

SENATE No.

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 establish a Resolution Trust Fund for receipt of reasonable mortgage payments.

PETITION OF:

NAME:

Michael D. Brady

DISTRICT/ADDRESS:

Second Plymouth and Norfolk

SENATE No.

By Mr. Brady, a petition (accompanied by bill) (subject to Joint Rule 12) of Michael D. Brady for legislation to establish a Resolution Trust Fund for receipt of reasonable mortgage payments. Financial Services.

The Commonwealth of Massachusetts

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

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 provide relief and support for communities beleaguered by predatory lending and concomitant foreclosure, 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 Whereas because changes in financial industry practice as to predatory lending have
2 significantly decapitalized the Commonwealth, reduced the tax base of Massachusetts
3 communities, detrimentally affected Massachusetts residents as consumers of predatory
4 mortgage loan products, and made the chain of title of many mortgages of real property
5 untraceable, it is in the interest of the Commonwealth to establish a publicly owned and
6 administered fund authorized to receive assets and monies, including residential mortgages and
7 mortgage payments where the mortgagee and/or note owner cannot be ascertained, and to
8 discharge related functions to help rebuild our economy and municipal tax base, especially in the
9 neighborhoods most affected by predatory lending and concomitant foreclosure.

SECTION 1. Chapter 10 of the General Laws, as appearing in the 2020 Official Edition,
is hereby amended by inserting after section 78 the following sections:-

Section 79. (a) For the purposes of this section and section 80, the following terms shall,
unless the context clearly requires otherwise, have the following meanings:

“All loans documents”, document files and electronic records related to a mortgage loan,
including: (i) the closing file, loan collateral file and servicer file; (ii) onboarding or intake sheets
or screenshots; (iii) transaction and payment history; (iv) the original wet ink note with all
allonges affixed in their present condition, or a court determination that the note has been lost;
(v) all recorded and off-record assignments or certified copies thereof; (vi) the fully executed
founding documents of any securitized trust, limited liability corporation or other entity in the
chain of title; and (vii) any documents associated with the loan from its document custodian or
claimed holder of the mortgage or associated claimed note owner.

“Eaton affidavit”, an affidavit prepared pursuant to section 35C of chapter 244.

“Mortgage, a mortgage deed as defined under sections 18 and 19 of Chapter 183.

“Mortgage loan”, a mortgage note and its associated mortgage.

“Mortgage note”, a promissory note, bearing the original signatures of the mortgagors,
promising to pay the lender, or any successor who is entitled to enforce the mortgage note as
note owner or on behalf of the note owner, and specifying the requirements for the repayment of
the debt including the principal amount, interest and charges.

“Mortgagee of record”, a mortgagee so identified in the instrument that thereafter was
subsequently recorded.

“Mortgagee” or “mortgage holder”, a person who has invested funds or other consideration to hold legal title to real property upon which a mortgage is granted, and who is named as such in the mortgage instrument or any assignment thereof.

"Mortgagor", a grantor of a mortgage, the grantor's heirs, successors or assigns

“Note owner”, the lender or a transferee of the mortgage note, who is entitled to receive payments under and to enforce the note.

Section 80. There shall be established and set up on the books of the Commonwealth a separate fund to be known as the Resolution Trust Fund, to be administered by the Treasurer and established in accordance with the requirements of other Funds administered by the Treasurer, or if in existence, through the state bank of Massachusetts.

There shall be credited to the fund:

(i) transfers of mortgage loans, the current mortgagee or note owner of which cannot be identified, which are accepted by the Treasurer under this section pursuant to regulations and standards promulgated by the Treasurer;

(ii) revenue from appropriations and other money authorized by the General Court and specifically designated to be credited to the fund; and

(iii) monies that a court or an agency in receipt of settlement funds designates for payment into the fund.

(c) The fund may accept any mortgage loan that does not have an identifiable mortgagee or note owner. To determine whether a mortgage loan has an identifiable mortgagee or note owner, the Treasurer shall be provided the evidence including: (i) the records and results of any

52 legal procedure pertaining to the mortgage or property, including administrative actions,
53 mediations and negotiations; (ii) the records of the appropriate registry of deeds; and (iii) any
54 original source documents demonstrating present legal note owner or mortgagee status.

55 (d) The fund shall receive any residential mortgage loan transferred to the
56 Commonwealth by operation of law or in accordance with the provisions of this act.

57 (e) A court or other entity transferring such a mortgage loan to the fund shall, if it has
58 jurisdiction to do so, modify the mortgage loan to the extent necessary to obtain compliance with
59 traditional prime lending characteristics, these traditional prime lending characteristics will be
60 annually promulgated in regulations by the Division of Banks including, but not limited to, an
61 original principal of not more than 80 per cent of the real value of the home on date of
62 origination, a prime lending rate, a fixed payment schedule, standard underwriting criteria, no
63 prepayment penalties and no balloon payments.

