NCLC National Consumer Law Center

Fact Sheet: Protecting Massachusetts Homeowners from Zombie Second Mortgages

October 2025

BILL TITLE: An Act relative to unlawful practices in the servicing and foreclosure of a subordinate mortgage. **S1071/ H1983**

PRIMARY SPONSORS: Senator William J. Driscoll, Jr. and Representative Amy Mah Sangiolo

THE ZOMBIE MORTGAGE THREAT: A TICKING TIME BOMB FOR MASSACHUSETTS HOMEOWNERS

Remember the subprime mortgage crisis of the early 2000s? One toxic product that contributed to the crisis was the "80-20 mortgage," where homeowners took out a first and *second* mortgage simultaneously. When the housing bubble burst, these second mortgages became worthless and many homeowners believed they were dead and gone.

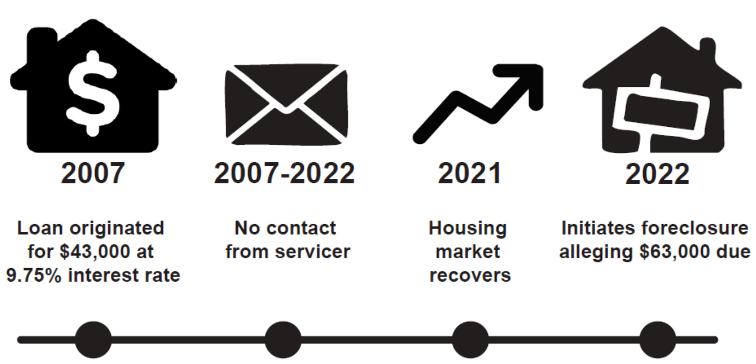
But they were wrong.

Now, with property values rising, these “zombie second mortgages” are being resurrected by investors looking to collect on the long-dormant loans. Investors who bought these debts for pennies on the dollar are suddenly foreclosing on homeowners who are current on their *first* mortgages and have built significant equity in their homes. Families who thought their housing situation was stable now face devastating surprise foreclosures, throwing them into crisis.

Anatomy of a Zombie Second Mortgage: *A zombie loan isn’t just a debt—it’s a deadly trap waiting to spring after years of silence. Typical characteristics include:*

- Loans originated before 2009 with interest rates of 9%–10%
- Borrowers receiving no statements or contact for 10–12 years
- Balance growing significantly due to compounding interest and fees
- Debt buyers suddenly demanding payment or initiating foreclosure

TIMELINE: How a Zombie Mortgage Haunts Massachusetts Borrowers for Over a Decade



13 years of silence, then a foreclosure notice, blindsiding borrowers with demands for payment of inflated balances.

Scope of the Problem in Massachusetts

Common characteristics of zombie second mortgages are high interest rates, increasing loan balances, and long delays in collection. By looking at second mortgages with interest rates above 6% that also had a higher balance at the time of a foreclosure event than at origination, we can estimate the prevalence of zombie second mortgages.

In Massachusetts, lenders must file foreclosure petitions and sale information with the Division of Banks before a foreclosure sale. NCLC reviewed data from the MA Division of Banks (DOB) on mortgages that had a “foreclosure event,” which involved sending a default notice or conducting a foreclosure sale, between 2018 and 2024.

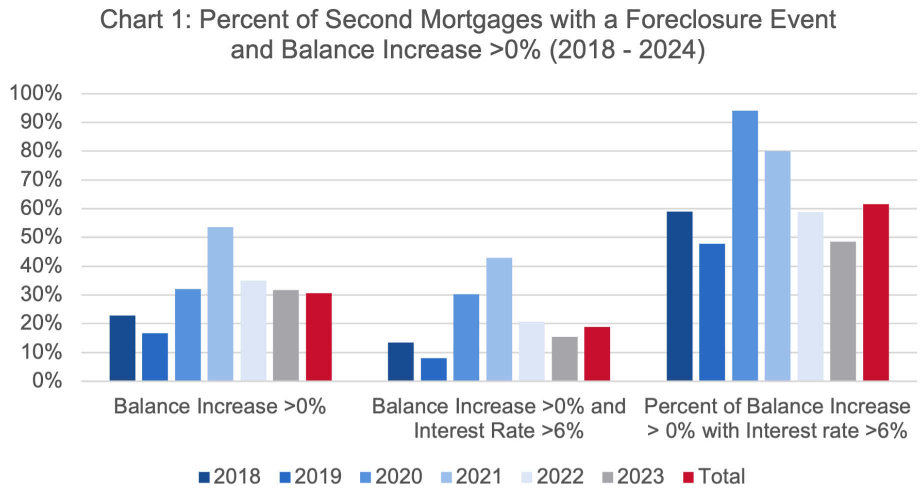
From the DOB data, we looked at:

- Second mortgages only
- Loans with increasing balances from origination to foreclosure filing
- Loans with original interest rates above 6%
- The estimated length of delay in collection activity

