

SENATE No. 925

The Commonwealth of Massachusetts

PRESENTED BY:

Diana DiZoglio

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 ensuring transparency in the recording of mortgage assignments.

PETITION OF:

NAME:

Diana DiZoglio

DISTRICT/ADDRESS:

First Essex

SENATE No. 925

By Ms. DiZoglio, a petition (accompanied by bill, Senate, No. 925) of Diana DiZoglio for legislation to ensure transparency in the recording of mortgage assignments. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2273 OF 2017-2018.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act ensuring transparency in the recording of mortgage assignments.

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 183 of the General Laws is hereby amended by inserting after
2 section 53 the following section:-

3 Section 53A. (a) A mortgagee, mortgage servicer, note holder, nominee for the lender
4 who assigns or transfers and sets over a mortgage or note shall, within 30 days of transfer, set
5 over an assignment of mortgage cause to be recorded a duly executed and acknowledged
6 assignment. The mortgagee, mortgage servicer, note holder, and nominee for lender shall record
7 said assignment at the same registry of deeds in which the mortgagor’s deed were recorded. All
8 recording fees that are required to be paid under Massachusetts law shall be paid by the
9 mortgagee, mortgage service provider or note holder and said recording fees shall not be the
10 responsibility of the mortgagor and shall not be passed to the mortgagor.

11 (b) In addition to any requirement under this section, if the mortgagee, mortgage servicer,
12 note holder, nominee for the lender elects to assign the mortgage, a copy of the recorded
13 assignment shall be transmitted to the mortgagor accompanied by a transmitted letter that
14 contains a statement in substantially the following form, in not less than 10-point bold face type:

15 ENCLOSED WITH THIS LETTER IS A COPY OF THE ASSIGNMENT OF YOUR
16 MORTGAGE AND OTHER DOCUMENTATION TO SHOW THE CORRECT
17 MORTGAGEE, MORTGAGE HOLDER OR SERVICER OF THE MORTGAGE OR
18 NOMINEE FOR THE LENDER THAT WAS ASSIGNED TO: THE DOCUMENT INCLUDES
19 THE FULL NAME, ADDRESS, CURRENT EMAIL ADDRESS, AND PHONE NUMBER TO
20 WHO THE MORTGAGE WAS ASSIGNED TO.

21 IT IS IN YOUR BEST INTERESTS TO VERIFY THIS INFORMATION AT THE
22 REGISTRY OF DEEDS. IF YOU ARE UNSURE WHAT TO DO, PLEASE SEEK THE
23 ADVICE OF AN ATTORNEY OR A CLERK AT THE REGISTRY OF DEEDS

24 (c) In addition to containing the mortgage reference information such assignment shall be
25 executed and acknowledged by the mortgagee, mortgage servicer, nominee for the lender or note
26 holder of the mortgage and the note or other obligation secured thereby or an authorized person
27 or entity acting on behalf of the holder. If the holder is not the holder of record, the holder shall
28 also specify by what means the holder became the holder of such mortgage and the note or other
29 obligation secured thereby, and shall: (1) specify the recording information for the
30 documentation on record in the registry district where the mortgage is recorded supporting the
31 holder's status as such; or (2) record the documentation, along with the assignment, if the holder
32 records the assignment; or (3) provide to the mortgagor, a copy of the recorded assignment

33 necessary to establish the holder's status of record, such documentation shall include, but not be
34 limited to: the note, any assignments, certificates of change of name or certificates of merger;
35 provided, however, that, if the holder's status as such is based upon a corporate change of name
36 or identity by any of the actions or events described in subsection (a) and the assignment refers
37 to those actions or events as provided in said subsection (a), then the holder need not provide or
38 record any further documentation in support of such actions or events.

39 If the assignment is executed on behalf of a mortgagee, mortgage servicer, nominee of
40 the lender and note holder by a mortgage servicer, an attorney-in-fact under a power of attorney
41 or other agent, the mortgage servicer, attorney-in-fact or other agent shall, in addition to the
42 information and documents required of the mortgagee and note holder, provide to the mortgagor
43 a copy of the recorded assignment and mortgage and note holder to act on behalf thereof, or the
44 recording information for the documentation if already recorded in the registry district where the
45 mortgage is recorded. Such documentation shall include, but not be limited to: the servicing
46 agreement, power of attorney or other written authorization from the mortgagee, mortgage
47 servicer and note holder to so act on behalf thereof. Any mortgagee and note holder, servicer,
48 attorney-in-fact or other agent for the mortgage and note holder

49 (d) A mortgagee, mortgage servicer, note holder, and nominee of the lender who has
50 assigned a mortgage who fails to record and provide to the mortgagor copies of an executed and
51 acknowledged assignment of that mortgage, or to provide such supporting documents required
52 by this section relative to such mortgage, within 30 days after the assignment, shall render the
53 terms and condition of the mortgage or the note void and unenforceable with no recourse by the
54 mortgagee, mortgage servicer or note holder.

55 (e) There is hereby set up on the books of the commonwealth a separate fund to be
56 known as the Massachusetts Neighborhood Preservation Fund and administered by the state
57 secretary, hereinafter called the Fund. There shall be credited to the Fund the dedicated recording
58 fees and revenues of assignments of mortgages. Amounts in the Fund shall be held by the state
59 treasurer or his designee as trustee and not on account of the commonwealth, and the state
60 treasurer is hereby authorized and directed to disburse amounts in the Fund to the state secretary,
61 without further appropriation, in the following amounts: \$37.50 of each said fee shall go to the
62 Fund to be used for local aid in the registry district where the mortgage is recorded; the
63 remaining \$37.50 surcharge shall be deposited into the Massachusetts Community Preservation
64 Trust Fund, established in section 9 of chapter 44B.