to purchase. If the tenant association, successor or designee submits a counteroffer, the owner shall have 15 days from the date it receives the amended proposed purchase contract to execute the amended proposed purchase contract or reject, in writing, the counteroffer; provided, however, that if the owner rejects a counteroffer, it shall not subsequently enter into any purchase contract with a third party on terms that are the same as, or materially more favorable to the proposed third party purchaser, than the economic terms and conditions in the counteroffer proposed by the tenant association, successor or designee, unless the owner first provides a copy of such new third-party purchase contract and a new proposed purchase contract for execution by the tenant association, successor or designee, which shall contain the same terms and conditions as the newly executed third party purchase contract, except as otherwise specified by subsection (h), and the tenant association, successor or designee shall have 30 days from the date they receive the third-party purchase contract and the proposed purchase contract to execute the proposed purchase contract or such other agreement as is acceptable to the owner and the tenant association, successor or designee.

(h) Any purchase contract offered to, or proposed by, the tenant association, successor or designee shall include at a minimum the following terms:

(i) the earnest money deposit shall not exceed the lesser of: (A) the deposit in the third-party purchase contract; (B) 5 per cent of the sale price; or (C) \$250,000; provided, however, that

3739 the owner and the tenant association, successor or designee may agree to modify the terms of the
3740 earnest money deposit; and provided, further, that the earnest money deposit shall be held under
3741 commercially-reasonable terms by an escrow agent selected jointly by the owner and the tenant
3742 association, successor or designee;

3743 (ii) the earnest money deposit shall be refundable for not less than 90 days from the date
3744 of execution of the purchase contract or such greater period as provided for in the third-party
3745 purchase contract; provided, however, that if the owner unreasonably delays the buyer's ability
3746 to conduct due diligence during the 90-day period, the earnest money deposit shall continue to be
3747 refundable for a period greater than 90 days. After the expiration of the specified time period, the
3748 earnest money deposit shall be forfeited and the right to purchase of the tenant association,
3749 successor or designee shall be irrevocably waived.

3750 (i) The tenant association, successor or designee shall have 160 days from execution of
3751 the purchase and sale agreement to perform all due diligence, secure financing and close on the
3752 purchase of the property. Failure to exercise the purchase option within 160 days shall constitute
3753 a waiver of the purchase option by the tenant association, successor or designee.

3754 (j) Any notice required by this section shall be deemed to have been provided when
3755 delivered in person or mailed by certified or registered mail, return receipt requested, to the party
3756 to whom notice is required. Notice shall be deemed to have been provided when either: (i) the
3757 notice is delivered in hand to the tenant or an adult member of the tenant's household; or (ii) the
3758 notice is sent by first class mail and a copy is left in, or under the door of, the tenant's dwelling
3759 unit. A notice to the affected municipality shall be sent to the chief executive officer of the
3760 municipality.

3761 (k) This section shall not apply to:

3762 (i) property that is the subject of a government taking by eminent domain or a negotiated
3763 purchase in lieu of eminent domain;

3764 (ii) a proposed sale to a purchaser pursuant to terms and conditions that preserve
3765 affordability, as determined by the executive office;

3766 (iii) any sale of publicly-assisted housing, as defined in section 1 of chapter 40T;

3767 (iv) rental units in any hospital, skilled nursing facility or health facility;

3768 (v) rental units in a nonprofit facility that has the primary purpose of providing short-term
3769 treatment, assistance or therapy for alcohol, drug or other substance abuse; provided, that such
3770 housing is incident to the recovery program; and provided further, that the client has been
3771 informed in writing of the temporary or transitional nature of the housing;

3772 (vi) rental units in a nonprofit facility: (A) that provides a structured living environment
3773 that has the primary purpose of helping homeless persons obtain the skills necessary for
3774 independent living in permanent housing; (B) where occupancy is restricted to a limited and
3775 specific period of time of not more than 24 months; and (C) where the client has been informed
3776 in writing of the temporary or transitional nature of the housing at its inception;

3777 (vii) public housing units managed by the local housing authority;

3778 (viii) federal public housing units that are subsidized and regulated under federal law, to
3779 the extent such applicable federal law expressly preempts this section;

3780 (ix) any residential property where the owner is a natural person who owns not more than
3781 6 residential rental units in the municipality and who resides in the commonwealth;

3782 (x) any unit that is held in trust on behalf of a disabled individual who permanently
3783 occupies the unit, or a unit that is permanently occupied by a disabled parent, sibling, child or
3784 grandparent of the owner of that unit; or

3785 (xi) any rental unit that is owned or managed by a college or university for the express
3786 purpose of housing students.

