SENATE DOCKET, NO. 443 FILED ON: 1/16/2013

SENATE . . . . . No. 753

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas P. Kennedy

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 to amend the foreclosure statute to require judicial foreclosure.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas P. Kennedy	*Second Plymouth and Bristol*
Kay Khan	*11th Middlesex*
Gale D. Candaras	*First Hampden and Hampshire*

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SENATE . . . . . No. 753

By Mr. Kennedy, a petition (accompanied by bill, Senate, No. 753) of Thomas P. Kennedy, Kay Khan and Gale D. Candaras for legislation to amend the foreclosure statute to require judicial foreclosure. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *809* OF 2011-2012.]

The Commonwealth of Massachusetts

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:

SECTION 1. Chapter 244 is hereby amended by inserting after Section 1 the following section:–

Section 2: Foreclosure by Complaint: All foreclosures of residential mortgages on 1-4 family owner-occupied properties shall be initiated by the filing of a foreclosure complaint against the mortgagor in the superior court for the county in which the property is located. Such filing shall include notice pursuant to 50 U.S.C. App. sec. 501 et seq., the Service Members Civil Relief Act ("SCRA") as it exists or may be amended, and no additional filing in the Land Court, pursuant to SCRA shall be required. A defendant-residential mortgagor may raise all legal and equitable claims and defenses. The court shall have the authority to modify the mortgage or grant any other appropriate relief as to the mortgagor but nothing in this section shall affect the rights of tenants or other legal occupants residing in the property that is the subject of the complaint. The court may set aside a default judgment for good cause shown.