Massachusetts Bankers Association Statement
in Opposition to
H 1078 & S 766, An Act to Allow Municipalities to Deposit in Credit Unions
Joint Committee on Financial Services
April 15, 2025

On behalf of our 120 commercial, cooperative and savings banks and federal savings banks and savings and loan associations with more than 72,000 employees located throughout the Commonwealth and New England, and particularly our state-chartered community banks throughout Massachusetts, we appreciate the opportunity to testify today to express our strong opposition to **H 1078 and S 766**, *an Act to Allow Municipalities to Invest in Credit Unions*. **H 1078 and S 766** are refiles of legislation from past sessions (most recently H 1163 & S 652) that were ultimately referred to a study by the Committee.

As you know, credit unions were initially established to serve individuals of "modest means" with a "common bond" of membership. Today, the top 25 largest credit unions in the Commonwealth are growing at a rate that reflects an agenda that is far from the mission of small, fraternal, or community-based institutions that the founders of the credit union movement envisioned more than 100 years ago. The top thirteen credit unions in Massachusetts now exceed $1 billion in assets and are sophisticated full-service financial institutions that have taken advantage of an outdated state subsidy and lax regulations to capture significant shares of the financial market in Massachusetts.

Our position remains clear: Massachusetts banks **have no objection** to authorizing credit unions expanded powers if, and only if, they are subject to the same tax and regulatory obligations as community banks.

Specific Comments Regarding H 1078 and S 766

H 1078 and S 766 authorize the state, along with local governments and other political subdivisions throughout the Commonwealth, to deposit public funds in tax-exempt credit unions. These bills are part of a continued effort by the credit union industry in Massachusetts to greatly expand their powers and further blur the lines between **taxpaying community banks** and **tax-exempt credit unions**. These bills would greatly expand the current credit union tax subsidiary by allowing public funds to flow out of tax paying banks into income tax-exempt credit unions. This would also compound into additional loss of state tax revenue to the Commonwealth's General Fund that will negatively affect the distribution of the Commonwealth's vital tax dollars back to municipalities in the form of local aid.

While these bills have been presented under the guise of credit unions seeking fairness among financial institutions, they are in fact money bills that will result in significantly less

overall tax revenue for the Commonwealth. While the first five provisions in the bills authorize state, county and
municipal entities to make deposits in any credit union, credit union law must have a reciprocal provision allowing a credit union to receive public funds. That authority is set out in section 6, which does so with a "Notwithstanding any other provision of law" proviso. The applicable law negated by the "Notwithstanding" clause is the requirement to be an eligible member of a credit union under the institution's membership qualification by-law. Therefore, if this legislation passed, a credit union could seek public deposits from any political subdivision in the Commonwealth with no membership or eligibility requirements – a significant shift of scope and clear profit-driven departure from credit unions' original core mission.

This language also makes it clear that, contrary to the claims of the credit union industry, **H 1078 and S 766** were not filed on behalf of the approximately 57% of the credit unions that have less than $100 million in assets and maintain their traditional common bond requirements. MBA believes that these bills were filed to benefit the 25 largest bank-like credit unions, which are currently experiencing significant growth and have greatly expanded their fields of membership in recent years.

The current public deposit market in Massachusetts has more than 120 Massachusetts-based banks who operate in a highly competitive marketplace for these deposits. The Massachusetts Municipal Depository Trust (MMDT), a special mutual fund administered by the state treasurer and managed by Federated Investments also holds another $35.0 billion in public deposits, according to its last report in 2024. The vast majority of MMDT's funds are invested in commercial paper and jumbo CDs in institutions outside Massachusetts.

In Massachusetts, state- and federally chartered banks, as well as state-chartered credit unions, are subject to state and/or federal CRA laws. These institutions are regularly examined for their performance in lending, investment and providing services to their local communities. However, six (6) of the largest ten (10) Massachusetts credit unions -- and 3 of the top 4 -- are federally chartered and entirely exempt from the Massachusetts CRA statute. This means that the institutions likely to be the most aggressive at bidding for public funds will have no responsibility to use those deposits in the communities from which they came for reinvestment purposes and to serve individuals and businesses in low- and moderate-income census tracts. Therefore, if credit unions are granted the right to accept public deposits, two of the largest competitors for this business -- large bank-like federal credit unions and the MMDT -- will have no CRA mandates. Given the Commonwealth's history as one of the first states to enact a CRA law and the focus on economic equity issues, we believe the Legislature would want to maintain this requirement for any depository institution that receives public funds.