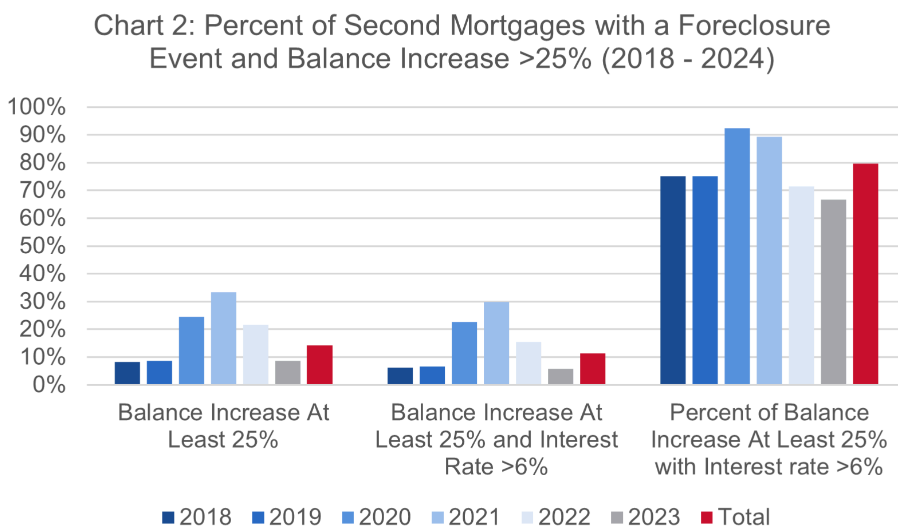
Key Findings:

- In **31%** of second mortgages with a foreclosure event, borrowers had higher loan balances than when they took out the loans.

A shocking 61% of zombie second mortgages with rising balances also had abusive interest rates over 6%.



- **14%** had a balance increase of **at least 25%**
- **80%** of loans with a 25%+ balance increase also had high original interest rates



Average borrower profile (for high-balance, high-rate loans):

- 10.2% interest rate
- 89% balance increase
- 144 payments missed—over 12 years of inaction by the lender

Quick Stats for MA second mortgages with a foreclosure event between 2018–2024

Stat	Value
Loans with rising balances	31%
Loans with rising balances & high interest	19%
Balance increases over 25%	14%
Balance increases >25% & interest >6%	11%
Missed payments before foreclosure	~144

Real-World Impact

Many borrowers assumed the second mortgage had been charged off, forgiven, or included in a bankruptcy and they weren't given a chance to modify, challenge, or plan for repayment until it was too late.

*It is important to keep in mind that this analysis does not include second mortgages where the lender has not initiated a foreclosure but has demanded excessive amounts due under the threat of foreclosure. It also excludes situations in which homeowners paid the inflated amounts or worked out other agreements with the debt collectors to avoid foreclosure.

What Legislators Can Do

S1071/ H.1983: *An Act relative to unlawful practices in the servicing and foreclosure of a subordinate mortgage* **provides a crucial lifeline for these homeowners.**

This legislation targets the predatory practices of zombie second mortgage investors and protects homeowners from unfair and deceptive tactics. It brings transparency and accountability to a system that has allowed zombie second mortgages to fester while shrouded in secrecy.

Key Provisions – Protecting Homeowners:

- **Stops Unlawful Practices:** Specifically prohibits practices like failing to provide ongoing notices and statements required by law, and attempting to collect on debts when there is no longer a legal right to do so.
- **Empowers Homeowners:** Mandates clear, written notices to homeowners about these unlawful practices and requires creditors to verify that they followed basic laws that apply to mortgage servicing.
- **Gives Courts Power to Help:** Authorizes courts to pause foreclosures, waive fees and interest, release all or part of the debt obligation, and set aside wrongful foreclosure sales.
- **Holds Lenders Accountable:** Makes creditors liable for damages, including punitive damages, for engaging in these unlawful practices.
- **Creates Strong Enforcement:** Designates violations as per se violations of the Massachusetts consumer protection law (Chapter 93A) and empowers the Attorney General to enforce these protections.
- **Allows for Accessibility for All:** Requires all notices to be provided in English and Spanish, with clear instructions on how to obtain translation into the top seven languages spoken in the Commonwealth. This ensures that language barriers don't prevent homeowners from accessing critical information.

The Time to Act is Now:

Zombie second mortgages are a growing threat to Massachusetts homeowners. This bill provides essential protections against these predatory practices, ensuring fairness and transparency in the mortgage foreclosure process. It's about protecting families and preserving homeownership now to prevent a foreclosure crisis later.

For more information, please contact Geoff Walsh (gwalsh@NCLC.org) or Andrea Bopp Stark (astark@NCLC.org) See also:

NCLC Zombie Second Toolkit: https://library.nclc.org/zombie-second-mortgages and
NPR Article featuring a Quincy, MA resident Zombie 2nd mortgages are coming to life, threatening thousands of Americans' homes.