HOUSE DOCKET, NO. 2051 FILED ON: 1/20/2011

HOUSE . . . . . No. 2240

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia

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 passage of the accompanying:

An Act to enable judicial clarification of ownership in evictions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Elizabeth A. Malia	*11th Suffolk*
William N. Brownsberger	*[District]*
Cheryl A. Coakley-Rivera	*10th Hampden*
Jennifer E. Benson	*37th Middlesex*
Joyce A. Spiliotis	*12th Essex*
Thomas P. Kennedy	*[District]*
Denise Provost	*27th Middlesex*
George T. Ross	*2nd Bristol*
John J. Binienda	*17th Worcester*
Gloria L. Fox	*7th Suffolk*
Antonio F. D. Cabral	*13th Bristol*
Ellen Story	*3rd Hampshire*
John W. Scibak	*2nd Hampshire*
James J. O'Day	*14th Worcester*
Jeffrey Sánchez	*15th Suffolk*
Kay Khan	*11th Middlesex*
Tom Sannicandro	*7th Middlesex*
Carl M. Sciortino, Jr.	*34th Middlesex*

John P. Fresolo	*16th Worcester*
Benjamin Swan	*11th Hampden*
Linda Dorcena Forry	*12th Suffolk*

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HOUSE . . . . . No. 2240

By Ms. Malia of Boston, a petition (accompanied by bill, House, No. 2240) of Elizabeth A. Malia and others for legislation to authorize judicial clarification of ownership in eviction proceedings. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to enable judicial clarification of ownership in evictions.

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

SECTION 1. Section 1 of chapter 239 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words "land has been" in line 6 the following word:-

"lawfully".

SECTION 2. Section 1 of chapter 239, as so appearing, is hereby further amended by inserting after the first sentence the following sentence:-

"For purposes of this section, 'lawfully foreclosed' shall mean that the foreclosure was initiated and carried out strictly according to the power of sale in the mortgage and chapter 244 of the General Laws by an entity that held both the promissory note and the mortgage at the time of foreclosure; that, if the foreclosing entity is governed by a trust agreement, the assignment of the note and mortgage into the trust was done in strict compliance with the terms of the trust agreement; and that there are no other conveyances in the chain of mortgage title that either are void ab initio or invalid or are adjudicated by the court hearing the action for possession or other court to be void by reason of fraud, duress, breach of contract, or other legal or equitable grounds; provided, however, that a mortgage of land shall be considered to have been lawfully foreclosed if the purchaser at foreclosure sale is a bona fide purchaser that never held the mortgage or note and is neither a subsidiary, parent, trustee, or agent of nor otherwise related to an entity that at any time held the mortgage or note and the foreclosure was initiated and carried out strictly according to the power of sale in the mortgage and chapter 244 of the General Laws and there are no void conveyances in the chain of mortgage title."