Massachusetts Banks Provide Numerous Services to Municipalities and Government Agencies

In addition to banks' CRA requirements, our member institutions invest significant funds and resources back into the communities they serve through charitable donations, investment in affordable

housing and support for non-profit community organizations. Many banks that provide services to local municipalities also offer specialized banking products and services at reduced or no cost to the municipalities that deposit funds with their institutions. These complementary services for public depositors include online banking, wire transfers, stop payments, positive pay, remote deposit services, account reconciliation, specialized trust reporting, printing and supply of check stock, among others. Many of these specialized programs have been adjusted through the years to fit the changing needs of individual cities and towns or other political subdivisions.

Conclusion

Notwithstanding the claims of the credit union industry, **H 1078 and S 766** are not designed to help small, traditional credit unions. These bills were carefully crafted to benefit the largest bank-like credit unions that offer the more sophisticated services that municipalities require. Even if municipalities receive a slightly higher return from the largest bank-like credit unions, the Commonwealth and cities and towns will lose in terms of a shrinking income-tax base and fewer CRA investments from community banks with every dollar that is deposited in a tax and CRA-exempt credit union.

Thank you again for the opportunity to provide you with our views on these important pieces of legislation.

Statement of the Massachusetts Bankers Association
in Opposition to
H 1079 & S 837, An Act to Strengthen the State Credit Union Charter
Joint Committee on Financial Services
April 15, 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 submit testimony in strong opposition to **H 1079 & S 837**, *An Act to Strengthen the State Credit Union Charter*.

General Comments

We want to be clear: our community bankers **do not fear** competition. They compete every day against each other and against some of the world's largest financial institutions that operate here in Massachusetts. Our industry's objection to expanding credit union powers is that credit unions are not subject to the same statutory, supervisory, and financial burdens as banks. These bills will make this already uneven playing field even more tilted by allowing credit unions to purchase, merge with or acquire the assets of community banks and have the credit union be the surviving entity. In addition, they will expand the number of financial institutions that are not subject to the same regulatory demands and corporate taxes as the banking industry.

As you know, credit unions have sought many of the new powers contained in these bills last session. While we noted above that the Association greatly appreciates the Committee's work on that legislation, we are disappointed that the credit union industry chose to once again file bills such as **H 1079 & S 837** that contain provisions previously stricken by the Committee during the debate on Chapter 338.

With their continued attempts to enact these new powers, it appears that the credit union industry will not rest until they are able to exercise all the same powers as banks under state law, further blurring the lines between tax-exempt credit unions and taxpaying banks. MBA believes that these measures will allow the credit union industry to further leverage their tax-exempt status to purchase local banks, removing these institutions from the state tax rolls.

Comments on H 1079 & S 837

H 1079 & S 837, which are similar to measures filed last session, primarily contain provisions authorizing the merger or conversion of a state-chartered mutual savings or cooperative bank into a Massachusetts state-chartered credit union with the credit union being the surviving entity. Under current law, a bank must be the surviving entity if such a transaction or conversion takes place.

MBA **strongly opposes** any efforts to allow credit unions to be the surviving entity in cases where a bank and credit union merge. Credit unions in numerous other states have used these laws to leverage their tax exemption to purchase banks at a significant premium, disrupting the marketplace. As we noted earlier, this language would have implications for the state's budget since taxpaying banks would be eliminated.

In addition, these bills contain provisions expanding credit union investment authority and make technical and substantive changes to the credit union statute. MBA has expressed concerns with several of these provisions in the past, particularly the investment language, which we believe could raise supervisory issues in the future.

Conclusion

For the reasons stated above, MBA strongly opposes **H 1079 & S 837**. We appreciate the opportunity to provide our views, and we respectfully ask the Committee to give these bills an unfavorable report.

Statement of the Massachusetts Bankers Association
in Support of H 1266
An Act Enhancing the Mission of Credit Unions
and Promoting Fair Competition Among Financial Institutions
Joint Committee on Financial Services
April 15, 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 submit testimony in **strong support** of **H 1266,** *An Act Enhancing the Mission of Credit Unions and Promoting Fair Competition Among Financial Institutions*.

H 1266 seeks to strengthen the state's oversight of the credit union industry and refocus state-chartered credit unions on their traditional mission of serving member-owners who have a meaningful affiliation or common bond.

