

SENATE No. 771

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 assuring the integrity of mortgage foreclosure .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>James B. Eldridge</i>	
<i>Patricia D. Jehlen</i>	
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Sonia Chang-Diaz</i>	
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>

SENATE No. 771

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 771) of James B. Eldridge, Patricia D. Jehlen, James J. Dwyer, Sonia Chang-Diaz and other members of the General Court for legislation relative to assuring the integrity of mortgage foreclosure . The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to assuring the integrity of mortgage foreclosure .

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. Section 1 of chapter 244 of the General Laws is hereby amended by adding
2 the following new sentence at the end thereof: “Notwithstanding the foregoing, unless at the time
3 of entry the holder of record of the mortgage is the note holder or the note holder’s representative
4 identified under section 15B, and the information required under section 6C of chapter 183 of the
5 General Laws with respect to such holder or with respect to such representative under section
6 15B is recorded, such entry shall be of no force or effect and the mortgage may be foreclosed
7 only by action under this chapter.”

8 SECTION 2. Section 14 of chapter 244 of the General Laws is hereby amended by
9 adding the following new sentence at the end thereof: “Notwithstanding the foregoing, unless at
10 the time of first publication of notice of sale the holder of record of the mortgage is the note
11 holder or the note holder’s representative identified in accordance with section 15B and the
12 information required under section 6C of chapter 183 of the General Laws with respect to such
13 holder or with respect to such representative under section 15B is recorded, the power of sale

14 may be exercised only under section 11 of this chapter and any sale without action shall be
15 void.”

16 SECTION 3. Chapter 244 of the General Laws is hereby amended by adding at the end of
17 section 15A the following new sections:

18 Section 15B. Affidavit of Representative of Note Holder

19 A person named as mortgagee of record who acts as trustee or in other fiduciary capacity
20 for the persons owning the rights of the note holder may sign an affidavit, executed under the
21 penalties of perjury, fully and particularly stating his authority to act for such persons, attesting
22 to have the note or an accurate copy of the note and accurate record of the borrower’s default,
23 and stating a business address, mail address or post office address of the person, to be recorded
24 in the registry of deeds for the county or district where the land lies, with a note or reference
25 thereto on the margin of the record of the mortgage deed, if it is recorded in the same registry. If
26 the affidavit shows that such person has full authority of a note holder to deal with the borrower
27 with respect to the note and attests to having the note or an accurate copy of the note and
28 accurate record of the borrower’s default, such person shall have the authority of the note holder
29 to foreclose by entry under section 1 or by the power of sale without action under section 14 of
30 this chapter.

31 Section 15C. Affidavit of Address of Mortgagee or Assignee or Representative

32 A person named as mortgagee of record under a mortgage or assignment of a mortgage
33 that does not contain the information required under Section 6C of chapter 183 of the General
34 Laws may sign an affidavit, executed under the penalties of perjury, stating such information, to
35 be recorded in the registry of deeds for the county or district where the land lies, with a note or

36 reference thereto on the margin of the record of the mortgage deed, if it is recorded in the same
37 registry.