



**Statement of the Massachusetts Bankers Association
in Support of
H 401, An Act to Protect Innovation
and Entrepreneurship in the Commonwealth
Joint Committee on Consumer Protection and Professional Licensure
April 14, 2025**

On behalf of our more than 120 commercial, savings and cooperative banks and federal savings institution members with more than 72,000 employees located throughout the Commonwealth and New England, the Massachusetts Bankers Association (MBA) appreciates the opportunity to testify today in support of **H 401, *An Act to Protect Innovation and Entrepreneurship in the Commonwealth***.

The legislation builds on the extensive work undertaken on this issue over the last few sessions and would provide even more protections to Massachusetts businesses from the abusive acts of Non-Practicing Entities (NPEs) which are commonly referred to as “patent trolls.”

Background

NPEs are typically law firms or investment vehicles that purchase patents from inventors, defunct companies and during bankruptcy proceedings. These firms then send demand letters to various businesses alleging infringement of the patent. Many times, the patents are extremely technical and the technology in question is embedded in a piece of hardware or software the company purchased from a third-party vendor. The demand letters generally state that if the named company pays a licensing fee to the NPE, they will not be sued.

Patent litigation is extremely expensive and time consuming, so many times a business will simply pay a modest fee in the hopes the NPE will then go away. Unfortunately, these payments allow the NPE to continue buying new patents and sending demand letters to other companies.

Several years ago, nearly one-half of our members along with hundreds of other banks throughout New England and the nation received a demand letter from an NPE asserting that technology embedded in bank ATMs infringed on several patents. Most of the banks receiving the letters were community banks without the financial resources or technical expertise to fight these claims and unfortunately many institutions ended up paying a fee to the NPE to avoid costly litigation.

Based on these experiences, several state banking trade associations throughout the country began supporting legislation to slow the growth of NPEs and enact statutes to outlaw bad faith assertions of patent infringement. To date, over 30 states have enacted laws addressing this issue with several more states considering such legislation.

Support for H 401

H 401 provides Massachusetts businesses with important protections against NPEs asserting patent infringement rights in bad faith. Specifically, the bill creates a new state statute that prohibits NPEs from sending a demand letter without providing the patent number, the name and address of the patent holder

and factual allegations concerning the specific areas in which the target's products, services, and technology infringe the patent or are covered by the claims in the patent.

NPEs would also be prohibited from demanding the payment of a license fee or response within an unreasonably short period of time or offering to license the patent for an amount that is not based on a reasonable estimate of the true value of the license. In addition, a demand letter could not be sent if the patent was already held invalid and NPEs could not claim that a lawsuit had been filed in connection with the infringement assertion. Finally, the bill provides legal remedies for Massachusetts businesses as well as the Attorney General to combat the unfair and deceptive claims.

MBA and our member institutions strongly support **H 401**. While it may be impossible to stop all frivolous patent infringement claims, states where similar bills have been enacted have seen a reduction in NPE activity. We urge the Committee to give this bill a favorable report.

Thank you for considering our views on this pressing issue.