The bill's three substantive SECTIONS focus on:

- Strengthening the historical role of the member-owners at the annual meeting and in certain transactions;
- Modernizing member voting abilities in the Commonwealth's largest credit unions consistent with existing law;
- Requiring credit unions to take deposits from members living in a geographic area, provide services to that area and be examined for compliance with the Community Reinvestment Act (CRA) under that requirement.

Our comments on the specific provisions of the legislation are below.

Strengthening the Role of Credit Union Member-Owners

SECTION 2 of **H 1266** restores the three-fourths vote of the credit union membership in order to change the qualifications for membership. The 1909 law creating the credit union charter established this requirement and remained in law until 2009, when it was reduced to a simple majority vote. We do not believe that reverting to the requirement that was in place for nearly 100 years is punitive.

The legislation also mandates that any vote on member by-law qualifications must be held at the credit union's Annual Meeting. An exception is provided for an amendment required in conjunction with a merger. A review of applications filed to amend the membership by-laws

demonstrate a pattern of using Special Meetings for these significant votes by the member-owners. These Special Meetings are generally sparsely attended.

For example, from 2017 to 2019, there were 10 membership by-law expansion applications filed with the Division of Banks. A public records request for the member votes on those transactions show the votes were held as follows:

SPECIAL MEETINGS = 6. ANNUAL MEETINGS = 4**.**

Absent a merger transaction, which **H 1266** provides an exception for, there is no emergency requiring a Special Meeting of the member-owners to expand the credit union. Management controls the entire schedule.

Worcester Credit Union's website states succinctly: "Members are the owners".

In addition to restoring the three-fourths vote requirement, the bill establishes that a minimum of **five percent (5%)** of the membership must participate in the voting for the vote to be valid. We believe a 5% threshold is reasonable especially considering that current law now allows member-owners to vote in person, by mail or, by "electronic means," which is granted by Chapter 338 of the Acts of 2020 – the credit union's successful modernization legislation passed only a few sessions ago.

MBA firmly believes that with electronic voting abilities, petitioned for by the credit union industry, reaching a modest minimum 5% threshold of the member-owners is not only practical but should be required.

A certified vote of the member-owners at meetings to amend the membership by-law is required to be filed with the Division of Banks and was done for the 10 applications referenced above. However, one (1) filing only states a quorum was present. The table below outlines the number of member-owners – and the percentage of member-owners relative to the credit union's total membership – who voted to amend membership by-laws.

# of MEMBERS VOTED	TOTAL MEMBERS*	PERCENTAGE
59	**57,218**	**0.10%**
45	**27,787**	**0.16%**
44	**30,996**	**0.14%**
39	**9,233**	**0.42%**
27	**19,013**	**0.14%**
24	**8,799**	**0.27%**
24	**25,247**	**0.09%**
24	**203,252**	**0.01%**
16	**16,549**	**0.09%**

NOTE: the number of members eligible to vote will be somewhat less than shown above but these are the only public records of all members available.

It appears that this trend continues. On October 30,2024 Metro Credit Union held a Special Meeting for member-owners to vote on its most recent membership by-law expansion. The Clerk's certification of the meeting filed with the Division of Banks stated: "24 members were present and entitled to vote." One month earlier, Metro reported to the NCUA that it had over 212,000 members. No reference is made to members voting by electronic means although the meeting was teleconferenced.

SECTION 3 of H 1266 would mandate the Commonwealth's largest credit unions – those with over 25,000 members and most with over $500,000,000 in assets – to include an electronic voting option for its member-owners. This option would help the credit unions reach the proposed minimum 5% threshold mentioned above. SECTION 4 of H 1266 includes an extended effective date of two years after this legislation is passed into law to allow the credit union's ample time to implement the requirements.

Below are examples of the number of members and asset size of some of the larger Massachusetts state-chartered credit unions. The information is taken from the 2024 Year-End Call Report to the NCUA filed and certified by the credit unions.

M**ETRO CREDIT UNION**
MEMBERS = 209,799 **ASSETS = $3,440,032,348**

JEANNE D'ARC CREDIT UNION
MEMBERS = 102,520 **ASSETS = $2,210,721,350**

MERRIMACK VALLEY CREDIT UNION
MEMBERS = 114,575 **ASSETS = $2,208,455,855**

ST. ANNE'S CREDIT UNION
MEMBERS = 59,898 **ASSETS = $1,349,433,141**

Additionally, the state-chartered credit union industry in Massachusetts has contracted by approximately 40% in the last 11+ years according to the Annual Reports of the Division of Banks. In 11 of the last 13 credit union mergers, the Massachusetts chartered credit union has been the continuing charter.