3787 (l) The tenant association, successor or designee shall ensure that its purchase of the
3788 property will not result in the displacement of any elderly tenant households that choose not to
3789 participate in the purchase of the property.

3790 (m)(1) An owner shall give notice to each tenant household of a housing accommodation
3791 of the intention to sell the housing accommodation by way of short-sale to avoid foreclosure or
3792 its intention of accepting a deed in lieu. Such notice shall be mailed by regular and certified mail,
3793 with a simultaneous copy to the attorney general, the secretary of the executive office and to the
3794 municipality adopting this section, within 2 business days of the owner's submission of a request
3795 or application to the mortgagee for permission to sell the housing accommodation by way of
3796 short-sale or to accept a deed in lieu. This notice shall also include a statement of the rights
3797 provided by this section.

3798 (2) No mortgagee shall accept any third party offers or deem the owner's application for
3799 short-sale submitted for review unless and until the mortgagee receives documentation in a form
3800 approved by the attorney general demonstrating that the tenants of the housing accommodation
3801 have been informed of the owner's intent to seek a short-sale or deed in lieu and the tenants have

3802 expressed their interest in exercising a right of first refusal within 60 days, assigning that right of
3803 first refusal, or the tenants have waived those rights. If the tenants have not affirmatively
3804 expressed their interest in exercising a right of first refusal or in assigning that right within 60
3805 days or have not affirmatively waived that right within 60 days, the tenants' rights shall be
3806 deemed waived.

3807 (3) Before a housing accommodation may be transferred by short-sale or deed in lieu, the
3808 owner shall notify each tenant household, with a simultaneous copy to the attorney general, the
3809 secretary of the executive office and the municipality adopting this section, by regular and
3810 certified mail, of any bona fide offer that the mortgagee intends to accept. Before any short-sale
3811 or transfer by deed in lieu, the owner shall give each tenant household such a notice of the offer
3812 only if households constituting at least 51 per cent of the households occupying the housing
3813 accommodation notify the owner, in writing, that they collectively desire to receive information
3814 relating to the proposed sale. Tenants may indicate this desire within the same notice described
3815 in paragraph (2). Any notice of the offer required to be given under this subsection shall include
3816 the price, calculated as a single lump sum amount, of any promissory notes offered in lieu of
3817 cash payment.

3818 (4) A group of tenants representing at least 51 per cent of the households occupying the
3819 housing accommodation that are entitled to notice under paragraph (3) shall have the collective
3820 right to purchase, in the case of a third party offer that the mortgagee intends to accept, provided
3821 that the group of tenants shall:

3822 (A) submit to the owner reasonable evidence that the tenants of at least 51 per cent of the
3823 occupied units in the housing accommodation have approved the purchase of the housing
3824 accommodation;

3825 (B) submit to the owner a proposed purchase and sale agreement on substantially
3826 equivalent terms and conditions within 60 days of receipt of notice of the offer made under
3827 paragraph (3);

3828 (C) obtain a binding commitment for any necessary financing or guarantees within an
3829 additional 90 days after execution of the purchase and sale agreement; and

3830 (D) close on such purchase within an additional 90 days after the end of the 90-day
3831 period in clause (C).

