

# Massachusetts Alliance Against Predatory Lending

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## AN ACT TO PROTECT TITLE TO REAL ESTATE: FACT SHEET

**House Bill #1524, Main Sponsors:** Representatives Frank Moran and Paul Mark

### What Does This Bill Do?

This bill protects the real estate title of everyone who owns or buys a home, farm, or business property in the Commonwealth, and everyone who takes out or has taken out a mortgage loan on it. For a mortgage loan to buy property, to refinance, or to start a business, banks lend more readily if title is marketable. Marketable title is the industry standard; it facilitates real estate sales, and getting title insurance.

### Why Do We Need This Legislation?

Now, many mortgages falsely state the mortgagee's identity. This shields lenders from liability under consumer protection laws, and results in falsified assignments of mortgage. Many mortgages have gaps in chain of title; unrecorded mortgage assignments; etc. Most foreclosures are non-judicial. Homeowners can find it impossible to verify whether a foreclosing entity owns the mortgage, holds the promissory note, thus has authority to foreclose.

### How Will the Bill Work?

It requires documents affecting title to real property to be recorded promptly in the appropriate Registry of Deeds (assignments of mortgage, 30 days; foreclosure deeds, 60 days.) It clarifies that existing criminal provisions for knowingly using a false or fraudulent document apply to real estate title in a Registry, or filing it with a court.

The bill requires every monthly home mortgage statement to show who currently holds the mortgage, who owns the note, and the mortgage servicer. Upon payoff of a mortgage, the owner of the note must return it, the way banks used to return hard-copy cancelled checks, marked "Paid in Full." So no one else can claim to be owed.

The bill requires a party intending to foreclose to record in the appropriate Registry a complete copy of the original, wet-ink signed promissory note, before publishing a Notice of Foreclosure by Sale, to show it owns the note. The bill also abolishes the archaic, non-judicial procedure of foreclosure by "entry and possession." This does not require notice to the homeowner; is frequently surreptitious; and is arguably both redundant and unfair.

The bill helps to prevent "zombie" properties, where a municipality cannot tell who is liable for water, sewer, etc., by establishing a fine of \$100 per day for late notification, under section 15A of G.L. chapter 244, that a foreclosing party has taken possession. Municipality keeps 50% of the fine; General Fund or County gets 50%.

### Will This Bill Increase Revenue or Cost the Commonwealth?

It will increase revenue. The Commonwealth has lost many millions of dollars in Registry fees because it does not require all assignments of mortgage to be recorded (recording fee is \$75 each). Also, it will help to obviate potential liability for defective titles in registered land, whose titles the Commonwealth guarantees.

**Other Bills Filed Include:** *An Act for a Foreclosure Review Session of Superior Court, An Act to Establish the Resolution Trust Fund*

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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., 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*