For example, in 2023 RTN Federal Credit Union in Waltham merged with and into Merrimack Valley Credit Union in Lawrence. Upon consummation, it added approximately 40,000 members to Merrimack Valley Credit Union, which now has over 115,000 members and over $2 billion in assets. Earlier this year, Merrimack Valley Credit Union changed its name to BrightBridge Credit Union.

Later this Session the Committee will hear legislation, S 821 and H 1338, to allow credit union directors to be paid if approved by the membership at an Annual Meeting. Those identical bills seek to negate a fundamental tenet of a credit union as set out in Chapter 419 of the Acts of 1909 that created the first credit union law in the United States. Such a profound decision should

not be decided by 0.27%, or fewer, member-owners of a credit union who can travel to attend in-person at the time and place of an Annual Meeting. This is especially true since membership by-law qualifications now often cover several Massachusetts counties, and even in cities, towns and counties outside of Massachusetts. For reference, one Massachusetts state-chartered credit union's membership by-laws covers 11 of the 14 counties in the Commonwealth and 5 counties in New Hampshire. Another credit union's membership by-law covers 7 counties in Massachusetts, 2 counties in New Hampshire and 2 counties in Rhode Island.

Enhancing Community Reinvestment Act Compliance

As you know, the Community Reinvestment Act (CRA) requires that regulated financial institutions meet their continuing and affirmative obligation to the credit needs of their communities, including low- and moderate-income neighborhoods and individuals. Massachusetts is one of a small number of states that has extended CRA provisions to state-chartered credit unions. However, often a credit union will designate its CRA assessment area as far more limited than its membership by-law.

Below are examples of the limited CRA assessment area compared to the credit union's membership by-law's geographical coverage of municipalities in Massachusetts. The percentages are calculated from the data provided in the most recent CRA examination conducted by the Division of Banks and published on the Division's website.

CREDIT UNION	COVERAGE RATIO	RATING
SOUTHBRIDGE CREDIT UNION	**2.6%**	**High Satisfactory**
FALL RIVER MUNICIPAL	**11.2%**	**High Satisfactory**
ST. MARY'S CREDIT UNION	**16.4%**	**High Satisfactory**

Merrimack Valley Credit Union's membership includes 7 Massachusetts counties, 2 counties in New Hampshire and 2 counties in Rhode Island. It has one CRA assessment area and it covers 100% of its membership bylaw. That is all seven Counties in Massachusetts or put another way 182 out of 182 municipalities in those seven Counties. Merrimack Valley received a CRA Rating of "High Satisfactory" in the Division's evaluation of June 5, 2023. If Merrimack Valley can match its CRA assessment area to its extensive membership by-law why shouldn't all credit unions be required to do it?

SECTION 1 of **H 1266** requires the CRA examination to assess a credit union's CRA record of performance for all those geographic areas from which it takes members' deposits based on their eligibility of living, working, attending school or worshiping in a by-law-included community.

Since CRA has traditionally been focused on ensuring an institution lends and invests in the communities in which it is collecting deposits, MBA believes that this provision is consistent with current CRA law and regulations. The provision would not affect people working in a

specified area or employed by a geographically-based membership such as a municipality's fire department credit union or a credit union limited to municipal workers of a city or town or other such common bond. The Division's CRA Regulations, 209 CMR 46.00, also treat such credit unions differently.

Alpha Credit Union, Boston is an example. These statements are taken from parts of the Division's CRA examination of Alpha as of August 29, 2024 at which it received a rating of "Satisfactory":

- "The credit union's field of membership includes individuals that work or have worked at Beth Israel Deaconess Medical Center, Joslin Diabetes Center, Lahey Health and Tufts Medical Center. The credit union has 3,987 members as of June 30, 2024."
- "Pursuant to 209 CMR 46.41 (8) Alpha Credit Union delineates its membership as its assessment area."
- "Credit union's whose membership by-laws provisions are not based upon geography are permitted to designate its membership as its assessment area."
- "As of June 30, 2024, the credit union had total assets of approximately $35.3 million,….".

MBA believes the requirement to match a credit union member bylaw to its CRA assessment area promotes fair competition with the banking industry, which is subject to state and federal CRA requirements, and the state-chartered credit unions in Massachusetts that must comply with CRA.

