

SENATE No. 00684

The Commonwealth of Massachusetts

PRESENTED BY:

Katherine M. Clark

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>Katherine M. Clark</i>	<i>Middlesex and Essex</i>
<i>Geraldo Alicea</i>	<i>6th Worcester</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex, Suffolk, and Essex</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Thomas M. McGee</i>	<i>Third Essex and Middlesex</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>

SENATE No. 00684

By Ms. Clark, petition (accompanied by bill, Senate, No. 684) of Story, Montigny, McGee and other members of the General Court for legislation to enable judicial clarification of ownership in evictions [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
2 Official Edition, is hereby amended by inserting after the words “land has been” in line 6 the
3 following word:- “lawfully”.

4 SECTION 2. Section 1 of chapter 239, as so appearing, is hereby further amended by
5 inserting after the first sentence the following sentence:- “For purposes of this section, ‘lawfully
6 foreclosed’ shall mean that the foreclosure was initiated and carried out strictly according to the
7 power of sale in the mortgage and chapter 244 of the General Laws by an entity that held both
8 the promissory note and the mortgage at the time of foreclosure; that, if the foreclosing entity is
9 governed by a trust agreement, the assignment of the note and mortgage into the trust was done
10 in strict compliance with the terms of the trust agreement; and that there are no other
11 conveyances in the chain of mortgage title that either are void ab initio or invalid or are

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