

HOUSE No. 846

The Commonwealth of Massachusetts

PRESENTED BY:

John V. Fernandes

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 relative to mortgage review boards and a small business loan review board within the Division of Banks.

PETITION OF:

NAME:

John V. Fernandes

DISTRICT/ADDRESS:

10th Worcester

HOUSE No. 846

By Mr. Fernandes of Milford, a petition (accompanied by bill, House, No. 846) of John V. Fernandes relative to mortgage review boards and a small business loan review board within the Division of Banks. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to mortgage review boards and a small business loan review board within the Division of Banks.

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. Chapter 167 of the General Laws, as appearing in the 2012 Official
2 Edition, is hereby amended by striking out section 14A and inserting in place thereof the
3 following section:-

4 Section 14A. There shall be established within the Division of Banks 2 regional mortgage
5 review boards in the commonwealth. There shall be a Boston metropolitan area mortgage review
6 board which shall include the counties of Suffolk, Essex, Middlesex, Norfolk, Bristol,
7 Plymouth, Barnstable, Dukes, and Nantucket; and a central and western Massachusetts
8 mortgage review board which shall include the counties of Worcester, Franklin, Hampden,
9 Hampshire and Berkshire. Each such board shall consist of 5 members appointed by the
10 commissioner for a term of 3 years, 2 of whom shall be mortgagees and 3 of whom shall be
11 community representatives; provided, however, that all members of each such board shall live or

12 work within the respective region. The commissioner shall provide minority and demographic
13 representation in the membership of each board.

14 Upon the expiration of the term of any member of a regional board, a successor shall be
15 appointed, in like manner, for a term of 3 years. In the event of a vacancy, the commissioner
16 may, in like manner, appoint a member who shall serve for the remainder of the unexpired term.
17 Members of each such board shall serve without compensation, and shall be sworn to the faithful
18 performance of their duties. Each regional board shall suggest for consideration by the
19 commissioner 1 or more names for each such expiring term or vacancy.

20 The mortgage review boards shall meet on a regular basis to review each residential
21 mortgage loan denial that an applicant believes was denied on the basis of the location of the
22 property. Any applicant whose residential mortgage loan application is denied by any mortgagee
23 making 5 or more residential mortgage loans in any calendar year shall be instructed by the
24 mortgagee, in writing, at the time of denial of his or her right to appeal any such denial to the
25 appropriate mortgage review board.

26 For the purposes of this section, a “residential mortgage loan denial” shall mean the
27 denial of a loan on real property located within the respective regions of the Boston metropolitan
28 area mortgage review board or the central and western Massachusetts mortgage review board
29 having thereon a dwelling house with accommodations for 4 or less separate households and
30 occupied, or to be occupied, in whole or in part by the obligor on the mortgage debt; provided,
31 however, that residential property shall be limited to the primary residence of a person; provided
32 further, that residential property shall not include an investment property or residence other than

33 a primary residence; and provided further, that residential property shall not include residential
34 property taken in whole or in part as collateral for a commercial loan.

35 Said board shall review each such submitted mortgage application, make its
36 determination and advise the applicant thereof, in writing, within 45 days of such appeal of a
37 mortgage loan application denial and if such board fails to complete said action within said 45
38 days, the applicant will be considered to have exhausted his or her administrative remedies. The
39 decision of the board shall be subject to review in the manner provided in chapter 30A, or in
40 accordance with the provisions of section 64 of chapter 183.

41 The commissioner may promulgate rules and regulations governing the establishment,
42 operation and procedures of said mortgage review boards.

43 SECTION 2. Chapter 167 of the General Laws, as so appearing, is hereby amended by
44 striking out section 14C and inserting in place thereof the following section:-

45 Section 14C. There shall be established within the Division of Banks a small business
46 loan review board in the commonwealth. The board shall consist of 5 members appointed by the
47 commissioner for a term of 3 years, 2 of whom shall be representatives of banks or bank holding
48 companies and 3 of whom shall be small business or community representatives. In making such
49 appointments, the commissioner may take into consideration geographic diversity within the
50 commonwealth.

51 Upon the expiration of the term of any member of the board, a successor shall be
52 appointed, in like manner, for a term of 3 years. In the event of a vacancy, the commissioner
53 may, in like manner, appoint a member who shall serve for the remainder of the unexpired term.
54 Members of the board shall be sworn to the faithful performance of their duties. The board shall

55 suggest for consideration by the commissioner 1 or more names for each such expiring term or
56 vacancy.

57 The small business loan review board shall meet on a regular basis or, as demand for its
58 services requires, to review small business loan denials that applicants believe were
59 unreasonably denied. The small business loan review board shall be required to report the results
60 of its findings to the applicant within 30 days of submission of request for review; provided,
61 however, that the board may, at its discretion, extend the review period to within 60 days of a
62 submission or request. Upon making a determination for reason of denial, the small business loan
63 review board shall be required to provide information on its findings to the applicant and
64 commissioner and shall provide information to the applicant on alternative sources of financing,
65 including information on any small business financing programs or other relevant programs
66 offered by the commonwealth. The commissioner shall file a report regarding the activities of the
67 small business loan review board for each calendar year with the chairs of the joint committee on
68 community development and small business, chairs of the joint committee on economic
69 development and emerging technologies, and chairs of the joint committee on financial
70 services. Such report shall be filed within 60 days of the end of each calendar year.

71 In addition, the small business loan review board may conduct annual studies or issue an
72 annual report on the availability of credit to small businesses within all regions of the
73 commonwealth and report back to the commissioner on its findings. The report may be made
74 available to the public through the website of the office of consumer affairs and business
75 regulation or the small business website established under section 3 of chapter 23A. The
76 commissioner shall also promote the small business review board as a resource for small
77 businesses on the small business website established under section 3 of chapter 23A.

78 For the purposes of this section, a “small business loan” shall mean a loan by a bank,
79 federal bank or federally chartered credit union to a business organization or entity which either
80 had gross annual revenues of \$1 million or less in its preceding calendar year or which meets the
81 size standards and revenue requirements of the Small Business Administration for each industry
82 sector pursuant to 13 CFR 121.201.

83 The commissioner may promulgate rules and regulations governing the establishment,
84 operation and procedures of said small business loan review board.