

HOUSE No. 496

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:

Daniel Cahill

DISTRICT/ADDRESS:

10th Essex

HOUSE No. 496

By Mr. Cahill of Lynn, a petition (accompanied by bill, House, No. 496) of Daniel Cahill relative to amending the banking laws and statutes of the Commonwealth. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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 2016 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 appearing in the 2016 Official Edition
17 is hereby amended by striking out section 22 and inserting in place thereof the following
18 section:—

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

33 SECTION 4. Section 4 of Chapter 40G of the General Laws as appearing in the 2016
34 Official Edition is hereby amended by striking out the second paragraph and inserting in place

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

42 SECTION 5. Section 55 of Chapter 44 of the General Laws, as appearing in the 2016
43 Official Edition is hereby amended by striking out, in lines 25 and 26, the words “banking
44 companies or co-operative banks” and inserting the words:– or cooperative banks or in
45 accordance with the provisions of the second paragraph of section 55B of this chapter.

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

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

56 SECTION 7. Section 51 of Chapter 93 of the General Laws as appearing in the 2016
57 Official Edition is hereby amended by adding after paragraph (b), the following three
58 paragraphs:–

59 (c) a consumer reporting agency shall not engage in or offer any service whereby the
60 agency sells or otherwise makes available to a third party any information pertaining to a loan
61 application a consumer has made with a bank, credit union, federal bank, foreign bank, out-of-
62 state bank or out-of-state federal bank as defined in chapter 167, a federal credit union as defined
63 in section 1 of chapter 171 and a foreign and out-of-state credit union as defined in section 8A of
64 chapter 171, a mortgage lender as defined in chapter 255E or an entity subject to section 96 of
65 chapter 140, unless the consumer has consented to make said information available to third
66 parties.

67 (d) Every financial lending institution as referred to in paragraph (c) shall, provide notice
68 to any consumer of his right to opt into any service whereby the agency sells or otherwise makes
69 available to a third party any information pertaining to a loan application a consumer has made,
70 and clearly and accurately disclose to the consumer, in substantially the following manner:

71 You have the right to opt into any offer or service provided by the financial lending
72 institution regarding the sharing of any information on your loan application by the financial
73 lending institution to third parties. You may opt into said offer or service by providing your
74 consent to such offer or service on the loan application. You may be entitled to collect
75 compensation, in certain circumstances, if you are damaged by a person's negligent or
76 intentional failure to comply with the credit reporting act.

77 (e) The written notice shall be in a clear and conspicuous format and be no smaller than
78 ten point type. The notice shall inform the consumer of the consumer's rights under this chapter,
79 provided clearly and conspicuously on the application, in substantially the following manner:

80 I consent to have any information pertaining to my loan application made available to
81 third parties for the purposes of this loan application.

82 SECTION 8. Chapter 167 of the General Laws, as appearing in the 2016 Official Edition,
83 is hereby amended by adding after section 51 the following section:-

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

86 "Core processor", an entity, other than a financial institution, bank holding company,
87 mutual holding company or credit union service organization, that provides data processing for
88 three or more of the following services to a financial institution:

- 89 1) Making and servicing loans
- 90 2) Opening new accounts
- 91 3) Processing cash deposits and withdrawals
- 92 4) Processing payments and checks
- 93 5) Managing customer accounts.
- 94 6) Maintaining records for all the bank's transactions.

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

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

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

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

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

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

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

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

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

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

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

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

125 SECTION 9. The second paragraph of section 6 of said chapter 168 of the General Laws,
126 as so appearing, is hereby amended by inserting, after the word “issue”, in line 23, the following
127 words:- unless such time is extended by the board. Said extension shall be limited to 1
128 occurrence subject to such terms and conditions as the board may impose.

129 SECTION 10. The second paragraph of section 6 of said chapter 170 of the General
130 Laws, as so appearing, is hereby amended by inserting, after the word “issue”, in line 24, the
131 following words:- unless such time is extended by the board. Said extension shall be limited to 1
132 occurrence subject to such terms and conditions as the board may impose.

133 SECTION 11. The second paragraph of section 6 of said chapter 172 of the General
134 Laws, as so appearing, is hereby amended by inserting, after the word “issue”, in line 23, the

135 following words:- unless such time is extended by the board. Said extension shall be limited to 1
136 occurrence subject to such terms and conditions as the board may impose.