3832 (5) No owner shall unreasonably refuse to enter into or unreasonably delay the execution
3833 or closing on a purchase and sale with tenants who have made a bona fide offer to meet the price
3834 and substantially equivalent terms and conditions of an offer for which notice is required to be
3835 given pursuant to paragraph (3). Failure of the tenants to submit such a purchase and sale
3836 agreement within the first 60-day period, to obtain a binding commitment for financing within
3837 the additional 90-day period or to close on the purchase within the second 90-day period, shall
3838 serve to terminate the rights of such tenants to purchase. The time periods provided in this
3839 paragraph may be extended by agreement. Nothing herein shall be construed to require an owner
3840 to provide financing to such tenants. A group or association of tenants that has the right to
3841 purchase pursuant to this subsection, at its election, may assign its purchase right pursuant to this
3842 subsection to the city or town in which the housing accommodation is located, or the housing
3843 authority of the city or town in which the housing accommodation is located, or an agency of the

3844 commonwealth, nonprofit, community development corporation, affordable housing developer,
3845 or land trust, for the purpose of permanently continuing the use of the housing accommodation as
3846 affordable rental housing.

3847 (6) The right of first refusal created in this subsection shall inure to the tenants for the
3848 time periods provided in paragraph (4), beginning on the date of notice to the tenants under
3849 paragraph (1). The effective period for such right of first refusal shall begin anew for each
3850 different offer to purchase that the mortgagee intends to accept. The right of first refusal shall not
3851 apply with respect to any offer received by the owner for which a notice is not required pursuant
3852 to paragraph (3).

3853 (7) In any instance where the tenants are not the successful purchaser of the housing
3854 accommodation, the mortgagee shall provide evidence of compliance with this section by filing
3855 an affidavit of compliance with the attorney general, the secretary of the executive office and the
3856 registry of deeds for the county and district where the property is located within 7 days of the
3857 sale.

3858 (8) An owner shall not evict a tenant to avoid application of this subsection.

3859 (9) An aggrieved tenant may seek damages under chapter 93A and may file a complaint
3860 with the attorney general. A tenant may seek damages, including compensatory relief in the form
3861 of a percentage of the sales price, injunctive relief in the form of specific performance to compel
3862 transfer of the property or both compensatory and injunctive relief. Nothing in this subsection
3863 shall be construed to limit or constrain the rights tenants currently have under applicable laws,
3864 including, but not limited to, chapters 186 and 186A. At all times, all parties shall negotiate in
3865 good faith.

3866 (10) The attorney general shall enforce this subsection and shall promulgate rules and
3867 regulations necessary for enforcement. The attorney general may seek injunctive, declaratory and
3868 compensatory relief on behalf of tenants and the commonwealth in a court of competent
3869 jurisdiction. The attorney general shall post a sample intent to sell notice, sample proof of notice
3870 to tenants, sample notice of offer and other necessary documents.

3871 (n)(1) When a mortgagee seeks judicial determination of the right to foreclose, the
3872 mortgagee shall provide a copy of the complaint by regular and certified mail to the tenants of
3873 the housing accommodation and to the municipality adopting this section. The mortgagee shall
3874 also provide tenants and the municipality, by regular and certified mail, with a copy of any order
3875 of notice issued by the land court, if applicable, within 5 days of issuance.

3876 (2) The mortgagee shall provide each tenant household and the municipality adopting this
3877 section, by regular and certified mail, a copy of all notices of sale published pursuant to section
3878 14 of chapter 244. A copy shall be provided simultaneously with the successive publication
3879 notices.

3880 (3) Not later than 5 business days before the auction of a housing accommodation, the
3881 tenants shall inform the mortgagee, in writing, if a group of tenants representing at least 51 per
3882 cent of the households occupying the housing accommodation or an entity to which they have
3883 assigned their right of first refusal intend to exercise their right of first refusal at auction and
3884 desire to receive information relating to the proposed auction.

3885 (4)(A) A group of tenants representing at least 51 per cent of the households occupying
3886 the housing accommodation or an entity to which they have assigned their right of first refusal

3887 may exercise their collective right to purchase the housing accommodation, in the event of a
3888 third party offer at auction that the mortgagee receives; provided, that the group of tenants shall:

3889 (i) submit to the mortgagee reasonable evidence that the tenants of at least 51 per cent of
3890 the occupied homes in the housing accommodation have approved the purchase of the housing
3891 accommodation;

3892 (ii) submit to the mortgagee a proposed purchase and sale agreement on substantially
3893 equivalent terms and conditions to that received by the mortgagee in the third-party offer within
3894 60 days of receipt of notice of the bid made under paragraph (3);

3895 (iii) obtain a binding commitment for any necessary financing or guarantees within an
3896 additional 90 days after execution of the purchase and sale agreement; and

3897 (iv) close on such purchase within an additional 90 days after the end of the 90-day
3898 period under clause (iii).

