

HOUSE No. 02240

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia

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 enable judicial clarification of ownership in evictions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Joyce A. Spiliotis</i>	<i>12th Essex</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Jeffrey Sánchez</i>	<i>15th Suffolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>

<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>John P. Fresolo</i>	<i>16th Worcester</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>

HOUSE No. 02240

By Ms. Malia of Boston, a petition (accompanied by bill, House, No. 2240) of Swan and others for legislation to authorize judicial clarification of ownership in eviction proceedings Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to enable judicial clarification of ownership in evictions.

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 1 of chapter 239 of the General Laws, as appearing in the 2008 Official
2 Edition, is hereby amended by inserting after the words “land has been” in line 6 the following
3 word:-

4 “lawfully”.

5 SECTION 2. Section 1 of chapter 239, as so appearing, is hereby further amended by inserting
6 after the first sentence the following sentence:-

7 “For purposes of this section, ‘lawfully foreclosed’ shall mean that the foreclosure was initiated
8 and carried out strictly according to the power of sale in the mortgage and chapter 244 of the
9 General Laws by an entity that held both the promissory note and the mortgage at the time of
10 foreclosure; that, if the foreclosing entity is governed by a trust agreement, the assignment of the
11 note and mortgage into the trust was done in strict compliance with the terms of the trust

12 agreement; and that there are no other conveyances in the chain of mortgage title that either are
13 void ab initio or invalid or are adjudicated by the court hearing the action for possession or other
14 court to be void by reason of fraud, duress, breach of contract, or other legal or equitable
15 grounds; provided, however, that a mortgage of land shall be considered to have been lawfully
16 foreclosed if the purchaser at foreclosure sale is a bona fide purchaser that never held the
17 mortgage or note and is neither a subsidiary, parent, trustee, or agent of nor otherwise related to
18 an entity that at any time held the mortgage or note and the foreclosure was initiated and carried
19 out strictly according to the power of sale in the mortgage and chapter 244 of the General Laws
20 and there are no void conveyances in the chain of mortgage title.”