

The Commonwealth of Massachusetts

An Act to Enable Judicial Clarification of Ownership in Evictions

PRESENTED BY:

Representative Elizabeth A. Malia

SECTION 1. Chapter 239 of Massachusetts General Laws is hereby by inserting the following:

Section 1 is hereby amended by inserting in the first sentence the word “lawfully” prior to the phrase “foreclosed by a sale under a power therein contained” and by inserting after the first sentence of the section the following: “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.