

SENATE No. 763

The Commonwealth of Massachusetts

PRESENTED BY:

Michael D. Brady

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 to amend the foreclosure statute to require judicial foreclosure.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|-----------------------------|------------------------------------|------------------|
| <i>Michael D. Brady</i> | <i>Second Plymouth and Bristol</i> | |
| <i>Denise Provost</i> | <i>27th Middlesex</i> | <i>1/30/2017</i> |
| <i>Michelle M. DuBois</i> | <i>10th Plymouth</i> | <i>2/1/2017</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> | <i>2/1/2017</i> |
| <i>Elizabeth A. Malia</i> | <i>11th Suffolk</i> | <i>2/3/2017</i> |
| <i>Bud Williams</i> | <i>11th Hampden</i> | <i>2/3/2017</i> |
| <i>Jennifer L. Flanagan</i> | <i>Worcester and Middlesex</i> | <i>2/10/2017</i> |

SENATE No. 763

By Mr. Brady, a petition (accompanied by bill, Senate, No. 763) of Michael D. Brady, Denise Provost, Michelle M. DuBois, Kay Khan and other members of the General Court for legislation to amend the foreclosure statute to require judicial foreclosure. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 852 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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

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
2 section:—

3 SECTION 2: Foreclosure by Complaint: All foreclosures of residential mortgages on 1-4
4 family owner-occupied properties shall be initiated by the filing of a foreclosure complaint
5 against the mortgagor in the Superior Court for the county in which the property is located. A
6 defendant-residential mortgagor may raise all legal and equitable claims and defenses against the
7 mortgagee or any predecessor in interest, assignee, agent or any person or entity acting on behalf
8 of such mortgagee. The court shall have the authority to modify the mortgage or grant any other
9 appropriate relief as to the mortgagor but nothing in this section shall affect the rights of tenants

10 or other legal occupants residing in the property that is the subject of the complaint. The court
11 may set aside a default judgment for good cause shown.