

# SENATE . . . . No. 481

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[Senate, No. 481. — Substituted by amendment by the Senate (Lundgren) for House Bill No. 2455.]

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## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Six.

### AN ACT RELATIVE TO FLEXIBLE OR ADJUSTABLE MORTGAGES OF REAL ESTATE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 183 of the General Laws is hereby amended  
2 by striking out section 28A, inserted by section 1 of  
3 chapter 438 of the acts of 1946, and inserting in place  
4 thereof the following section:—

5 *Section 28A.* Any sum or sums which shall be loaned  
6 by the mortgagee to the mortgagor at any time after  
7 the recording of any mortgage of real estate, to be ex-  
8 pended for paying for repairs, improvements or replace-  
9 ments to, or for taxes or other municipal liens, charges  
10 or assessments on, the mortgaged premises, shall be  
11 equally secured with and have the same priority as the  
12 original indebtedness, to the extent that the aggregate  
13 amount outstanding at any one time when added to the  
14 balance due on the original indebtedness shall not ex-  
15 ceed the amount originally secured by the mortgage.  
16 The provisions of this section shall apply to all forms of  
17 mortgages on real estate.

18 No action under this section shall affect the rights of  
19 the holder of any encumbrance which is subject to that  
20 of the mortgagee granting the accommodation, except  
21 in cases where the accommodation is for the purpose of

22 making improvements to the mortgaged premises, and  
23 recorded prior to September first, nineteen hundred and  
24 forty-six, unless his written assent shall be obtained, nor  
25 shall any such action affect the rights of an original bor-  
26 rower unless his written assent shall be obtained. In  
27 cases where the accommodation is for the purpose of  
28 making improvements to the mortgaged premises no  
29 action hereunder shall affect the rights of the holder of  
30 any encumbrance which is subject to that of the mort-  
31 gagee granting said accommodation and recorded prior  
32 to September first, nineteen hundred and fifty-six, unless  
33 his written assent shall be obtained, nor shall any such  
34 action affect the rights of an original borrower unless  
35 his written assent shall be obtained.