

**HOUSE . . . . . No. 1052**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Daniel Cahill*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act amending the banking laws and related statutes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>2/18/2021</i>

**HOUSE . . . . . No. 1052**

By Mr. Cahill of Lynn, a petition (accompanied by bill, House, No. 1052) of Daniel Cahill relative to banking laws and related statutes. Financial Services.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act amending the banking laws and related statutes.

*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. The first sentence of section 34 of Chapter 29 the General Laws as  
2 appearing in the 2018 Official Edition, is hereby amended by striking out the word  
3 “commonwealth” the second time it appears and inserting in place thereof following words:–  
4 commonwealth, provided that, a portion of such monies may be deposited as provided in  
5 subsection (d).

6 SECTION 2. Section 34 of said Chapter 29, as so appearing, is hereby further amended  
7 by adding after subsection (c) the following subsection:–

8 (d) A portion of the public monies referred to in subsection (a) may be deposited in  
9 accordance with the following conditions: (1) the funds are initially invested through a banking  
10 institution as defined in Chapter 167A doing business in the commonwealth that is insured by the  
11 Federal Deposit Insurance Corporation and is selected by the treasurer; (2) the selected banking  
12 institution arranges for the redeposit of the funds in deposit accounts in one or more banks or

13 savings and loan associations wherever located; and (3) the full amount or principal and any  
14 accrued interest of each such deposit account is insured by the Federal Deposit Insurance  
15 Corporation.

16 SECTION 3. Chapter 35 of the General Laws, as so appearing hereby amended by  
17 striking out section 22 and inserting in place thereof the following section:–

18 Section 22. Except as otherwise provided, county treasurers, clerks of the courts, clerks  
19 of the district courts, sheriffs and superintendents of jails and houses of correction, probation  
20 officers, registers of probate and insolvency and register of deeds, having more money in their  
21 hands than is required for immediate use, shall deposit it, in their official names, in national  
22 banks, trust companies, savings banks, co-operative banks, federal savings banks or federal  
23 savings and loan associations, at the best practicable interest rates. County treasurers may also  
24 deposit in time deposits in such national banks, trust companies, savings banks, co-operative  
25 banks, federal savings banks or federal savings and loan associations, and invest in United State  
26 treasury bills. Interest thereon shall be paid to the county, except that interest accruing to  
27 deposits by registers of probate and clerks of courts shall be paid to the Commonwealth;  
28 provided, that interest accruing on the deposit as aforesaid of any money paid to any official  
29 mentioned in this section which is so paid under order of a court or which is otherwise subject to  
30 the direction of a court shall, if the court so directs, be paid to the parties entitled to the principal  
31 fund of such deposit.

32 SECTION 4. Section 4 of Chapter 40G of the General Laws as so appearing, is hereby  
33 amended by striking out the second paragraph and inserting in place thereof the following  
34 paragraph:–

35           Unless otherwise specified, all moneys of the MTDC from whatever source derived shall  
36 be paid to the treasurer of the MTDC. Said moneys shall be deposited in the first instance by the  
37 treasurer in one or more national banks, trust companies, savings banks, cooperative banks,  
38 federal savings banks or federal savings and loan associations in compliance with section 34 of  
39 chapter 29. Funds in said accounts shall be paid out on the warrant or other order of the treasurer  
40 of the MTDC or of such other person or persons as the board may authorize to execute such  
41 warrants or orders.

42           SECTION 5. Section 55 of Chapter 44 of the General Laws, as so appearing, is hereby  
43 amended by striking out, in lines 25 and 26, the words “banking companies or co-operative  
44 banks” and inserting the words:–

45           or cooperative banks or in accordance with the provisions of the second paragraph of  
46 section 55B of this chapter.

47           SECTION 6. Section 55B of Chapter 44, as so appearing, is hereby amended by adding  
48 the following paragraph:–

49           Moneys of any city, town, district or regional school district invested in compliance with  
50 this section may be invested in accordance with the following conditions: (1) the moneys are  
51 initially invested through a banking institution doing business in the commonwealth selected by  
52 the city, town, district or regional school district; (2) the selected banking institution arranges for  
53 the redeposit of the moneys in deposit accounts in one or more banks or savings and loan  
54 associations wherever located; and (3) the full amount of principal and any accrued interest of  
55 each such deposit account is insured by the Federal Deposit Insurance Corporation. The  
56 provisions of section 62 shall not apply to this section.

