

HOUSE No. 3676

The Commonwealth of Massachusetts

PRESENTED BY:

Michelle M. DuBois

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 to establish a resolution trust fund for receipt of reasonable mortgage payments.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/18/2017</i>
<i>Bud Williams</i>	<i>11th Hampden</i>	
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	
<i>Mike Connolly</i>	<i>26th Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>3/28/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	

HOUSE No. 3676

By Ms. DuBois of Brockton, a petition (accompanied by bill, House, No. 3676) of Michelle M. DuBois and others for legislation to establish a trust fund to protect citizens of the Commonwealth and municipalities impacted by the mortgage foreclosure crisis. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 835 OF 2015-2016.]

The Commonwealth of Massachusetts

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**In the One Hundred and Ninetieth General Court
(2017-2018)**
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An Act to establish a resolution trust fund for receipt of reasonable mortgage payments.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith provide for a certain fund. Therefore it is hereby declared to be an emergency law, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. The General Court hereby declares and finds that because the change in
2 practices of the financial industry towards predatory lending has led to significant
3 decapitalization of the commonwealth, of affected communities and Massachusetts residents as
4 consumers of predatory mortgage loan products and problems in chain of title of mortgages of
5 real property, it is in the interest of the commonwealth to establish a publicly owned and
6 administered fund authorized to receive monies, including residential mortgage payments where
7 the mortgagee cannot be ascertained, and to discharge related functions that will help to rebuild

8 our economy and municipal tax base, especially in the neighborhoods most affected by predatory
9 lending and concomitant foreclosure.

10 SECTION 2. Chapter 40H of the General Laws, as appearing in the 2014 Official
11 Edition, is hereby amended by inserting after section 4 the following section:

12 Section 4A. (a) CEDAC shall establish a Resolution Trust Fund, hereinafter “the Fund”,
13 that is hereby authorized to receive monies including those appropriated from the general fund;
14 targeted funding streams through Massachusetts state government; and monies that a court or an
15 agency in receipt of settlement funds designates for payment into the Fund. The Fund will be
16 established in accordance with the requirements defined subsection (a) of section 2A.

17 (b) The court or other entity transferring a mortgage to the Fund shall modify it, if
18 necessary, for compliance with traditional prime lending characteristics including, but not
19 limited to, a principal of not more than 80 per cent of the present day value of the home, prime
20 lending rates, fixed payment schedules, standard underwriting criteria, no prepayment penalties,
21 and no balloon payments. If any mortgage transferred to the Fund nonetheless is or might be
22 predatory, the Fund shall immediately request a determination of traditional prime lending
23 characteristics for that mortgage from the division of banks or another appropriate state agency
24 and modify mortgage characteristics accordingly.

25 (c) When a mortgage is transferred to the Fund, the Fund shall record, at its own cost,
26 within 20 days, in the registry of deeds where the property lies a certified copy of the document
27 evidencing the transfer.

28 (d) The Fund shall, within 30 days of the transfer, notify each mortgagor of a transferred
29 mortgage of the modified mortgage loan characteristics, including present principal, interest rate,

30 monthly payment, amortization schedule, escrowing of taxes and insurance, and payment
31 requirements and contact information.

32 (e) If a homeowner whose mortgage has been transferred to the Fund becomes
33 delinquent, the Fund shall make every effort to assist the family to stay in its home. If the
34 homeowner nonetheless defaults, and cure is not feasible, the Fund may foreclose by sale. In the
35 case of foreclosure by sale the proceeds of sale shall, after subtracting legally required
36 distribution of proceeds and costs of foreclosure and sale including recordation costs, be
37 credited to the Fund.

38 (f) When a mortgagor pays off a mortgage transferred to the Fund, the Fund shall provide
39 a discharge of the mortgage, and record this at its expense within 30 days of payoff in the
40 registry of deeds where the property lies.

41 (g) CEDAC shall appoint a director to administer the Fund through the corporation and
42 under criteria that it shall establish promptly by regulation pursuant to this section.

43 (h) CEDAC shall ensure that the Fund is invested prudently.

44 (i) At the close of each fiscal year, the Fund shall determine the number of Eaton
45 affidavits filed with each registry of deeds in the previous 5 calendar years.

46 (j) When the Fund totals for a county equal \$200,000 or greater, the CEDAC, in
47 consultation with community agencies in the county, shall hold a hearing within that county for
48 public input into the distribution of the funds within that county and the purposes, including
49 affordable housing, for which they will be expended. Preference shall be given to regions or
50 neighborhoods with the highest proportions of Eaton affidavits filed in the relevant registry of

51 deeds during the previous 5 years. The hearing shall be widely publicized through community
52 agencies and members of the general court as well as by means of the media in the region in
53 which the hearing is to be held.

54 (k) CEDAC shall establish a point system based upon public input and shall announce a
55 request for proposals, review and distribute the funds accordingly.

56 (l) Once the revenue to the Fund from a city or a cluster of up to 5 towns has reached an
57 income threshold of \$100,000 in a year, a local hearing will be held upon request and funds
58 distributed similarly to subsection (c) and (d). The Fund will be established in accordance with
59 the requirements defined in subsection (a) of section 2A.

60 (m) The director of the Fund shall file an annual report on December 15 with the speaker
61 of the house of representatives, the president of the senate, the chairs of the house and senate
62 committee on ways and means, the chairs of the joint committee on housing, and the chairs on
63 the joint committee on community development and small business, chairs of the joint committee
64 on insurance and financial services providing an accounting of the funds, including their regional
65 distribution, the usage of those funds, a description of the respective projects' funding, and their
66 impact on affordable housing and community development.