SECTION 1 of **H 1266** also requires an out of state credit union seeking to open a branch office in Massachusetts to address CRA as part of its application.

SECTION 3 **H 1266** also requires the member-owners' vote to occur prior to the filing of a membership expansion application as well as a written policy on a person's qualification for membership with the retention of documentation of proof of eligibility**.**

Conclusion

We appreciate the opportunity to provide our testimony in support of **H 1266** and we respectfully ask the Committee to give this legislation a favorable report.

Statement of the Massachusetts Bankers Association
in Support of
H 1199, An Act Protecting Consumers' Privacy in Mortgage Applications
Joint Committee on Financial Services
April 15, 2025

On behalf of the 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, we appreciate the opportunity to provide our support of **H 1199**, *An Act Protecting Consumers' Privacy in Mortgage Applications.*

By way of background, when a consumer applies for a mortgage, the lender will obtain a copy of their credit report. At that point, an "inquiry" appears on the credit report showing that a lender has obtained a credit report on this consumer. This inquiry, however, also indicates the consumer is in the market for a loan. The national credit bureaus (Experian, Trans Union and Equifax), who provide the credit reports to lenders, often sell these inquiries to other mortgage originators based on specific type(s) of consumer(s) who fit the originators' lending parameters in the form of a "credit trigger". The purchaser(s) of these trigger leads is then allowed to contact the consumer with another loan offer to compare with the original mortgage quote if the offer of credit meets certain legal requirements under Federal law.

H 1199 aims to outline unfair and deceptive acts in the solicitation of a consumer for a mortgage loan during which the solicitation is based on information contained in a mortgage trigger lead. Importantly, this legislation does not prevent the sale or use of trigger leads that may be beneficial to a consumer as part of comparison shopping. Instead, this legislation requires that consumers in Massachusetts receive full disclosure from anyone using trigger leads including that:

- The originator must clearly identify their name and what company they are representing (often the consumer thinks that the additional calls are from the same company because the originator who purchased the lead does not clearly identify themselves).
- The originator must disclose that they have purchased personal information which was sold to them from a credit reporting agency without the knowledge or permission of the lender (often consumers get angry with the lender they initially applied with because he/she thinks they have sold their personal information).
- The originator must comply with the federal Fair Credit Reporting Act relating to prescreened solicitations.
- The originator must not contact a consumer who has opted out of prescreened offers of credit or is on the federal or state Do Not Call List

We appreciate the opportunity to provide our testimony in support of **H 1199** and we respectfully ask the Committee to give this legislation a favorable report.

Statement of the Massachusetts Bankers Association
Regarding H 1270 and S 741,
An Act Protecting Seniors and Adults with Disabilities from Financial Exploitation
Joint Committee on Financial Services
April 15, 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 provide our comments regarding **H 1270 and S 741**, *An Act Protecting Seniors and Adults with Disabilities from Financial Exploitation.*

MBA, and its entire membership, are proud to be vocal advocates and front-line defenders against financial exploitation. The banking industry is, unfortunately, all too familiar with the impact unscrupulous actors can have on its customers – especially those who may be more vulnerable due to a host of reasons including disabilities. Our member institutions take their responsibility to protect customers extremely seriously, including working alongside the Division of Banks and Commonwealth's Office of Elder Affairs to develop and train their customer-facing employees on the potential warning signs of financial exploitation to help identify potential bad actors and vulnerable customers before an issue arises.

Unfortunately, scammers and criminals, including those who seek to exploit elders and those with disabilities financially, are not going away. MBA strongly supports efforts to protect our customers, employees and others using our services when done with the acknowledgement of the extensive efforts already in place and with proper industry input. While **H 1270 and S 741** seek a noble result, MBA believes there are several areas that could be improved upon with industry involvement and participation. More specifically, MBA has concerns surrounding some of the included definitions, the potential for unintended consequences throughout its prescribed compliance – including issues with the "right to hold"/delayed disbursements terms – as well as the potential for new liability for bank employees who may not have the opportunity to act with "reasonable care" when a loss is incurred.

Finally, the Association is also concerned with the unnecessary broadening of the Secretary of State's oversight over banks and financial institutions that would occur with the passage of the bill. As you know, financial services, and banks in particular, are already a highly regulated industry with a multitude of regulators on both the state and national level. To add the Secretary of State to this list – well outside of their established broker-dealer functions under Chapter 110A – is unnecessary in our view.

