

**SENATE . . . . . No. 1011**

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**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 ensuring transparency in the recording of mortgage assignments.

PETITION OF:

NAME:

*Diana DiZoglio*

DISTRICT/ADDRESS:

*First Essex*

**SENATE . . . . . No. 1011**

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By Ms. DiZoglio, a petition (accompanied by bill, Senate, No. 1011) of Diana DiZoglio for legislation to ensure transparency in the recording of mortgage assignments. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 925 OF 2019-2020.]

**The Commonwealth of Massachusetts**

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

An Act ensuring transparency in the recording of 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:*

1           SECTION 1. Chapter 183 of the General Laws is hereby amended by inserting after  
2 section 53 the following section:-

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

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

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

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

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

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

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

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

55 (e) There is hereby set up on the books of the commonwealth a separate fund to be  
56 known as the Massachusetts Neighborhood Preservation Fund and administered by the state  
57 secretary, hereinafter called the Fund. There shall be credited to the Fund the dedicated recording  
58 fees and revenues of assignments of mortgages. Amounts in the Fund shall be held by the state  
59 treasurer or his designee as trustee and not on account of the commonwealth, and the state  
60 treasurer is hereby authorized and directed to disburse amounts in the Fund to the state secretary,  
61 without further appropriation, in the following amounts: \$37.50 of each said fee shall go to the  
62 Fund to be used for local aid in the registry district where the mortgage is recorded; the  
63 remaining \$37.50 surcharge shall be deposited into the Massachusetts Community Preservation  
64 Trust Fund, established in section 9 of chapter 44B.