

# SENATE . . . . . No. 836

## The Commonwealth of Massachusetts

PRESENTED BY:

***Michael D. Brady***

*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 amend the foreclosure statute to require judicial foreclosure.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/26/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/28/2019</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/30/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/31/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2019</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>1/31/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/1/2019</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>2/1/2019</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/21/2019</i>

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By Mr. Brady, a petition (accompanied by bill, Senate, No. 836) of Michael D. Brady, José F. Tosado, Mike Connolly, Michelle M. DuBois and other members of the General Court for legislation to amend the foreclosure statute to require judicial foreclosure. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 763 OF 2017-2018.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Ninety-First General Court  
(2019-2020)  
\_\_\_\_\_

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:*

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

3           Section 2: Foreclosure by Action: All foreclosures of residential mortgages on 1-6 family  
4 owner-occupied properties shall be initiated by the filing of a foreclosure complaint against the  
5 mortgagor in the Superior Court for the county or district in which the property is located. In  
6 addition to applicable rule, if service is not effected in hand, then it must be effected by both  
7 posting and mailing.

8           A defendant-residential mortgagor may raise all legal and equitable claims and defenses  
9 against the mortgagee or any predecessor in interest, assignee, agent or any person or entity

10 acting on behalf of such mortgagee. The court shall have the authority to modify the mortgage or  
11 grant any other appropriate relief as to the mortgagor but nothing in this section shall affect the  
12 rights of tenants or any legal occupants residing in the property that is the subject of the  
13 complaint. The court may set aside a default judgment for good cause shown.