

SENATE No. 928

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>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/24/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>4/1/2021</i>

SENATE No. 928

By Mr. Brady, a petition (accompanied by bill, Senate, No. 928) of Michael D. Brady, Elizabeth A. Malia and Joanne M. Comerford for legislation to amend the foreclosure statute to require judicial foreclosure. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 836 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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 Chapter 244 is hereby amended by inserting after Section 1 the following section:-

2 Section 2: Foreclosure by Action: All foreclosures of residential mortgages on 1-6 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 or district in which the property is located. In
5 addition to applicable rule, if service is not effected in hand, then it must be effected by both
6 posting and mailing.

7 A defendant-residential mortgagor may raise all jurisdictional, legal and equitable claims
8 and defenses against the mortgagee or any predecessor in interest, assignee, agent or any person
9 or entity acting on behalf of such mortgagee. The court shall have the authority to rescind or

10 modify the mortgage including enforcement of chapter 151B and section 64 of chapter 183 and
11 applicable regulatory requirements, recognize the voidness of any acts where applicable, or grant
12 any other appropriate relief as to the mortgagor but nothing in this section shall affect the rights
13 of tenants or any legal occupants residing in the property that is the subject of the complaint. The
14 court may set aside a default judgment for good cause shown and shall proceed in compliance
15 with section 27A-G of chapter 261. The court shall record in the appropriate registry of deeds, at
16 not cost to the court, a copy of any decision recognizing and fact (s) establishing the voidness of
17 any previous act(s) of the mortgagee, predecessors in interest or previous transferors.