

HOUSE No. 4480

The Commonwealth of Massachusetts

PRESENTED BY:

John H. Rogers and Michael F. Rush

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 PROVIDE REMEDIES TO CONSUMERS FOR CLEARING TITLE AFTER
PAYOFF OF MORTGAGES.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Michael F. Rush</i>	<i>Suffolk and Norfolk</i>

HOUSE No. 4480

By Representative Rogers of Norwood and Senator Rush, a joint petition (subject to Joint Rule 12) of John H. Rogers and Michael F. Rush for legislation to provide remedies to consumers for clearing titles after the payoff of mortgages. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

AN ACT TO PROVIDE REMEDIES TO CONSUMERS FOR CLEARING TITLE AFTER PAYOFF OF MORTGAGES.

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. Chapter 260 of the General Laws is hereby corrected and therefore amended,
2 retroactively as of April 13, 2006, by striking out section 33, as so appearing, and inserting in
3 place thereof the following section:-
- 4 Section 33: A power of sale in any mortgage of real estate shall not be exercised and an entry
5 shall not be made nor possession taken nor proceeding begun for foreclosure of any such
6 mortgage after payoff and the expiration of, in the case of a mortgage in which no term of the
7 mortgage is stated, 35 years from the recording of the mortgage or, in the case of a mortgage in
8 which the term or maturity date of the mortgage is stated, 5 years from the expiration of the term
9 or from the maturity date, unless an extension of the mortgage, or an acknowledgment or
10 affidavit that the mortgage is not satisfied, is recorded before the expiration of such period. In
11 case an extension of the mortgage or the acknowledgment or affidavit is so recorded, the period
12 shall continue until 5 years shall have elapsed during which there is not recorded any further

13 extension of the mortgage or acknowledgment or affidavit that the mortgage is not satisfied. The
14 period shall not be extended by reason of nonresidence or disability of any person interested in
15 the mortgage or the real estate, or by any partial payment, agreement, extension,
16 acknowledgment, affidavit or other action not meeting the requirements of this section and
17 sections 34 and 35. After payoff and the expiration of the period provided herein, the mortgage
18 shall be considered discharged for all purposes without the necessity of further action by the
19 owner of the equity of redemption or any other persons having an interest in the mortgaged
20 property and, in the case of registered land, upon the payment of the fee for the recording of a
21 discharge, the mortgage shall be marked as discharged on the relevant memorandum of
22 encumbrances in the same manner as for any other mortgage duly discharged.