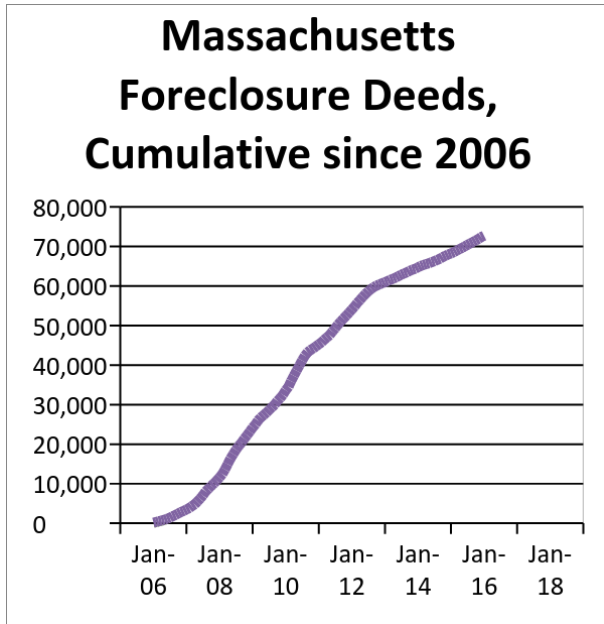


# Massachusetts Alliance Against Predatory Lending Member Group Priorities

## 2017 MORTGAGING & FORECLOSURE LEGISLATION



*74,048+ Massachusetts households' foreclosures and resultant harms (from Warren Group data)*

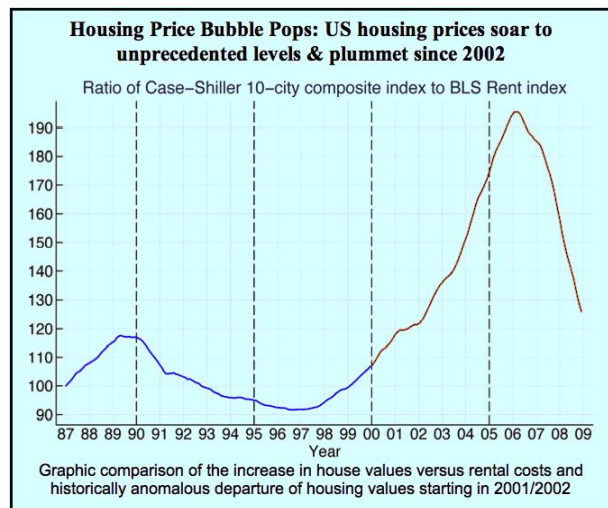
Overpriced mortgage payments were unsustainable for certain borrowers, especially when housing prices started to drop. Those with subprime mortgages went underwater. Homeowners' budgets were drained and many prime mortgagors, as well as subprime, lost their homes.

Massachusetts can provide the tools to unravel this mess – fairly and in a way that returns \$Billions to our state.

**Why we need fundamental solutions now:**

*Foreclosures rose 36 months in a row and are remaining high!* Massachusetts foreclosure deeds were up 75% in 2017 above 2016.

While rampant subprime mortgage lending originally attracted worldwide investment, this influx of capital and the inflationary pressure of subprime mortgage incentivizing led to vastly overpriced homes! We're still paying for the snowballing foreclosures and property losses that this over-pricing and peaking of housing values produced. *See this graph from the Boston Federal Reserve:*



➤ **Facilitating Alternative to Foreclosure/Mediation, SD948/HD935: Sen. Chandler & Rep. Keefe**

This Bill establishes a statewide, pre-foreclosure mediation program, available to homeowners as of when they receive their default/right to cure letter. The foreclosing party must provide legal documents proving that it actually owns the mortgage and a representative with the authority to negotiate the full range of settlements. In Connecticut, 78% of homeowners who participate in such mediations get affordable payment plans to stay in their homes long term. Another 13% get a mutually agreeable alternative to foreclosure.

➤ **Foreclosure Review Division of Superior Court, SD486/HD3290: Sen. McGee & Rep. Gonzalez**

This Bill establishes a statewide, specialized division of Superior Court to adjudicate all aspects of foreclosure-related cases, instead of the several courts that now have jurisdiction over one or another aspect of such cases. The Foreclosure Review Division will be empowered to clear title to foreclosed properties, both for those foreclosed and for third-party purchasers, and will provide on-line and other assistance to pro se litigants. It will free up regular court dockets and promote judicial economy.

➤ **Municipal Powers, SD907/HD987: Sen. Chandler and Rep. Tosado**

The bill clarifies that municipalities can continue to exercise their health and safety powers in service of their residents even in the context of this foreclosure crisis in which the rate of foreclosures has been three times the peak of the Great Depression. Worcester successfully ran a Nationally-ground-breaking cash bond program for over 5 years and Lynn showed that pre-foreclosure mediation can result in mutually agreed upon affordable loan modifications leading to avoidance of foreclosure in 97% of cases.

