

**HOUSE . . . . . No. 03282**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Thomas J. Calter*

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 relative to judicial foreclosures.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Geraldo Alicea</i>	<i>6th Worcester</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

# HOUSE . . . . . No. 03282

By Mr. Calter of Kingston, a petition (accompanied by bill, House, No. 3282) of Benjamin Swan and others relative to judicial foreclosures. The Judiciary.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to judicial foreclosures.

*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 Section 21 of chapter 183 of the General Laws is hereby repealed.
- 2 SECTION 2. Said chapter 183 of the General Laws is hereby amended by inserting the following
- 3 section:-
- 4 Section 21A. Notwithstanding any general or special law, or rule, or regulation to the contrary,
- 5 any foreclosure of real property located within the commonwealth shall be initiated by the
- 6 process of filing a civil foreclosure complaint; provided, however, that said complaint shall be
- 7 filed in the superior or housing court of the county in which the real property is located. Such
- 8 action, after any and all notices required by state or federal law have been provided to the
- 9 mortgagor by the mortgagee, shall be commenced with a pleading for breach of contract in
- 10 accordance with the rules of civil procedure. A residential mortgagor may raise any and all
- 11 available defenses to the foreclosure and to the contract for the underlying mortgage loan, in law

12 and in equity. The court shall have the authority to modify the mortgage or grant any other  
13 appropriate relief, including attorney's fees, costs and disbursements to the prevailing party in  
14 such judicial proceeding. Mortgagors shall have a right of redemption for six months after the  
15 entry of judgment.

16 SECTION 3. Chapter 244 of the General Laws is hereby amended by inserting, after section 10,  
17 the following section:-

18 Section 10A. Notwithstanding any general or special law, or rule, or regulation to the contrary,  
19 any foreclosure of real property located within the commonwealth shall be initiated by the  
20 process of filing a civil foreclosure complaint; provided, however, that said complaint shall be  
21 filed in the superior or housing court of the county in which the real property is located. Such  
22 action, after any and all notices required by state or federal law have been provided to the  
23 mortgagor by the mortgagee, shall be commenced with a pleading for breach of contract in  
24 accordance with the rules of civil procedure. A residential mortgagor may raise any and all  
25 available defenses to the foreclosure and to the contract for the underlying mortgage loan, in law  
26 and in equity. The court shall have the authority to modify the mortgage or grant any other  
27 appropriate relief, including attorney's fees, costs and disbursements to the prevailing party in  
28 such judicial proceeding. Mortgagors shall have a right of redemption for six months after the  
29 entry of judgment.