

By Mr. Finneran of Boston, petition of Thomas M. Finneran, Salvatore F. DiMasi and another for legislation to amend certain statutory provisions applicable to the foreclosure of mortgages in the Commonwealth. Banks and Banking.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety.

AN ACT AMENDING CERTAIN STATUTORY PROVISIONS APPLICABLE TO THE FORECLOSURE OF MORTGAGES IN THE COMMONWEALTH.

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

1 SECTION 1. Section 1 of chapter 57 of the acts of 1943, as  
2 most recently amended by section 1 of chapter 127 of the acts of  
3 1982, is hereby amended by striking out the last paragraph  
4 contained therein and inserting in place thereof the following  
5 paragraph: —

6 In proceedings under this section, no person who is not a record  
7 owner of the equity of redemption in the mortgaged property and  
8 who is not entitled to the benefit of the Soldiers' and Sailors' Civil  
9 Relief Act, 50 USC Sections 510 to 591, inclusive, with respect to  
10 the mortgage, trust, deed or other security described in the bill,  
11 whether named as a defendant in the bill or not, shall be entitled  
12 to appear or be heard in such proceeding, except on behalf of a  
13 person so entitled, or unless an affidavit by the claimant, or a  
14 certificate by counsel appearing for him, stating that he is in the  
15 service and thus entitled to the benefits of said act, is filed with  
16 the appearances. Such proceedings shall be limited to the issues  
17 of the existence of such persons and their rights if any. No  
18 proceedings shall be brought under this section unless the record  
19 owner of the equity of redemption in the mortgaged property is  
20 a natural person. The court in which is brought any proceeding  
21 under this section shall not require or cause to be joined as a party

22 or to be served with process in or notice of said proceeding any  
23 party interested in the mortgaged property other than the record  
24 owner thereof.

1 SECTION 2. Section 14 of Chapter 244 of the General Laws,  
2 as appearing in the 1988 Official Edition, is hereby amended by  
3 adding at the end of said section the following paragraph: —

4 Substantial compliance with the applicable provisions of this  
5 section shall give rise to a presumption that the sale or disposition  
6 of the property by the foreclosing party was commercially  
7 reasonable. Mere inadequacy of price does not constitute any  
8 proof of a commercially unreasonable sale. Any action to  
9 challenge a foreclosure sale as not having been conducted in a  
10 commercially reasonable manner must be brought within three  
11 (3) months of the challenged sale.