

HOUSE No. 1596

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick Joseph Kearney

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 adoption of the accompanying bill:

An Act relative to protection of a deceased family member against foreclosure and other civil action.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>1/17/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/31/2023</i>

HOUSE No. 1596

By Representative Kearney of Scituate, a petition (accompanied by bill, House, No. 1596) of Patrick Joseph Kearney and Vanna Howard relative to protection of deceased family members against foreclosure and other civil action. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1703 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to protection of a deceased family member against foreclosure and other civil action.

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

1 Chapter 188 of the General Laws is hereby amended by adding the following section
2 after Section 2(d) in line 42 :

3 SECTION 2A: This section applies to a creditor's foreclosure action or enforcement of a
4 lien on an estate of homestead, which at the time of filing an application under this section is
5 within probate court to obtain the appointment of a personal representative. At any stage before
6 final judgment in a civil action or proceeding in which an estate described in this section is a
7 party, the court may on its own motion and shall, upon application by the homestead, stay the
8 action for the period of not less than 90 days, if the estate submits an application for stay
9 including:

10 1. A letter or other communication setting forth facts stating the manner in which
11 current probate proceedings materially affect the ability of the decedent's estate to make
12 payments for the recurring costs of ownership.

13 2. A letter or other communication from the decedent's bank stating that the probate
14 proceeding prohibits the estate's future administrator from accessing the decedent's accounts to
15 make payments.

16 An application for a stay under this section does not constitute an appearance for
17 jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense.

18 An estate of homestead which is granted a stay of a civil action or proceeding under
19 subsection (b) may apply for an additional + stay based on continuing material affect of an
20 ongoing probate proceeding on the decedent's ability to make payments. The same information
21 required for the first application shall be included in subsequent applications.

22 If the court refuses to grant an additional stay of proceedings, the court shall appoint
23 counsel to represent the homestead in the action or proceeding.

24 Once the probate court has appointed a personal administrator for the estate, a creditor
25 may bring claims for back payments with interest. However the creditor may not charge fees
26 based on the lateness of the payment unless the court finds, in its discretion and if the equities so
27 require, good cause exists to assess such payments. Good cause includes but is not limited to
28 purposeful or untimely delay by the subsequently authorized administrator to get court approval
29 to probate the estate.