57 SECTION 7. The General Laws are hereby amended by inserting after chapter 110F the  
58 following chapter:-

59 CHAPTER 110I. UNIFORM REAL PROPERTY ELECTRONIC RECORDINGS

60 Section 1. SHORT TITLE. This act may be cited as the Uniform Real Property  
61 Electronic Recording Act

62 Section 2. For the purpose of this Act the following words shall, unless the context  
63 clearly indicates otherwise, have the following meanings:-

64 “Document” means information that is:

65 (A) inscribed on a tangible medium or that is stored in an electronic or other medium and  
66 is retrievable in perceivable form; and

67 (B) eligible to be recorded in the land records maintained by the registrar.

68 “Electronic” means relating to technology having electrical, digital, magnetic, wireless,  
69 optical, electromagnetic, or similar capabilities.

70 “Electronic document” means a document that is received by the registrar in an electronic  
71 form.

72 “Electronic signature” means an electronic sound, symbol, or process attached to or  
73 logically associated with a document and executed or adopted by a person with the intent to sign  
74 the document.

75           “Person” means an individual, corporation, business trust, estate, trust, partnership,  
76 limited liability company, association, joint venture, public corporation, government, or  
77 governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

78           “State” means a state of the United States, the District of Columbia, Puerto Rico, the  
79 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of  
80 the United States.

81           Section 3. VALIDITY OF ELECTRONIC DOCUMENTS.

82           (a) If a law requires, as a condition for recording, that a document be an original, be on  
83 paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic  
84 document satisfying this act.

85           (b) If a law requires, as a condition for recording, that a document be signed, the  
86 requirement is satisfied by an electronic signature.

87           (c) A requirement that a document or a signature associated with a document be  
88 notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic  
89 signature of the person authorized to perform that act, and all other information required to be  
90 included, is attached to or logically associated with the document or signature. A physical or  
91 electronic image of a stamp, impression, or seal need not accompany an electronic signature.

92           Section 4. RECORDING OF DOCUMENTS.

93           (a) In this section, paper document means a document that is received by the registrar in  
94 a form that is not electronic.

95           (b) A registrar:

96 1. who implements any of the functions listed in this section shall do so in compliance  
97 with standards established by the Secretary of State.

98 2. may receive, index, store, archive, and transmit electronic documents.

99 3. may provide for access to, and for search and retrieval of, documents and information  
100 by electronic means.

101

102 4. who accepts electronic documents for recording shall continue to accept paper  
103 documents as authorized by state law and shall place entries for both types of documents in the  
104 same index.

105 5. may convert paper documents accepted for recording into electronic form.

106

107 6. may convert into electronic form information recorded before the registrar began to  
108 record electronic documents.

109 7. may accept electronically any fee or tax that the registrar is authorized to collect.

110

111 8. may agree with other officials of a state or a political subdivision thereof, or of the  
112 United States, on procedures or processes to facilitate the electronic satisfaction of prior  
113 approvals and conditions precedent to recording and the electronic payment of fees and taxes.

114 Section 5. ADMINISTRATION AND STANDARDS.

115 (a) The Secretary of State shall adopt standards to implement this act.

116 (b) To keep the standards and practices of registrars in this state in harmony with the  
117 standards and practices of recording offices in other jurisdictions that enact substantially this act  
118 and to keep the technology used by registrars in this state compatible with technology used by  
119 recording offices in other jurisdictions that enact substantially this act, the Secretary of State, so  
120 far as is consistent with the purposes, policies, and provisions of this act, in adopting, amending,  
121 and repealing standards shall consider:

122 1) standards and practices of other jurisdictions;

123 2) the most recent standards promulgated by national standard-setting bodies, such as the  
124 Property Records Industry Association;

125 3) the views of interested persons and governmental officials and entities; and

126 4) the needs of counties of varying size, population, and resources.

127 Section 6. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying  
128 and construing this Uniform Act, consideration must be given to the need to promote uniformity  
129 of the law with respect to its subject matter among states that enact it.

130 Section 7. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND  
131 NATIONAL COMMERCE ACT. This act modifies, limits, and supersedes the federal  
132 Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et seq.)  
133 but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or  
134 authorize electronic delivery of any of the notices described in Section 103(b) of that act (15  
135 U.S.C. Section 7003(b)).