➤ **Tax Relief of Mortgage Debt, SD1500/ HD3465: Sen. DiDomenico and Rep. Malia**

When a homeowner's mortgage ends in foreclosure, tax law regards the debt as paid off up to the amount paid at foreclosure. This debt "forgiveness" is accounted as a profit to homeowners who just lost their homes and likely largest investment of their lives. Congress changed federal tax law to exempt homeowners from being taxed as if that is a profit. This Bill creates the same tax exemption at the state level.

➤ **Preventing Unnecessary Vacancies, SD396/HD1285: Sen. Eldridge and Rep. Sanchez**

This Bill requires a commercial purchaser of a foreclosed home to rent it to the "foreclosed" homeowner until the property is sold to a new owner-occupant. The former owners become tenants paying the HUD fair market rent for their units. Post-foreclosure tenants can be evicted only for just cause.

➤ **Real Estate Title Protection Act, HD3360: Rep. Frank Moran & Rep. Mark**

This Bill protects real estate titles; its provisions ensure, for instance, that the mortgagor (borrower) can always tell who owns the mortgage, and require the Mortgage Note to be returned to the mortgagor, marked "Paid in Full," upon payoff. It requires Registries of Deeds to record each mortgage in the names of the real parties in interest, that is, the mortgagor and lender. It institutes deadlines for recording assignments of mortgage and foreclosure deeds. Protecting marketable title will bolster business creation by facilitating entrepreneurs' mortgages on their own homes: these historically have provided up to 70% of the credit for new U.S. businesses.

➤ **Property Tax Taking of Home, HD3534: Rep. Mahoney**

Municipalities have often allowed delinquent owners to pay real estate taxes late or make long payment plans. Now municipalities are enforcing quickly, sometimes selling tax title debt to unregulated individuals. Owners are unaware that if third party investors foreclose their homes in Land Court, their homes cannot be redeemed. This Bill requires: (1) explicit notices to homeowners with an alert in the 5 most common languages other than English; (2) licensing tax title purchasers as debt collectors; (3) 1 year redemption period after Land Court foreclosure; (4) a third-party tax title buyer who forecloses in Land Court must auction the property publicly, with net proceeds split between the municipality and past owner.

➤ **Judicial Foreclosure, SD607/HD2766: Senator Brady and Rep. Smizik**

This Bill requires foreclosure of 1 – 4 family homes to be conducted through a court action. A party wishing to foreclose must provide the legal documentation to prove to a judge that it is the mortgage-holder *before it forecloses*. With our present non-judicial foreclosures, the burden is on a wronged homeowner to get a judge to order the foreclosing party to produce this evidence. Judicial Foreclosure will prevent foreclosures by those with no authority to foreclose, and prevent clouds on title presently created during non-judicial foreclosures.

➤ **Resolution Trust Fund, HD1462: Rep. DuBois**

This Bill establishes a dedicated Trust Fund into which borrowers can pay when they prove that no bank can legally claim their mortgage payments. Annual statewide hearings would determine how to use Trust Fund monies to rebuild housing and businesses in areas hard hit by foreclosures. As funds increase, these hearings will be held regionally and the monies used to rehabilitate the areas from which they originate.

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*MAAPL MEMBERS/SUPPORTING ORGANIZATIONS: Action for Boston Community Development, Inc., Action for Regional Equity, Alliance of Providers of Legal Services to Individuals Facing Foreclosure, ARISE for Social Justice, Arlington Community Trabajando, Boston Tenants Coalition, Brazilian Women's Group, Brockton Interfaith Community, Carpenters Local 40, Carpenters Local 107, Charles Hamilton Houston Institute For Race & Justice, Chelsea Collaborative, Chinese Progressive Association, City Life/Vida Urbana, Coalition for Social Justice, Community Economic Development Ctr of S.E. MA, Community Labor United, Democratic Socialists of America, Dorchester People for Peace, Era Key Realty Services, ESAC, Fair Housing Center of Greater Boston, Greater Boston Legal Services, Greater Four Corners Action Coalition, Green-Rainbow Party of MA, Harvard Legal Aid Bureau, Homeowner Options for MA Elders, Jewish Alliance for Law and Social Action, Lawrence Community Works, Lawyers' Committee for Civil Rights Under Law, Lynn United for Change, Legal Assistance Corporation of Central Mass, Mass Advocates for Children, Mass AFL-CIO, Mass Coalition for the Homeless, Mass Community Action Network, Massachusetts Fair Housing Center, Mass Jobs With Justice, Mass Law Reform Institute, Mass Welfare Rights Union, Merrimack Valley Labor Council, NAACP N.E. Area Council, National Community Reinvestment Coalition, National Consumer Law Center, National Lawyers Guild, Neighbor-to-Neighbor, Neighborhood Legal Services, New England United for Justice, North Shore Labor Council, Oiste?, Organization for a New Equality, Painters District Council 35, Pleasant St. Neighborhood Network Center, Southbridge Community Connections, Springfield No One Leaves Coalition, Survivors Inc., Tri-City Community Action Program, UE Northeast Region, Union of Minority Neighborhoods, United Auto Workers Mass CAP, United Food & Commercial Workers 1445, United For a Fair Economy, United Steel Workers Local 5696, Volunteer Lawyers Project, Worcester Anti-Foreclosure Team*