

HOUSE No. 1615

The Commonwealth of Massachusetts

PRESENTED BY:

Carlos González

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 a foreclosure review division.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/17/2021</i>
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>2/19/2021</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/24/2021</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>2/26/2021</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>2/26/2021</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>3/2/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>1/31/2022</i>

HOUSE No. 1615

By Mr. González of Springfield, a petition (accompanied by bill, House, No. 1615) of Carlos González and others for legislation to establish a foreclosure review division. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act establishing a foreclosure review division.

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 Laws are hereby amended by inserting after chapter 212 the
2 following chapter:-

3 CHAPTER 212A

4 FORECLOSURE REVIEW DIVISION

5

6 Section 1. There shall be a special division of the superior court department, known as
7 the foreclosure review division.

8

9 Section 2. The foreclosure review division shall have a presiding justice and such other
10 justices as the chief justice of the trial court, in consultation with the chief justice of the superior

11 court department, shall assign from among those justices of the various departments of the trial
12 court with an interest in relevant areas of law.

13 Section 3. The chief justice of the trial court shall designate one of the judges of the
14 foreclosure review division as the presiding justice of that division.

15 Section 4. (a) The foreclosure review division shall be divided into not fewer than four
16 and not more than six sessions statewide, as determined by the chief justice of the trial court in
17 consultation with the chief justice of the superior court department and the presiding justice of
18 the division, based on factors including projected caseloads and on the convenience of litigants.

19 (b) Each session may hold its sittings in more than one location, as appropriate.

20 (c) The foreclosure review division shall provide online and other materials to assist self-
21 represented litigants and shall offer alternative dispute resolution services.

22 Section 5. There shall be selected, as determined by the chief justice of the trial court in
23 consultation with the chief justice of the superior court department and the presiding justice of
24 the foreclosure review division, a court administrator, deputy court administrators if appropriate,
25 court clerks, clerks for the justices, facilitators for self-represented litigants, mediators, title
26 examiners, information technology personnel and any other personnel essential to the
27 expeditious establishment and efficient functioning of the foreclosure review division.

28

29 Section 6. (a) Notwithstanding any general or special law to the contrary, the foreclosure
30 review division shall have jurisdiction, concurrently with the other divisions of the superior court
31 department and with the land court department, the housing court department and the district

32 court department, over all actions involving the foreclosure or purported foreclosure of
33 mortgages on residential property whether by action, by sale, by entry or otherwise, including,
34 but not limited to: actions that concern the validity of a foreclosure or purported foreclosure. Any
35 action where title has been brought in question in relation to foreclosure shall be transferred to
36 the foreclosure review division including but not limited to: summary process actions to evict;
37 actions to try title, to quiet title and to remove cloud on title; petitions brought under Chapter 185
38 regarding registered title to such property; actions that concern the intent to foreclose or
39 otherwise to exercise a power of sale; actions that concern modification of a mortgage loan; and
40 criminal jurisdiction in matters arising out of or pertaining to foreclosure or attempted
41 foreclosure.

42 (b) The foreclosure review division shall promptly transmit for recordation or
43 registration, to the registry of deeds of the county or district in which the land lies, a copy of any
44 final determination affecting title to land. Fee for such recordation or registration shall be waived
45 for the losing party to the extent allowable under the Indigent Court Costs Laws.

46 (c) Any party to a civil action within the jurisdiction of the foreclosure review division
47 that is pending in another court department or another division of the superior court department,
48 or a judge of the court department or division in which the action is pending, acting sua sponte,
49 may transfer that action to the foreclosure review division. No additional filing fee shall be
50 charged to transfer such a case. An action transferred to the foreclosure review division shall
51 thereafter proceed in that division as though originally entered there

52 .

53 (d) In a civil action in which another court has dismissed a claim for lack of jurisdiction
54 or denied a claim that is within the jurisdiction of the foreclosure review division, a party shall
55 have thirty (30) days after the date of receipt of the notice of dismissal or, in the case of an
56 appeal from the dismissal, thirty (30) days after the date of receipt of the notice of the decision,
57 to file the case in the foreclosure review division, regardless of whether the time permitted under
58 the applicable statute of limitations would have expired at any time from the original
59 commencement of that action to the end of this thirty (30) day period.

60 (e) Any document informing a litigant or his or her attorney of such a dismissal or denial
61 shall include complete information about the right to file the case in the foreclosure review
62 division, together with instructions for doing so.

63

64 Section 7. The chief justice of the trial court, in consultation with the chief justice of the
65 superior court department and the presiding justice of the foreclosure review division, may from
66 time to time make alternative or supplemental rules, standing orders and forms of procedure to
67 govern proceedings in that division.

68

69 Section 8. (a) There shall be an advisory board to assist the presiding justice and the
70 justices of the foreclosure review division and the division's court administrator.

71 (b) The advisory board shall consist of the Attorney General or a designee; the executive
72 director of the Massachusetts office of victim assistance; and the following additional members
73 appointed by the Chief Justice of the Supreme Judicial Court: one person who has significant

74 experience in each of the following areas: court or business administration; information
75 technology, in particular, in designing systems to assist members of the public to use information
76 technology effectively; promoting judicial economy by assisting self represented litigants in
77 presenting their cases effectively; mediation programs on complex topics, particularly those
78 involving cases in which self represented and sophisticated parties have adverse interests; real
79 estate title examination in the commonwealth; and at least four lawyers with significant
80 experience in various relevant areas of law and litigation, including, access to justice and
81 banking, bankruptcy, civil rights, the Americans with Disabilities Act, consumer rights, criminal
82 law, landlord-tenant, real property, secured transactions and securities and securitized trust law.
83 At least two of the four lawyers will have primarily represented homeowners in preserving their
84 homes from foreclosure or will have represented consumers.

85 (c) The advisory board shall choose its chair. The appointed members of that board shall
86 each serve for a term of three years or for the remainder of the term of the foreclosure review
87 division, whichever is less.

88 (d) The board shall advise the presiding justice and the justices of the foreclosure review
89 division and the division's court administrator on matters of judicial and administrative concern
90 including, but not limited to, developments in relevant legal issues, real estate title examination,
91 mediation, assisting self-represented litigants, access to justice, the impacts of structural
92 discrimination and the allocation of resources based on the caseload of each of the division's
93 courts.

94

95 Section 9. This chapter shall be in force for a period of five years commencing
96 immediately upon enactment and shall apply to all cases within the jurisdiction of the foreclosure
97 review division, whether pending in one or more departments of the trial court as of the date of
98 enactment or commenced after that date.

99

100 SECTION 2. Chapter 212A of the General Laws shall renew for an additional five year
101 term on January 1st of the fifth year after the effective date of this Act and every five years
102 thereafter unless the legislature repeals this law prior to its next renewal date.

103 SECTION 3. Any cases pending in the foreclosure review division at the conclusion of
104 its final term shall be transferred to the appropriate court.

105

106 SECTION 4. Section 3 shall take effect upon January 1st of the year after the year in
107 which the legislature votes not to renew the foreclosure court division as authorized by section 1
108 of chapter 212A of the General Laws.