

HOUSE No. 4083

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act establishing judicial review of foreclosures in the city of Lawrence..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 WHEREAS, The City of Lawrence has taken a strong stance in combating the mortgage
2 foreclosure crisis and in this year alone the City has presented three laws aimed at combating the
3 negative effects of the emergency; and

4 WHEREAS, The state legislature has enacted laws aimed at preventing future predatory
5 mortgage schemes and Congress is considering several initiatives, but none of these initiatives
6 address the issue that there is no judicial review of all mortgage foreclosures; and

7 WHEREAS, The need for judicial involvement in reviewing the merits of a foreclosure
8 is clear. Even the Secretary of the Commonwealth, William F. Galvin, supported the idea of
9 judicial review of foreclosures at a recent State Senate Judicial Committee; and

10 WHEREAS, The Commonwealth's Attorney General initiated suits against mortgage
11 companies for violations of the Home Loan Practices Act, M.G.L. chapter 183C, section 2 and
12 individual brokers for forgery, making false statements, and larceny of credit by false pretenses.
13 Despite these efforts, the Attorney General does not have the time or resources to prosecute all

lending violations. Mandatory judicial review of residential foreclosures would subject each loan to these standards; and

WHEREAS, The wide-scale issuance of presumptively unfair loans and ever-increasing rate of foreclosures in the City mandates that our foreclosure system be amended to keep up with the crisis; and

WHEREAS, Many other states require judicial foreclosure, such as Connecticut, Delaware, and Maine, THEREFORE

The City of Lawrence petitions the General Court for a special law relating to the City of Lawrence that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

PETITION FOR A SPECIAL LAW RE:

JUDICIAL REVIEW OF FORECLOSURES IN THE CITY OF LAWRENCE

Section 1. Whereas all foreclosures of residential mortgages on 1-4 family owner-occupied property, located in the City of Lawrence, can only be initiated by the filing of a foreclosure complaint in the Essex County Superior Court or Northeast Housing Court. Whereas 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.

Section 2. The provisions of this Act shall be effective 90 days after passage.