

Massachusetts Alliance Against Predatory Lending

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AN ACT TO ESTABLISH A TEMPORARY MORATORIUM ON FORECLOSURES IN THE COMMONWEALTH

Senate Bill 1751, Main Sponsor: Senator Mark Monigny
House Bill 1510, Main Sponsor: Representative William Lantigua

What does this bill do?

The bill provides a 6 month moratorium on foreclosures of 1-4 family, owner-occupied buildings resulting from unfair lending practices. The 6 month stay includes good faith negotiations by the lenders for borrowers that so request. This will allow certain homeowners to avoid displacement and communities to mitigate some of the disastrous consequences of abandoned properties, loss in property values and overburdening of already under-funded municipal resources. The bill also provides time for state and federal government to devise additional comprehensive approaches and continuing adjustments in parts of the industry to have an effect. This bill is filed along with: *An Act to Require Judicial Foreclosure*, *An Act to Protect Tenants from Eviction in Foreclosed Properties*, and *An Act Establishing a Foreclosure Mediation Process*.

Why consider this an emergency?

The numbers say it all.

- By Nov. '08, year-to-date foreclosure deeds shot up 65% to 11,486 from 6,970 in Nov. '07;
- By Nov. '08, year-to-date auction announcements jumped 34% to 18,064 from 13,465 in Nov. '07;

Without intervention, Congressional projections are on track for Massachusetts households to lose 58.9 billion in household wealth by 2009, with more than 2.8 billion loss in property value (half collateral) and concomitant loss in property taxes. With 23,000 petitions filed, 32,000 households would face evictions.

An example: the City of Worcester already expanding many millions in addressing code, fire, policing, legal, neighborhood and development services to address the foreclosure out of its shrinking 500 million dollar budget (City and Schools). While a leading city in comprehensive planning and leveraging of funds to address the crisis, neighborhoods are being devastated with buildings selling now for \$55,000 that went for \$350,000 only three years ago. At a meeting with some 200 realtors a little over a year ago, the city manager's comment that solicited the largest knowing response was a joke about selling buildings with no more copper pipes. With 319 vacant or abandoned properties already and about 700 foreclosures in just the last year, Worcester is slated to face up to 1,400 additional foreclosures in the coming year! A six month moratorium would, for instance, allow the registry of deeds to actually file deeds of new owners and Worcester and its residents to finally identify the present owners of neglected properties, increase sales of the many months backlog of properties, receiverships to established, properties to be boarded up, neighborhoods to begin to be rebuilt, property values to perhaps stabilize.

Why do we need a temporary moratorium on foreclosures?

A key feature of Chapter 206 of the acts of 2007 was the provision of funds for work-out counselors to assist homeowners facing foreclosure. Before the significant increases in foreclosures in the last six months, according to case managers last summer, a single workout

counselor can only handle between 100 and 130 cases *per year* while the number of foreclosure petitions filed *each week* in our largest counties surpasses that figure. We would need fifty work-out counselors in each of those counties to assist homeowners newly facing foreclosure each week. A temporary halt to certain foreclosures would allow counselors time to negotiate with lenders without the added pressure of new cases piling on at a rate never before seen. To refinance or even renegotiate, a good payment history is almost always a pre-requisite. Thus, it is critical that counselors reach people *before* they get behind in payments. A moratorium of six months will allow Chapter 206 to succeed.

Will the moratorium apply to all homeowners facing foreclosure?

No. The moratorium applies only to unfair and predatory subprime loans with low introductory rates that increase dramatically and that are 97% or more of the value of the house and other characteristics described in Section 2.

Has Massachusetts passed a moratorium before and are other states considering this step?

Yes and yes. In 1991 the Legislature passed a four month moratorium for homeowners who were victims of home improvement loan scams and losing their homes in foreclosure. This round of foreclosures is much more extensive and merits even more attention. Maryland just passed a three month moratorium and New York , New Jersey and Minnesota are among other states considering similar laws. Fannie Mae and Freddie Mac has instituted moratoriums on their own foreclosure and eviction actions. Even the Bank of America is now proposing a 60 day moratorium for its borrowers facing foreclosure.

Bill Summary:

Section 1 institutes a 180 day foreclosure moratorium on mortgage loans with: (a) an adjustable rate with an introductory period of three years or less, a debt-to income ratio in excess of 50% under the fully indexed rate; and a 97 % or higher loan-to-value ratio or loan carries substantial or extended pre-payment penalties; (b) interest only loans; (c) high points, fees or interest.

Section 2 prohibits filing of foreclosure deed during the moratorium. .

Section 3 requires mortgage holders to provide an authorized representative to negotiate with borrowers who request it in good faith to modify the terms of the mortgage including, if necessary, reducing principal and lowering interest rates so that borrowers will have improved ability to stay in their homes. It prohibits accrual of penalties and fees during this period.

MAAPL MEMBERS/SUPPORTING ORGANIZATIONS: Action for Boston Community Development, Inc., Association for Community Organizing for Reform Now (ACORN), Action for Regional Equity, ARISE for Social Justice, Arlington Community Trabajando, Boston Tenants Coalition, Brazilian Women's Group, 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, 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, North Shore Labor Council, ¿Oiste?, Organization for a New Equality, Painters District Council 35, Pleasant St. Neighborhood Network Center, Southbridge Community Connections, 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.

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