

HOUSE No. 955

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>1/18/2023</i>

HOUSE No. 955

By Representative Cahill of Lynn, a petition (accompanied by bill, House, No. 955) of Daniel Cahill relative to banking laws and related statutes. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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 2022 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. Section 21 of chapter 167 of the General Laws, as so appearing, is hereby
58 amended by adding the following three paragraphs:-

59 Notwithstanding any general law, special act or its organizational documents to the
60 contrary, a financial institution may postpone the annual meeting of its voting body if the
61 Governor has declared a state of emergency for the Commonwealth or the area or areas served
62 by the financial institution. Within sixty days of the termination of the state of emergency the
63 financial institution shall hold an annual meeting postponed under this paragraph unless the next
64 regularly scheduled annual meeting is to be held within one hundred and fifty days of such
65 termination. A postponed annual meeting may be combined with the next annual meeting held
66 within this time period. If notice of the annual meeting has been provided as of the date of the
67 declaration or within ten days after a financial institution may provide notice of the
68 postponement by press release, email notice if previously provide to the financial institution or
69 take other reasonable steps to inform the voting body. During the period of the emergency the
70 financial institution shall retain its current governing body regardless of the expiration of terms
71 or mandatory retirements; may operate under existing policies and procedures and any required
72 annual votes or actions shall also be postponed. The termination or rescission of the state of
73 emergency shall not invalidate any actions taken pursuant to the provisions of this paragraph. A
74 financial institution postponing an annual meeting under this paragraph shall enter in the records
75 of the next following meeting of its governing body the cause, timing and procedures taken for
76 such action.

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

80 by the financial institution provided that the voting body is able to participate in the meeting,
81 including being able to present questions, telephonically among other options for accessing the
82 meeting. Notice of the meeting shall be in accordance with the law and by-laws of the financial
83 institution and provide all other information for participating by remote communication. A
84 financial institution acting under the authority of this paragraph shall take reasonable steps to
85 verify the attendees that join through a remote communication method and take reasonable steps
86 to provide technical assistance during the meeting for those attending through remote
87 communication. The termination or rescission of the state of emergency shall not invalidate any
88 actions taken pursuant to the provisions of this paragraph. A special meeting of the financial
89 institution may also be conducted under the authority and requirements of this paragraph. A
90 financial institution conducting an annual meeting or special meeting under this paragraph shall
91 enter in the records of the next following meeting of its governing body the cause for such action
92 and the timing and manner in which the meeting was held. An annual or special meeting held
93 under the provisions of this paragraph shall follow all existing health and safety protocols for the
94 state of emergency and any specified time period thereafter.

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

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

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

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

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

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

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

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

111 SECTION 8. Said chapter 167, as so appearing, is hereby amended by adding the
112 following section:-

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

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

118 1) Making and servicing loans

119 2) Opening new accounts

120 3) Processing cash deposits and withdrawals

121 4) Processing payments and checks

122 5) Managing customer accounts.

123 6) Maintaining records for all the bank's transactions.

124 "Financial institution", a bank or federal bank as defined in section 1 or a federal credit
125 union as defined in section 1 of chapter 171.

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

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

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

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

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

137 4. To charge termination penalties from a financial institution that is not the continuing
138 entity upon consummation of a merger with another financial institution, including a merger with
139 and into a financial institution that utilizes the same core processor, (a) that exceed the total of all
140 non-extraordinary assessments for such products or services to such financial institution during

141 the twelve months preceding the merger or combination, or (b) the financial institution
142 terminating or cancelling such agreement has maintained an arrangement for core processing
143 with such provider continuously for no less than six years preceding the merger or combination.

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

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

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

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

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

154 SECTION 9. The second paragraph of section 25 of chapter 168, as so appearing, is
155 hereby amended by striking out the second sentence and inserting in place thereof the following
156 sentence:-

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

159 SECTION 10. The second paragraph of section 19 of chapter 170, as so appearing, is
160 hereby amended by striking out the second sentence and inserting in place thereof the following
161 sentence:-

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

164 SECTION 11. Section 9A of Chapter 172 is hereby amended by inserting after the ninth
165 paragraph the following paragraph:- A limited purpose trust company may be organized as, or
166 converted into, a corporation, a limited liability company, or any other form of legal entity
167 subject to Chapter 172 and to terms and conditions imposed by the commissioner.

168 SECTION 12. The second paragraph of section 13 of said chapter 172, as so appearing, is
169 hereby amended by striking out the second sentence and inserting in place thereof the following
170 sentence:-

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

173 SECTION 13. Section 2 of chapter 183C of the General Laws, as so appearing, is hereby
174 amended by striking out the definition of “High cost home mortgage loan” and inserting in place
175 thereof the following definition:- “High cost home mortgage loan”, a consumer credit
176 transaction that is secured by the borrower’s principal dwelling, other than a reverse mortgage
177 transaction, with an annual percentage rate or fees which exceed the limitations set pursuant to
178 regulations issued by the Commissioner of Banks which shall be no less protective than
179 limitations set forth at 12 CFR 1026.32(a)(1).

180 SECTION 14. Said chapter 183C, as so appearing, is hereby further amended by striking
181 out section 3 and inserting in place thereof the following section:-

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

186 SECTION 15. Section 4 of said chapter 183C, as so appearing, is hereby amended by
187 striking out the second paragraph and inserting in place thereof the following paragraph:– There
188 shall be a presumption that the borrower is able to make the scheduled payments if, at the time
189 the loan is made, the lender has complied with 209 CMR 32.43 or 12 CFR 1026.43 in
190 determining the borrower’s ability to repay.

191 SECTION 16. Section 6 of said chapter 183C, as so appearing, is hereby amended by
192 striking out, in lines 2 and 3, the following words:– “greater than 5 per cent of the total loan
193 amount or \$800, whichever is greater”.