

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Frank I. Smizik

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 bill:

An Act to Amend the Foreclosure Statute to Require Judicial Foreclosure.

PETITION OF:

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4735 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO AMEND THE FORECLOSURE STATUTE TO REQUIRE JUDICIAL FORECLOSURE.

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

1 *Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to
2 protect citizens of the Commonwealth involved in the mortgage foreclosure crisis, therefore it is hereby
3 declared to be an emergency law, necessary for the immediate preservation of the public convenience.

4 SECTION 1. Chapter 244 is hereby amended by inserting after Section 1 the following section:—

5 “SECTION 2: Foreclosure by Complaint: All foreclosures of residential mortgages on 1-4 family
6 owner-occupied property located in the commonwealth can only be initiated by the filing of a
7 foreclosure complaint in the Superior Court for the county in which the property is located. A
8 residential mortgagor may raise any and all available claims and defenses to the foreclosure and
9 to the contract for the underlying mortgage loan, in law and in equity. The court shall have the
10 authority to modify the mortgage or grant any other appropriate relief. Mortgagors shall have a
11 right of redemption for six months after the entry of judgment.