To address the concerns outlined above, the Association sponsored legislation this year that protects vulnerable adults from financial exploitation by making reporting and holding voluntary. Generally, our bill follows the New Hampshire "report and hold" law that was enacted in 2022. Importantly, our bill ensures the authority and oversight of "report and hold" instances remained under the Bank Commissioner's purview. We look forward to testifying in support of our bill at a later date determined by the Committee.

Thank you for considering our comments on **H 1270 and S 741**, *An Act Protecting Seniors and Adults with Disabilities from Financial Exploitation*. We look forward to working with the Committee on these bills and other policy initiatives throughout the session.

Statement of the Massachusetts Bankers Association
Regarding H 1275 and S 735, An Act Relative to Fairness in Debt Collection
Joint Committee on Financial Services
April 15, 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 express our concerns with **H 1275 and S 735**, *An Act Relative to Fairness in Debt Collection*. This bill makes significant changes to the debt collection process in Massachusetts that could have a negative impact on our members, particularly with regards to consumer lines of credit.

Under federal law, the Federal Trade Commission (FTC) and the Consumer Financial Protection Bureau (CFPB) are both tasked with administration and supervision of the Fair Debit Collection Practices Act (FDCPA) that prohibits unfair practices in debt collection. Examples of prohibited conduct under the FDCPA include misrepresentations about the debt, including the amount owed; falsely claiming that the person contacting you is an attorney; threats to have you arrested; threats to do things that cannot legally be done, or threats to do things that the debt collector has no intention of doing. Debt collectors are also not allowed to harass people under federal law. In addition, the CFPB debt collection rules governing third party debt collection and other matters were recently updated as of November 30, 2021.

H 1275 and S 735 seek to impose further restrictions on banks and others collecting debts from Massachusetts consumers. The bill also imposes unilateral changes on existing contracts – including consumer credit contracts throughout the Commonwealth. As you know, similar legislation was considered and passed in the Senate in 2016 but was not acted upon by the House. In previous sessions, the Senate addressed MBA's concerns regarding the potential unintended consequences of the bill's original language on mortgage lending in Massachusetts. However, we remain concerned that provisions in the current legislation before the committee today will still have a significant negative impact on access to consumer credit.

Specifically, under the revised bill the statute of limitations for all consumer loans including unsecured credit lines is shortened from six to five years. Any payment towards a defaulted consumer loan does not restart the limitation period unless the payment completely cures the default and pays off any delinquency. A consumer credit consolidation that does not cure the entire default could be extinguished under the provisions of Section 3(e) of the new Chapter 93M. Unfortunately, this provision, which is intended to help consumers, could discourage lenders from extending unsecured consumer credit to certain borrowers, since anything less than a full payoff of the loan after a default may preclude them from pursuing the debt after five years.

The Association remains concerned with much of Section 5(c), which would award attorney fees to consumers. By awarding attorney fees, the Commonwealth may be unwillingly discouraging consumers from entering into repayment agreements in hopes of a default judgment further down the line. This proposed approach is contrary to public policy and does not protect consumers from harm as the award is intended.

While we understand the sponsors' desire to protect consumers from unfair or deceptive debt collection practices, we believe **H 1275 and S 735** create several unintended consequences on the consumer credit lending market in Massachusetts.

Thank you for considering our views on this important issue.

Statement of the Massachusetts Bankers Association
in Support of
H 1110, An Act to Protect Consumers by Further Defining Subprime Loans
Joint Committee on Financial Services
April 15, 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 submit testimony in support of **H.1110**, *An act to protect consumers by further defining subprime loans.*

By way of background, following the Great Recession several federal and state laws and regulations were implemented to protect consumers, and particularly mortgage loan borrowers. Among these initiatives was MGL. Chapter 184, Section 17B ½ specifically providing protections to First Time Home loan borrowers obtaining an adjustable-rate mortgage (ARM). The Division of Banks issued Regulatory Bulletin 1.3-104 to implement this law.

However, Chapter 184, Section 17B ½ was passed *prior to* the Consumer Financial Protection Bureau (CFPB) finalizing its Ability-to-Repay (ATR) rule, which established that most new mortgages must comply with basic requirements that protect consumers from taking on loans they do not have the financial means to pay back. Lenders are presumed to have complied with the ATR rule if they issue "Qualified Mortgages" (QMs). These loans must meet certain requirements including prohibitions or limitations on the risky features that harmed consumers during the Great Recession. If a lender makes a QM, consumers have greater assurance that they can pay back the loan.

