

FACT SHEET: An Act Establishing a Foreclosure Prevention Program

H.942 (Representatives Christine Barber & Pete Capano) & S.653 (Senator Adam Gomez)

With Massachusetts foreclosures on the rise, updated state laws that better protect homeowners are overdue. In response to the pandemic, mortgage servicers increasingly rely on streamlined foreclosure prevention reviews that lack homeowner protections. Holding conferences to review options before a foreclosure will prevent unnecessary loss of housing and costly foreclosures. This bill requires servicers to provide accurate loan information to homeowners and engage in foreclosure prevention conferences, where servicers and homeowners must make good faith efforts to find reasonable alternatives to foreclosure. Every other New England state plus New York has some form of foreclosure conference or mediation.

What is the Foreclosure Prevention Program (FPP)?

Creditors will engage in conferences with eligible homeowners to review all available foreclosure prevention options.

- The FPP will be run by the FPP Administrator, a government or nonprofit organization designated by the Massachusetts Attorney General.
- The Administrator will train and supervise neutral monitors who will conduct each conference.
- Servicers must make a good faith effort to participate in the FPP and evaluate homeowners for all available foreclosure prevention options.
- Upon completion of good faith participation in the FPP, the monitor will issue a Certificate of Compliance that the servicer must file in the registry of deeds before conducting a foreclosure sale.
- Sanctions may be imposed by Massachusetts Courts if the servicer fails to participate in the FPP in good faith.

Why do we need the FPP?

Many servicers proceed with foreclosure without engaging homeowners in a constructive evaluation of foreclosure alternatives.

- Losing a home to foreclosure is devastating, and especially tragic when alternatives might have been available but were not explored.
- Thousands of homeowners are in default as a result of the pandemic and are facing, or will soon face foreclosure. **From the first half of 2021 to the first half of 2022, foreclosures in Massachusetts increased by more than 80%.**
- Foreclosure alternatives exist for many homeowners, whether it is a loan modification, deferral of past due amounts, home assistance funds, or other options.
- During the 2008 housing crisis, many homeowners sent in loan modification applications only to face repeated document requests and denials due to loan servicers' inability to manage the process.
- Engaging in supervised conferences is the best way to coordinate all foreclosure alternatives, particularly newer programs developed in response to the pandemic.

Who is eligible for the FPP?

- Homeowners with a loan secured by their primary, 1-to-4 family residence, who are in default or at imminent risk of default and who elect to participate in the FPP.
- Homeowners with second mortgages, reverse mortgages, or mortgages on condominiums and cooperative units.
- Homeowners will receive notice of their right to request participation together with their right to cure notices, but may elect to participate before receiving this notice.

How is the FPP funded?

- The servicer will pay a fee upon initiating a foreclosure by filing a complaint under the Servicemembers Civil Relief Act (SCRA) in the court.
- The Administrator will deposit these funds into a special fund known as the "Foreclosure Prevention Fund" and they shall be designated primarily for costs of administration of the FPP and payment of monitor fees.