

HOUSE No. 00503

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:

NAME:	DISTRICT/ADDRESS:
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>John P. Fresolo</i>	<i>16th Worcester</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Jeffrey Sánchez</i>	<i>15th Suffolk</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

HOUSE No. 00503

By Mr. Frank I. Smizik of Brookline, petition (accompanied by bill, House, No. 00503) of Tom Sannicandro and others for legislation to require judicial review of foreclosures on residential mortgages. Joint Committee on the Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 1729 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to amend the foreclosure statute to require judicial foreclosure..

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

□

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 244 is hereby amended by inserting after Section 1 the following section:–
- 2 Section 2: Foreclosure by Complaint: All foreclosures of residential mortgages on 1-4 family
- 3 owner-occupied properties shall be initiated by the filing of a foreclosure complaint against the

4 mortgagor in the superior court for the county in which the property is located. A defendant-
5 residential mortgagor may raise all legal and equitable claims and defenses. The court shall have
6 the authority to modify the mortgage or grant any other appropriate relief as to the mortgagor but
7 nothing in this section shall affect the rights of tenants or other legal occupants residing in the
8 property that is the subject of the complaint. The court may set aside a default judgment for
9 good cause shown.