HOUSE DOCKET, NO. 3236 FILED ON: 2/18/2011

HOUSE . . . . . No. 3282

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:

An Act relative to judicial foreclosures.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas J. Calter	*12th Plymouth*
Geraldo Alicea	*6th Worcester*
James J. Dwyer	*30th Middlesex*
Carolyn C. Dykema	*8th Middlesex*
Robert L. Hedlund	☐ *[District]* ☐
Benjamin Swan	*11th Hampden*

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HOUSE . . . . . No. 3282

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

The Commonwealth of Massachusetts

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:

SECTION 1. Section 21 of chapter 183 of the General Laws is hereby repealed.

SECTION 2. Said chapter 183 of the General Laws is hereby amended by inserting the following section:-

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

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

Section 10A. Notwithstanding any general or special law, or rule, or regulation to the contrary, any foreclosure of real property located within the commonwealth shall be initiated by the process of filing a civil foreclosure complaint; provided, however, that said complaint shall be filed in the superior or housing court of the county in which the real property is located. Such action, after any and all notices required by state or federal law have been provided to the mortgagor by the mortgagee, shall be commenced with a pleading for breach of contract in 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.