136 SECTION 8. Section 21 of chapter 167 of the General Laws, as so appearing, is hereby  
137 amended by adding the following three paragraphs:-

138 Notwithstanding any general law, special act or its organizational documents to the  
139 contrary, a financial institution may postpone the annual meeting of its voting body if the  
140 Governor has declared a state of emergency for the Commonwealth or the area or areas served  
141 by the financial institution. Within sixty days of the termination of the state of emergency the  
142 financial institution shall hold an annual meeting postponed under this paragraph unless the next  
143 regularly scheduled annual meeting is to be held within one hundred and fifty days of such  
144 termination. A postponed annual meeting may be combined with the next annual meeting held  
145 within this time period. If notice of the annual meeting has been provided as of the date of the  
146 declaration or within ten days after a financial institution may provide notice of the  
147 postponement by press release, email notice if previously provide to the financial institution or  
148 take other reasonable steps to inform the voting body. During the period of the emergency the  
149 financial institution shall retain its current governing body regardless of the expiration of terms  
150 or mandatory retirements; may operate under existing policies and procedures and any required  
151 annual votes or actions shall also be postponed. The termination or rescission of the state of  
152 emergency shall not invalidate any actions taken pursuant to the provisions of this paragraph. . A  
153 financial institution postponing an annual meeting under this paragraph shall enter in the records  
154 of the next following meeting of its governing body the cause, timing and procedures taken for  
155 such action.

156 Notwithstanding any general law, special act or its organizational documents to the  
157 contrary, a financial institution may hold its annual meeting in a virtual or hybrid manner if the  
158 Governor has declared a state of emergency in the Commonwealth or in the area or areas served

159 by the financial institution provided that the voting body is able to participate in the meeting,  
160 including being able to present questions, telephonically among other options for accessing the  
161 meeting. Notice of the meeting shall be in accordance with the law and by-laws of the financial  
162 institution and provide all other information for participating by remote communication. A  
163 financial institution acting under the authority of this paragraph shall take reasonable steps to  
164 verify the attendees that join through a remote communication method and take reasonable steps  
165 to provide technical assistance during the meeting for those attending through remote  
166 communication. The termination or rescission of the state of emergency shall not invalidate any  
167 actions taken pursuant to the provisions of this paragraph. A special meeting of the financial  
168 institution may also be conducted under the authority and requirements of this paragraph. A  
169 financial institution conducting an annual meeting or special meeting under this paragraph shall  
170 enter in the records of the next following meeting of its governing body the cause for such action  
171 and the timing and manner in which the meeting was held. An annual or special meeting held  
172 under the provisions of this paragraph shall follow all existing health and safety protocols for the  
173 state of emergency and any specified time period thereafter.

174 The following words shall have the following meanings for the preceding two  
175 paragraphs, unless the context clearly requires otherwise:-

176 “Financial institution”, includes a savings or co-operative bank in mutual form, a mutual  
177 holding company and its subsidiary banking institution, and a bank in stock form.

178 “Governing body”, the board of directors, the board of trustees or the board of investment  
179 of investment as applicable to the financial institution

180           “Hybrid meeting”, a meeting held with a combination of limited in-person attendance and  
181 remote communication.

182           “Organizational documents”, the charter, articles of organization, and by-laws of a  
183 financial institution

184           “Remote communication”, the use of telephonic, videoconferencing or other means of  
185 participation without being in physical attendance.

186           “Virtual meeting”, a meeting held solely by remote communication.

187           “Voting body”, the incorporators of a mutual bank or a mutual holding company, the  
188 shareholders of a co-operative bank in mutual form, and the stockholders of a bank in stock form  
189 with the right to vote at the annual meeting.

190           SECTION 9. Section 37 of said chapter 167, as so appearing, is hereby amended by  
191 striking out the second, third, fourth and fifth paragraphs and inserting in place thereof the  
192 following 4 paragraphs:-

193           Notwithstanding any general or special law to the contrary, a person, domestic or foreign  
194 corporation, partnership, association, limited liability company, business trust, joint venture,  
195 societies, or similar entity shall not use the name, trade name or trademark of any bank, federal  
196 bank, federal branch, foreign bank, out-of-state bank or out-of-state branch or out-of-state federal  
197 bank, as defined in section 1, or any federal credit union as defined in section 1 of chapter 171,  
198 or any subsidiary thereof, in any advertisement or solicitation for products or services, without  
199 the express written consent of the financial institution.

