

# Massachusetts Alliance Against Predatory Lending

## AN ACT FOR MORATORIUM EXCEPT JUDICIAL FORECLOSURE WITH PRE-FORECLOSURE MEDIATION: FACT SHEET

**S952, Main Sponsor:** Senator Nick Collins  
**H1717, Main Sponsors:** Representative Kay Khan

### What Does This Bill Do?

Given the resurgence and expected increase in foreclosures, this Bill creates a moratorium on all types of foreclosures of residential properties *except* foreclosure by action (aka "judicial" foreclosure). Judicial foreclosure is one of four forms of foreclosure on the Massachusetts books but is almost never used.

The bill would require the entity claiming the right to foreclose to prove in front of a judge that they have this right. The current system depends —with no oversight of any kind— upon the legal compliance by the entity which claims (without any requirement to offer proof) to have the mortgage and a legal note.

The moratorium bill also provides for the most effective way to avoid a foreclosure: face-to-face pre-foreclosure mediation with a trained, neutral mediator. Mediation would have to fail to find a mutually agreeable resolution before a judicial process could commence. The bill defines several of the steps required for a pre-foreclosure mediation program, acknowledging and patterning its details on programs such as the city of Lynn's, which possessed a 97% success rate, as well as on the legislation presently pending in the Massachusetts Legislature for pre-foreclosure mediation. Both these bills incorporate the key characteristics of the most successful pre-foreclosure mediation programs found across the country. These elements have proven to be the best practices under various university research studies in line with the Legislature's Foreclosure Impact Task Force report, established by the Legislature to review and promulgate exactly the characteristics proven to be effective elsewhere.

The moratorium aspect of the bill is arranged as a two-year —renewable up to ten-year— moratorium period. The renewal would be automatic until the percentage of the state's foreclosures clearly derived from predatory loans (where likely problems with title predominate) drops below a certain percentage of subprime mortgages and of the foreclosures. At the point when those thresholds have been met, the continuation of the moratorium would be renewable by the Legislature on all types of foreclosure, *except* for foreclosure by action inclusive of pre-foreclosure mediation.

The bill includes small changes to the foreclosure by action statute that presently exists: modernizing its terms of service, criteria for good faith. Finally, the House bill lays out a task force; the types of members who would be appointed to participate in the taskforce; and create a curriculum for educational purposes for understanding the creation of debt — including the role of "lending" in debt creation.

### Other bills filed include:

*An Act to Facilitate Alternatives to Foreclosure, Review Division of Superior Court, Relief of Tax on Foreclosure Sale (in line with Federal Tax Law)*

**MAAPL MEMBERS/SUPPORTING ORGANIZATIONS:** Action for Boston Community Development, Inc., Action for Regional Equity, Alliance of Providers of Legal Services to Individuals Facing Foreclosure, ARISE for Social Justice, Arlington Community Trabajando, Boston Tenants Coalition, Brazilian Women's Group, Brockton Interfaith Community, Carpenters Local 40, Carpenters Local 107, Charles Hamilton Houston Institute For Race & Justice, Chelsea Collaborative, Chinese Progressive Association, City Life/Vida Urbana, Coalition for Social Justice, Community Economic Development Ctr of S.E. MA, Community Labor United, Democratic Socialists of America, Dorchester People for Peace, Era Key Realty Services, ESAC, Fair Housing Center of Greater Boston, Greater Boston Legal Services, Greater Four Corners Action Coalition, Green-Rainbow Party of MA, Harvard Legal Aid Bureau, Homeowner Options for MA Elders, Jewish Alliance for Law and Social Action, Lawrence Community Works, Lawyers' Committee for Civil Rights Under Law, Lynn United for Change, Legal Assistance Corporation of Central Mass, Mass Advocates for Children, Mass AFL-CIO, Mass Coalition for the Homeless, Mass Community Action Network, Massachusetts Fair Housing Center, Mass Jobs With Justice, Mass Law Reform Institute, Mass Welfare Rights Union, Merrimack Valley Labor Council, NAACP N.E. Area Council, National Community Reinvestment Coalition, National Consumer Law Center, National Lawyers Guild, Neighbor-to-Neighbor, Neighborhood Legal Services, New England United for Justice, North Shore Labor Council, Oiste?, Organization for a New Equality, Painters District Council 35, Pleasant St. Neighborhood Network Center, Southbridge Community Connections, Springfield No One Leaves Coalition, Survivors Inc., Northeast Region, Union of Minority Neighborhoods, United Auto Workers Mass CAP, United Food & Commercial Workers 1445, United For a Fair Economy, United Steel Workers Local 5696, Volunteer Lawyers Project, Worcester Anti-Foreclosure Team

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