3899 (B) No mortgagee shall unreasonably refuse to enter into, or unreasonably delay, the
3900 execution or closing on a purchase and sale with tenants who have made a bona fide offer to
3901 meet the price and substantially equivalent terms and conditions of a bid received at auction.
3902 Failure of the tenants to submit such a purchase and sale agreement within the first 60-day
3903 period, to obtain a binding commitment for financing within the additional 90-day period or to
3904 close on the purchase within the second 90-day period, shall serve to terminate the rights of such
3905 tenants to purchase. The time periods provided in this paragraph may be extended by agreement.

3906 (C) Nothing herein shall be construed to require a mortgagee to provide financing to such
3907 tenants. A group or association of tenants that has the right to purchase hereunder, at its election,

3908 may assign its purchase right hereunder to the city, town, housing authority, or agency of the
3909 commonwealth, nonprofit, community development corporation, affordable housing developer,
3910 or land trust for the purpose of permanently continuing the use of the housing accommodation as
3911 affordable rental housing.

3912 (D) If there are no third-party bids at auction for the housing accommodation, the tenants
3913 shall have a right of first refusal whenever the mortgagee seeks to sell the housing
3914 accommodation. The tenants shall be notified of any offers the mortgagee intends to accept and
3915 shall be given an opportunity to meet the price and substantially the terms of a third-party offer
3916 based on the same timeline described in paragraph (4).

3917 (5) The right of first refusal created herein shall inure to the tenants for the time periods
3918 herein before provided, beginning on the date of notice to the tenants under paragraph (1).

3919 (6) In any instance where the tenants are not the successful purchaser of the housing
3920 accommodation, the seller of such unit shall provide evidence of compliance with this section by
3921 filing an affidavit of compliance with the attorney general, the secretary of the executive office
3922 and the registry of deeds for the county and district where the property is located within 7 days of
3923 the sale.

3924 (7) An owner shall not evict a tenant to avoid application of this subsection.

3925 (8) An aggrieved tenant may seek damages under chapter 93A and may file a complaint
3926 with the attorney general. A tenant may seek damages including a percentage of the sales price
3927 or injunctive relief in the form of specific performance to compel transfer of property, or both
3928 compensatory and injunctive relief. Nothing in this subsection shall be construed to limit or

3929 constrain in any way the rights tenants currently have under applicable laws, including, but not
3930 limited to, chapters 186 and 186A. At all times, all parties shall negotiate in good faith.

3931 (9) The attorney general shall enforce this subsection and shall promulgate rules and
3932 regulations necessary for enforcement. The attorney general may seek injunctive, declaratory,
3933 and compensatory relief on behalf of tenants and the commonwealth in a court of competent
3934 jurisdiction. The attorney general shall post a sample intent to sell notice, sample proof of notice
3935 to tenants, sample notice of offer, and other necessary documents.

3936 SECTION 133A1/4. Chapter 270 of the General Laws is hereby amended by adding the
3937 following section:-

3938 Section 30. (a) For the purposes of this section, the following words shall, unless the
3939 context clearly requires otherwise, have the following meanings:

3940 “Department”, the department of public health.

3941 “Food”, a food, food product, food ingredient, dietary ingredient, dietary supplement or
3942 beverage for human consumption.

3943 “Kratom product”, a food product or dietary ingredient containing any part of the leaf of
3944 the *Mitragyna speciosa* plant, or a kratom extract, manufactured as a food, powder, capsule, pill,
3945 beverage or other edible product, including, but not limited to, any material, compound, mixture
3946 or preparation containing kratom.

3947 “Kratom retailer”, a person or entity who sells maintains or distributes kratom or
3948 advertises, represents or holds itself out as selling, maintaining or distributing kratom products.