200 For the purposes of this section, the word “advertisement” or “solicitation” shall mean a  
201 communication including but not limited to a writing, email, text message, direct mail, oral  
202 solicitation, internet website, letter, brochures, pamphlets displays sales literature and any other  
203 form of electronic communication to a specifically identified consumer or which contains  
204 specific information on the account or loan of a specifically identified consumer. The word  
205 “electronic” shall mean relating to technology having electrical, digital, magnetic, wireless,  
206 optical, electromagnetic or similar capabilities.

207 A person, domestic or foreign corporation, partnership, association, limited liability  
208 company, business trust, joint venture, societies, or similar entity shall not make reference to an  
209 existing bank, federal bank, federal branch, foreign bank, out-of-state bank, out-of-state branch,  
210 out-of-state federal bank as defined in section 1 of this chapter, or federal credit union as defined  
211 in section 1 of chapter 171, or any subsidiary thereof, without the express written consent of the  
212 bank, federal bank, federal branch, foreign bank, out-of-state bank, out-of-state branch, out-of-  
213 state federal bank or federal credit union, or any subsidiary thereof, or make reference to a loan  
214 number, loan amount or other specific loan information on the outside of an envelope, visible  
215 through the envelope window, or on a postcard in connection with any advertisement or  
216 solicitation for products or services to a specifically identified consumer.

217 A person, domestic or foreign corporation, partnership, association, limited liability  
218 company, business trust, joint venture, societies, or similar entity shall not include a loan  
219 number, loan amount or other specific loan information relative to a specifically identified  
220 consumer that is publicly available in a advertisement or solicitation for the purchase of products  
221 or services unless the solicitation clearly and conspicuously states in bold-face type on the front  
222 page of the correspondence that the person, domestic or foreign corporation, partnership,

223 association, limited liability company business trust, joint venture, societies or similar entity is  
224 not sponsored by or affiliated with and that the advertisement or solicitation is not authorized by  
225 the bank, federal bank, federal branch, foreign bank, out-of-state bank, out-of-state branch, out-  
226 of-state federal bank as defined in section 1, or federal credit union as defined in section 1 of  
227 chapter 171, or any subsidiary thereof. The statement shall include the name, address and the  
228 telephone number of the person making the advertisement or solicitation and that any loan  
229 information referenced was not provided by the bank, federal bank, federal branch, foreign bank,  
230 out-of-state bank, out-of-state branch, out-of-state federal bank or federal credit union, or any  
231 subsidiary thereof. The statements required in this paragraph shall also be given at the time of  
232 any oral solicitation to a specifically identified consumer.

233 A person, domestic or foreign corporation, partnership, association, limited liability  
234 company, association, business trust, joint venture, societies or similar entity, which is  
235 considered to have violated this section, shall be considered to have engaged in an unfair and  
236 deceptive practice and shall be a violation of chapter 93A.

237 SECTION 10. Said chapter 167, as so appearing, is hereby amended by adding the  
238 following section:-

239 Section 52. For the purpose of this section the following words shall, unless the context  
240 clearly indicates otherwise, have the following meanings:-

241 “Core processor”, an entity, other than a financial institution, bank holding company,  
242 mutual holding company or credit union service organization, that provides data processing for  
243 three or more of the following services to a financial institution:

244 1) Making and servicing loans

- 245           2)     Opening new accounts
- 246           3)     Processing cash deposits and withdrawals
- 247           4)     Processing payments and checks
- 248           5)     Managing customer accounts.
- 249           6)     Maintaining records for all the bank’s transactions.

250           “Financial institution”, a bank or federal bank as defined in section 1 or a federal credit  
251 union as defined in section 1 of chapter 171.

252           The following unfair methods and unfair and unsafe acts or practices are hereby declared  
253 to be unlawful.

254           (a) It shall be a violation of this section for a core processor in contracting with a  
255 financial institution:

256           1. To require contracts in excess of five years without a commitment to upgrade their  
257 products and services to meet safe and sound tenets of banking and compliance with state and  
258 federal requirements.

259           2. Failure to indemnify the financial institution from infringement claims arising out of  
260 software or technology products or services provided or licensed by the core processor.

