

SENATE No. 463

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

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 relative to foreclosures.

PETITION OF:

NAME:

Michael J. Rodrigues

DISTRICT/ADDRESS:

SENATE No. 463

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 463) of Michael J. Rodrigues for legislation relative to foreclosures. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to foreclosures.

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

1 SECTION 1. Section 35A of chapter 244 of the General Laws, as amended by section 7
2 of chapter 258 of the acts of 2010, is hereby amended by adding after subsection (k) the
3 following subsection:

4 (1) The provisions of this section shall be terminated if:

5 (1) a borrower has submitted an application for relief under Chapter 7 of the United
6 States Bankruptcy Code; or

7 (2) a borrower waives their 150 day right to cure a default, if the borrower determines
8 that the right to cure is not in their best interest or is due to a bona fide personal emergency. To
9 waive the right to cure under subsection (b), the borrower shall give the mortgagee, or anyone
10 holding thereunder, a dated written statement that describes the reason why the right to cure is
11 not in their best interests or the personal emergency, that specifically waives the right to cure,
12 and that bears the signature of each borrower entitled to the right to cure.

13 A mortgagee or anyone holding thereunder may not require a borrower to sign a waiver
14 of their right to cure or provide the borrower with a preprinted form for such a waiver.

15 The commissioner of banks may prescribe from time to time such rules and regulations as
16 may be necessary or proper in carrying out this subsection. Such rules and regulations may
17 contain such factors, classifications, differentiations or other provisions, and may provide for
18 such adjustments and exceptions for any class of transactions as, in the judgment of the
19 commissioner, are necessary or proper to carry out this subsection, to prevent circumvention or
20 evasion thereof or to facilitate compliance therewith.

21 SECTION 2. Section 35A of chapter 244 of the General Laws, as amended by section 8
22 of chapter 258 of the acts of 2010, is hereby amended by adding after subsection (f) the
23 following subsection:

24 (g) The provisions of this section shall be terminated if:

25 (1) a borrower has submitted an application for relief under Chapter 7 of the United
26 States Bankruptcy Code; or

27 (2) a borrower waives their 90 day right to cure a default, if the borrower determines
28 that the right to cure is not in their best interest or is due to a bona fide personal emergency. To
29 waive the right to cure under subsection (a), the borrower shall give the mortgagee, or anyone
30 holding thereunder, a dated written statement that describes the reason why the right to cure is
31 not in their best interests or the personal emergency, that specifically waives the right to cure,
32 and that bears the signature of each borrower entitled to the right to cure.

33 A mortgagee or anyone holding thereunder may not require a borrower to sign a waiver
34 of their right to cure or provide the borrower with a preprinted form for such a waiver.

35 The commissioner of banks may prescribe from time to time such rules and regulations as
36 may be necessary or proper in carrying out this subsection. Such rules and regulations may
37 contain such factors, classifications, differentiations or other provisions, and may provide for
38 such adjustments and exceptions for any class of transactions as, in the judgment of the
39 commissioner, are necessary or proper to carry out this subsection, to prevent circumvention or
40 evasion thereof or to facilitate compliance therewith.