HOUSE DOCKET, NO. 2882 FILED ON: 1/20/2017

HOUSE . . . . . No. 2273

The Commonwealth of Massachusetts

PRESENTED BY:

Diana DiZoglio

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 establishing the Massachusetts neighborhood preservation fund through transparency of recording residential mortgage assignments.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Diana DiZoglio	*14th Essex*	*1/20/2017*
Chris Walsh	*6th Middlesex*	*1/20/2017*

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By Ms. DiZoglio of Methuen, a petition (accompanied by bill, House, No. 2273) of Diana DiZoglio and Chris Walsh relative to establishing the Massachusetts neighborhood preservation fund and the recording of residential mortgage assignments. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act establishing the Massachusetts neighborhood preservation fund through transparency of recording residential mortgage assignments.

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

Chapter 183 of the General Laws is hereby amended by inserting after section 53 the following section:-

Section 53A. (a) A mortgagee, mortgage servicer, note holder, nominee for the lender who assigns or transfers and sets over a mortgage or note shall, within 30 days of transfer, set over an assignment of mortgage cause to be recorded a duly executed and acknowledged assignment. The mortgagee, mortgage servicer, note holder, and nominee for lender shall record said assignment at the same registry of deeds in which the mortgagor's deed were recorded. All recording fees that are required to be paid under Massachusetts law shall be paid by the mortgagee, mortgage service provider or note holder and said recording fees shall not be the responsibility of the mortgagor and shall not be passed to the mortgagor.

(b) In addition to any requirement under this section, if the mortgagee, mortgage servicer, note holder, nominee for the lender elects to assign the mortgage, a copy of the recorded assignment shall be transmitted to the mortgagor accompanied by a transmitted letter that contains a statement in substantially the following form, in not less that 10-point bold face type:

ENCLOSED WITH THIS LETTER IS A COPY OF THE ASSIGNMENT OF YOUR MORTGAGE AND OTHER DOCUMENTATION TO SHOW THE CORRECT MORTGAGEE, MORTGAGE HOLDER OR SERVICER OF THE MORTGAGE OR NOMINEE FOR THE LENDER THAT WAS ASSIGNED TO: THE DOCUMENT INCLUDES THE FULL NAME, ADDRESS, CURRENT EMAIL ADDRESS, AND PHONE NUMBER TO WHO THE MORTGAGE WAS ASSIGNED TO.

IT IS IN YOUR BEST INTERESTS TO VERIFY THIS INFORMATION AT THE REGISTRY OF DEEDS. IF YOU ARE UNSURE WHAT TO DO, PLEASE SEEK THE ADVICE OF AN ATTORNEY OR A CLERK AT THE REGISTRY OF DEEDS

(c) In addition to containing the mortgage reference information such assignment shall be executed and acknowledged by the mortgagee, mortgage servicer, nominee for the lender or note holder of the mortgage and the note or other obligation secured thereby or an authorized person or entity acting on behalf of the holder. If the holder is not the holder of record, the holder shall also specify by what means the holder became the holder of such mortgage and the note or other obligation secured thereby, and shall: (1) specify the recording information for the documentation on record in the registry district where the mortgage is recorded supporting the holder's status as such; or (2) record the documentation, along with the assignment, if the holder records the assignment; or (3) provide to the mortgagor, a copy of the recorded assignment

necessary to establish the holder's status of record, such documentation shall include, but not be limited to: the note, any assignments, certificates of change of name or certificates of merger; provided, however, that, if the holder's status as such is based upon a corporate change of name or identity by any of the actions or events described in subsection (a) and the assignment refers to those actions or events as provided in said subsection (a), then the holder need not provide or record any further documentation in support of such actions or events.

If the assignment is executed on behalf of a mortgagee, mortgage servicer, nominee of the lender and note holder by a mortgage servicer, an attorney-in-fact under a power of attorney or other agent, the mortgage servicer, attorney-in-fact or other agent shall, in addition to the information and documents required of the mortgagee and note holder, provide to the mortgagor a copy of the recorded assignment and mortgage and note holder to act on behalf thereof, or the recording information for the documentation if already recorded in the registry district where the mortgage is recorded. Such documentation shall include, but not be limited to: the servicing agreement, power of attorney or other written authorization from the mortgagee, mortgage servicer and note holder to so act on behalf thereof. Any mortgagee and note holder, servicer, attorney-in-fact or other agent for the mortgage and note holder

(d) A mortgagee, mortgage servicer, note holder, and nominee of the lender who has assigned a mortgage who fails to record and provide to the mortgagor copies of an executed and acknowledged assignment of that mortgage, or to provide such supporting documents required by this section relative to such mortgage, within 30 days after the assignment, shall render the terms and condition of the mortgage or the note void and unenforceable with no recourse by the mortgagee, mortgage servicer or note holder.

(e) There is hereby set up on the books of the commonwealth a separate fund to be known as the Massachusetts Neighborhood Preservation Fund and administered by the state secretary, hereinafter called the Fund. There shall be credited to the Fund the dedicated recording fees and revenues of assignments of mortgages. Amounts in the Fund shall be held by the state treasurer or his designee as trustee and not on account of the commonwealth, and the state treasurer is hereby authorized and directed to disburse amounts in the Fund to the state secretary, without further appropriation, in the following amounts: $55.00 of each said fee shall go to the Fund to be used for local aid in the registry district where the mortgage is recorded; the remaining $20.00 surcharge shall be deposited into the Massachusetts Community Preservation Trust Fund, established in section 9 of chapter 44B.