64 (f) If any payments transferred to the fund are for a mortgage loan that is or might be
65 predatory and has not been modified accordingly before transfer, the fund shall immediately
66 request a determination of traditional prime lending characteristics for such payments from the
67 division of banks or another appropriate state agency and modify mortgage characteristics
68 according to subsection (e).

69 (g) To the extent possible, any mortgage loan transferred pursuant to this act shall be
70 accompanied by all loans documents.

71 (h) Within 20 days of the transfer of the mortgage loan to the fund, the fund shall record
72 in the appropriate registry of deeds, at its own cost, a certified copy of all documents evidencing
73 the transfer.

(i) Within 30 days of the transfer of mortgage payments, the fund shall notify each mortgagor of the periodic payment to be made to the fund and notify the mortgagor of any modified mortgage loan characteristics, including present principal, interest rate, monthly payment, amortization schedule, escrowing of taxes and insurance, payment requirements and authorized payee contact information.

(i) The fund shall establish an escrow account and pay applicable real estate taxes and other costs out of mortgage payments transferred to it and shall otherwise service the loan.

(j) The fund may retain up to 15 percent of all mortgage payments transferred to it and expend such amounts to defray administrative overhead. the Treasurer shall prudently invest any excess over the amounts required to administer the fund for a given fiscal year, with the income thereof being paid into the fund.

(k) In case of the dissolution of the fund, any balance of such administrative overhead remaining shall revert to the General Fund.

(l) If a homeowner whose mortgage loan payments have been transferred to the fund becomes delinquent, the fund shall make every effort, including pre-foreclosure mediation if applicable, to assist the mortgagor to stay in its home. If the mortgagor nonetheless defaults, and cure is not feasible, the fund may accelerate the maturity of the remaining principal balance in accord with the mortgage instruments and foreclose by court action in the name of the Commonwealth pursuant to section 1 of chapter 244.

(m) Any sale of a property after such a foreclosure shall convey title in fee simple from the Commonwealth to the purchaser. The proceeds of any such sale shall, after subtracting any

legally-required distribution of proceeds and costs, including costs of recordation in the appropriate Registry of Deeds, be credited to the fund.

(n) When a mortgagor completes payments of a mortgage loan transferred to the fund, the fund shall provide a discharge of the mortgage, and record this at its expense within 30 days of payoff in the appropriate Registry of Deeds and return the Note with “paid in full” inscribed upon it.

Section 4B. The allocation of fund proceeds over a certain threshold for the purpose of community empowerment (a) The Treasurer shall appoint a director to administer the fund and promptly establish criteria for its regulation.

(b) The Treasurer shall ensure that monies from the fund are invested prudently.

(c) At the close of each fiscal year, the fund shall determine the number of Eaton affidavits filed with each Registry of Deeds in the preceding 5 calendar years.

(d) Monies, beyond administrative expenses, that the fund receives by appropriation or otherwise that are not attributable to a given county or former county, and interest on any monies invested on the fund’s behalf, shall be allocated among the counties at the close of each fiscal year according to the proportion of Eaton affidavits filed with the appropriate Registry of Deeds in the previous 5 calendar years.

(e) If as of July 1 of any year, payments to the fund from a given county (plus any allocated monies to the fund for that County) equal at least \$300,000 per County or payments to the fund from a given city or a cluster of up to 5 towns has reached \$100,000, the Treasurer shall, in consultation with community agencies, hold a hearing within that county for public input into

116 the distribution within that county of the funds and the purposes, including affordable housing,
117 for which the Treasurer shall expend them. the Treasurer shall give preference to areas or
118 neighborhoods with the highest proportions of Eaton affidavits filed in the appropriate registry of
119 deeds during the preceding 5 years. the Treasurer shall publicize each such hearing widely
120 through community agencies, the relevant members of the General Court, and in the local media
121 in the county in which the hearing is to be held.

122 (f) The Treasurer shall establish a point system for potential projects, based upon public
123 input. The Treasurer shall announce a request for proposals, review and rank such proposals and
124 award contracts. The Treasurer shall conduct an annual accounting of the funds distributed for
125 each project with a specification of the results obtained.

126 (g) Annually, not later than December 15, the director of the fund shall file a report with
127 the Speaker of the House of Representatives, the President of the Senate, the House and Senate
128 committees on Ways and Means, the Joint Committee on Housing, the Joint Committee on
129 Community Development and Small Businesses and the Joint Committee on Financial Services,
130 providing an accounting of the fund's monies expended, including the regional distribution and
131 usage of expended monies, a description of the respective projects' funding, and the funding's
132 impact on affordable housing and community development.

133 SECTION 2. The Treasurer shall promulgate, amend or repeal regulations necessary to
134 implement this act.