Under the 2012 Regulatory Bulletin, the mathematical calculation to determine if an ARM met the subprime threshold was: "the fully indexed rate is greater than three (3.0) percentage points above the yield on United States Treasury securities having comparable periods of maturity, as of the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor."

In 2022, market factors – specifically rapidly rising interest rates and an inverted yield curve - and not the loan product, caused many ARM loans on Massachusetts homes to suddenly be categorized as "subprime" under the 1.3-104 calculation. A consortium of representatives from the Cooperative Credit Union Association, the Massachusetts Bankers Association, and the Massachusetts Mortgage Bankers Association worked with the Division of Banks and provided initial documentation and language recommendations. The Division of Banks revised the regulatory bulletin on November 23rd, 2022, in response but legislative changes are also needed.

The revised bulletin made much needed changes to the subprime calculations, but there remain issues in this current rising interest rate environment. When using interest rates based upon when the interest rate has been set (Division) versus when the loan closes (CFPB), the time difference alone could put loans at risk for falling into a "subprime" classification. As an example, there could be 1-2 months between application date/interest rate set date and closing, and longer if the mortgage was for a new construction property. As was the case during 2022, loans could be clear of the subprime rate threshold at the time the

rate is set but fall into it at any time up until the week of closing, and too late for a consumer to obtain in-person counseling in time.

This legislation revises Chapter 184, Section 17B ½ to clarify that a first-time home loan that is a Qualified Mortgage is exempt from said section. The Committee advanced similar legislation last session and we urge you to do the same for this session.

Thank you for your consideration on this important piece of legislation.

The Massachusetts Bankers Association
Records Support On
H 1272 and S 751, An Act relative to mortgage review boards and a small business loan review board within the Division of Banks
Joint Committee on Financial Services
April 15, 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 record:

SUPPORT

For H 1272 and S 751, An Act relative to mortgage review boards and a small business loan review board within the Division of Banks

We urge the committee to give this bill a favorable report. Thank you for considering our views.

Statement of the Massachusetts Bankers Association
in Opposition to
H 1090 & S 765, An Act Establishing a Massachusetts Foreclosure Prevention Program
Joint Committee on Financial Services
April 15, 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 submit testimony in opposition to **H 1090 & S 765**, legislation that would mandate banks to make duplicative and unnecessary changes to current initiatives available to homeowners throughout the Commonwealth.

These bills seek to create a Massachusetts Foreclosure Mediation Program (MFMP), administered by a "Foreclosure prevention program administrator" or a "Mediation Program Manager" in which the mortgagor may choose to participate in mediation proceedings with the mortgagee or their representative. While noble in its mission, the program is wholly unnecessary given the recent advancements and current conditions that exist in the Massachusetts homeowners market.

We would emphasize that foreclosure is always a last resort and banks work diligently to keep borrowers in their homes. The Massachusetts housing market is also far different than the one we experienced during the economic crisis more than a decade ago, with increasing home values and stronger underwriting requirements on home mortgages imposed by the Dodd-Frank Act and other federal laws and regulations. In addition, the federal housing GSEs, Fannie Mae and Freddie Mac, along with other government agencies, have developed comprehensive programs to assist borrowers impacted by the pandemic. Finally, we would note that the Consumer Financial Protection Bureau (CFPB) and the banking regulatory agencies have promulgated new rules to ensure that banks and other mortgage servicers are providing a wide range of options for at-risk consumers.

Since 2007, the Massachusetts legislature has enacted three major changes to the state's foreclosure laws: Chapter 206 of the Acts of 2007, Chapter 258 of the Acts of 2010, and most recently Chapter 194 of the Acts of 2012. Each one of these laws extended new protections for Massachusetts consumers, added costs to the lending community and significantly delayed the time frames to complete a foreclosure in the Commonwealth. This is in addition to the Dodd Frank Act which substantially changed the mortgage origination process for all banks improving disclosures, defining a qualified mortgage and instituting strict Ability-to-Repay rules.

Unfortunately, unless a homeowner acts quickly in acknowledging a delinquency and agrees to work with the lender to address it, a short sale, deed-in-lieu or a foreclosure may ultimately be the only solutions. During the 90-day right to cure period, banks make regular weekly calls to borrowers to understand their situation. Foreclosure is the final event when all alternatives have been exhausted. Many times, changes in a family's household financial situation require downsizing of debt and the sale of the home.