261           3. To charge excessive or previously undisclosed fees or charges for a financial  
262 institution to obtain its own data including tapes of such data.

263 4. To charge termination penalties from a financial institution that is not the continuing  
264 entity upon consummation of a merger with another financial institution, including a merger with  
265 and into a financial institution that utilizes the same core processor, (a) that exceed the total of all  
266 non-extraordinary assessments for such products or services to such financial institution during  
267 the twelve months preceding the merger or combination, or (b) the financial institution  
268 terminating or cancelling such agreement has maintained an arrangement for core processing  
269 with such provider continuously for no less than six years preceding the merger or combination.

270 5. To perform abusive audits of existing contracts over extended retroactive periods upon  
271 notification by a financial institution that it will not to renew its contract with that core processor.

272 6. To act to accomplish, either directly or indirectly, through any parent company,  
273 subsidiary or agent, what would otherwise be prohibited under this section.

274 7. To coerce a financial institution to assent to a release, assignment, novation, waiver or  
275 estoppel that would prospectively relieve any person from liability imposed by this section.

276 (b) Any provision of a contract between a core processor and a financial institution or  
277 practice thereunder in violation of this section shall be void and unenforceable.

278 (c) This section shall apply to all contracts between a core processor and a financial  
279 institution existing on or after the effective date of this chapter.

280 SECTION 11. The second paragraph of section 25 of chapter 168, as so appearing, is  
281 hereby amended by striking out the second sentence and inserting in place thereof the following  
282 sentence:-

283           The directors shall elect the treasurer and may elect or select any other officers as they  
284 determine.

285           SECTION 12. The second paragraph of section 19 of chapter 170, as so appearing, is  
286 hereby amended by striking out the second sentence and inserting in place thereof the following  
287 sentence:-

288           The directors shall elect the president, the vice-president or vice-presidents, treasurer and  
289 may elect or select any other officers as they determine.

290           SECTION 13. Section 9A of Chapter 172 is hereby amended by inserting after the ninth  
291 paragraph the following paragraph:- A limited purpose trust company may be organized as, or  
292 converted into, a corporation, a limited liability company, or any other form of legal entity  
293 subject to Chapter 172 and to terms and conditions imposed by the commissioner.

294           SECTION 14. The second paragraph of section 13 of said chapter 172, as so appearing, is  
295 hereby amended by striking out the second sentence and inserting in place thereof the following  
296 sentence:-

297           The directors shall elect the treasurer and may elect or select any other officers including  
298 an executive vice-president as they determine.

299           SECTION 15. Section 2 of chapter 183C of the General Laws, as so appearing, is hereby  
300 amended by striking out the definition of “High cost home mortgage loan” and inserting in place  
301 thereof the following definition:- “High cost home mortgage loan”, a consumer credit  
302 transaction that is secured by the borrower’s principal dwelling, other than a reverse mortgage  
303 transaction, with an annual percentage rate or fees which exceed the limitations set pursuant to



304 regulations issued by the Commissioner of Banks which shall be no less protective than  
305 limitations set forth at 12 CFR 1026.32(a)(1).

306 SECTION 16. Said chapter 183C, as so appearing, is hereby further amended by striking  
307 out section 3 and inserting in place thereof the following section:–

308 Section 3. A creditor may not make a high-cost home mortgage loan without first  
309 receiving certification from a counselor in accordance with the requirements pursuant to 209  
310 CMR 32.34(1) or 12 CFR 1026.34(a)(5). A high cost home mortgage loan originated by a lender  
311 in violation of this section shall not be enforceable.

312 SECTION 17. Section 4 of said chapter 183C, as so appearing, is hereby amended by  
313 striking out the second paragraph and inserting in place thereof the following paragraph:– There  
314 shall be a presumption that the borrower is able to make the scheduled payments if, at the time  
315 the loan is made, the lender has complied with 209 CMR 32.43 or 12 CFR 1026.43 in  
316 determining the borrower’s ability to repay.

317 SECTION 18. Section 6 of said chapter 183C, as so appearing, is hereby amended by  
318 striking out, in lines 2 and 3, the following words:– “greater than 5 per cent of the total loan  
319 amount or \$800, whichever is greater”.

320 SECTION 19. Section 7 shall take effect on January 1, 2023.