

# HOUSE. . . . . No. 1617



## The Commonwealth of Massachusetts

\_\_\_\_\_  
PRESENTED BY:

**Representative Smizik**

\_\_\_\_\_

### **An Act to Amend the Foreclosure Statute to Require Judicial Foreclosure**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to protect citizens of the Commonwealth involved in the mortgage foreclosure crisis, 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:*

SECTION 1. Chapter 244 is hereby amended by inserting after Section 1 the following section:–

SECTION 2: Foreclosure by Complaint: All foreclosures of residential mortgages on 1-4 family owner-occupied properties shall be initiated by the filing of a foreclosure complaint against the mortgagor in the Superior Court for the county in which the property is located. A defendant-residential mortgagor may raise all legal and equitable claims and defenses. The court shall have the authority to modify the mortgage or grant any other appropriate relief as to the mortgagor but nothing in this section shall affect the rights of tenants or other legal occupants residing in the property that is the subject of the complaint.