The most recent law (Chapter 194 of the Acts of 2012) also created the Foreclosure Impacts Task Force, which was charged with studying foreclosure mediation. It is important to note that after extensive

research and analysis of mediation laws in a number of other states, the Task Force did not issue a recommendation in favor of mandatory foreclosure mediation in Massachusetts. In fact, the Task Force urged that any approach to foreclosure mediation be mindful of the existing foreclosure statutes before layering the mediation process on top of existing state foreclosure laws.

Conclusion

Given the numerous changes to state law in recent years, the state and federal aid to at-risk borrowers over the last 18 months, and the continued strength of the Massachusetts housing market - even throughout the recent public health emergency - MBA questions the need for a mandatory foreclosure mediation program in the Commonwealth. We respectfully ask that you give these bills an unfavorable report.

The Massachusetts Bankers Association
Records Opposed On
H 1294, An Act Relative to ATM Receipts
Joint Committee on Financial Services
April 15, 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 record:

OPPOSED

to H 1294, An Act Relative to ATM Receipts.

MBA believes that H 1294 creates a series of unintended consequences and will not provide the intended protections to consumers. We urge the committee to give this bill an unfavorable report. Thank you for considering our views.

The Massachusetts Bankers Association
Records Opposed On
H 1083, An Act Providing Mortgage Customers Additional Mandatory Information Regarding Their Accounts
Joint Committee on Financial Services
April 15, 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 record:

OPPOSED

to H 1083, An Act Providing Mortgage Customers Additional Mandatory Information Regarding Their Accounts.

MBA believes that H 1083 creates a series of unintended consequences and will not provide the intended protections to borrowers. We urge the committee to give this bill an unfavorable report. Thank you for considering our views.

The Massachusetts Bankers Association
Records Opposed On
H 1146 - *An Act to establish a resolution trust fund for receipt of reasonable mortgage*
Joint Committee on Financial Services
April 15, 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 record:

OPPOSED

to **H 1146 - *An Act to establish a resolution trust fund for receipt of reasonable mortgage payments.***

MBA believes that **H 1146** creates an unattainable structure that would lead to a series of unintended consequences that will not provide the intended protections to borrowers as contemplated. We urge the committee to give this bill an unfavorable report. Thank you for considering our views.

Statement of the Massachusetts Bankers Association in Support of
H 1282 and S 684 - An Act Relative to the Massachusetts Uniform Commercial Code
Joint Committee on Financial Services
April 15, 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 submit testimony in support of **H 1282 and S 684** - *An Act relative to the Massachusetts Uniform Commercial Code.*

By way of background, the Uniform Commercial Code (UCC) - a model law prepared by the American Law Institute and the Uniform Law Commission - provides rules for many kinds of commercial transactions. These transactions include the sale or lease of goods, the issuance and transfer of promissory notes and other negotiable instruments, the issuance and transfer of stock and other investment securities, the creation and priority of liens on personal property and the sale of accounts receivable and certain other intangible payment obligations. The UCC has been adopted in all 50 states (M.G.L. Chapter 106 in Massachusetts) and the District of Columbia, in substantially identical language, which enables commercial transactions to take place across state lines.

Massachusetts last adopted amendments to the UCC in 2021. However, those amendments included provisions approved in 2013 by the Uniform Law Commission. Since 2013, electronic contracting has become much more widespread, new technologies have been developed, and new types of assets have been created, including cryptocurrencies, non-fungible tokens, electronic payment instruments and other digital assets. Participants in commercial transactions have also pushed to allow electronic contracting for certain products that can only be documented on paper under the current provisions of the UCC. As a result of these developments, the American Law Institute and the Uniform Law Commission established a committee to provide for clear and market-appropriate rules relating to these new products and technologies. The 2022 Amendments, which are before you today as part of **H 1282 and S 684**, are the result of this committee. To date, eleven states have already adopted the 2022 Amendments - including California and Delaware. **H 1282 and S 684** also contain other amendments to the UCC not yet adopted in Massachusetts. These bills, if enacted, will bring Massachusetts' UCC up to date.

Massachusetts has long been a hub of technological innovation, finance and investment company and securities custody operations. It is important that Massachusetts enacts the bill in order to maintain its position as a world-leader in these sectors. It is for these reasons that MBA supports the enactment of **H 1282 and S 684.**

Thank you again for considering our views on this important subject.