HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick Joseph Kearney

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 relative to protection of a deceased family member against foreclosure and other civil action.

PETITION OF:

NAME:DISTRICT/ADDRESS:DATE ADDED:Patrick Joseph Kearney4th Plymouth1/7/2025

HOUSE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION SEE HOUSE, NO. 1596 OF 2023-2024.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court (2025-2026)

An Act relative to protection of a deceased family member against foreclosure and other civil action.

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

- 1 Chapter 188 of the General Laws is hereby amended by adding the following section 2 after Section 2(d) in line 42:
- 3 SECTION 2A: This section applies to a creditor's foreclosure action or enforcement of a
- 4 lien on an estate of homestead, which at the time of filing an application under this section is
- 5 within probate court to obtain the appointment of a personal representative. At any stage before
- 6 final judgment in a civil action or proceeding in which an estate described in this section is a
- 7 party, the court may on its own motion and shall, upon application by the homestead, stay the
- 8 action for the period of not less than 90 days, if the estate submits an application for stay
- 9 including:

1. A letter or other communication setting forth facts stating the manner in which current probate proceedings materially affect the ability of the decedent's estate to make payments for the recurring costs of ownership.

2. A letter or other communication from the decedent's bank stating that the probate proceeding prohibits the estate's future administrator from accessing the decedent's accounts to make payments.

An application for a stay under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense.

An estate of homestead which is granted a stay of a civil action or proceeding under subsection (b) may apply for an additional + stay based on continuing material affect of an ongoing probate proceeding on the decedent's ability to make payments. The same information required for the first application shall be included in subsequent applications.

If the court refuses to grant an additional stay of proceedings, the court shall appoint counsel to represent the homestead in the action or proceeding.

Once the probate court has appointed a personal administrator for the estate, a creditor may bring claims for back payments with interest. However the creditor may not charge fees based on the lateness of the payment unless the court finds, in its discretion and if the equities so require, good cause exists to assess such payments. Good cause includes but is not limited to purposeful or untimely delay by the subsequently authorized administrator to get court approval to probate the estate.