



**Statement of the Massachusetts Bankers Association on
S 1048 – An Act Relative to Access to a Decedent’s Electronic Mail Accounts and
S 1110 - An Act Clarifying the Rights of Fiduciaries to Access Digital Assets
Joint Committee on the Judiciary
April 22, 2025**

The Massachusetts Bankers Association, which represents 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, appreciates the opportunity to comment on **S 1048 – An Act Relative to Access to a Decedent’s Electronic Mail Accounts** and **S 1110 - An Act Clarifying the Rights of Fiduciaries to Access Digital Assets**. These pieces of legislation are based on a revised model bill recommended by the National Conference of Commissioners on Uniform State Laws (NCCUSL) that has been enacted in 49 states.

Significant increases in the use of online banking, social media and cloud storage of photos and other information have transformed how we live and maintain our personal records. Less than a generation ago, few of us had email accounts, social media did not exist nor did online or mobile banking. When an individual died, the executor, now called a personal representative, could search the paper records, tax returns, regular mail or end-of-year documents of the deceased to identify information necessary to properly settle the estate.

Digital assets may have real value, both monetary and sentimental, but they also present novel privacy concerns. While these innovations have made our lives simpler, more connected, and more reliant on technology, they have also created a number of challenges, including the use of and accessibility to a person’s digital assets which are stored on various companies’ servers and accessed via the Internet through usernames and passwords. Access to digital assets is usually governed by restrictive terms-of-service agreements provided by the custodian and routinely agreed to by the user by a simple click. These agreements can create significant problems when account holders die or otherwise lose the ability to manage their affairs.

Large social media firms, such as Facebook, Google, Yahoo, and others objected to the language in the initial UFADAA model act claiming that the legislation did not sufficiently respect the legal obligations these firms believed they had to their customers not to divulge any information on their accounts to any other party without the account owner’s permission. This difference of opinion served neither the fiduciary nor social media community and certainly provided no benefits to those simply attempting to settle an estate or otherwise perform their fiduciary duties.

After this initial negative backlash, representatives of all the interested parties held a series of additional meetings and developed a revised version of UFADAA. The revised language, known as RUFADAA, has now been enacted by 49 states nationwide.

We applaud the efforts of Leader Creem and Senator Finegold for recognizing the pressing need to address this important issue this session. MBA strongly believes that adopting the revised RUFADAA language will finally put the Commonwealth on equal playfield with the growing list of states that have already enacted RUFADAA. It is important to note that the uniform act's **full revised language** establishes default rules that attempt to balance the user's privacy interest with the fiduciary's need for access by making a distinction between the "content of electronic communications," the "catalogue of electronic communications," and other types of digital assets, all of which is found **exclusively** in H 1855, which will be heard before this Committee at a future date this session.

While **S 1110** is close in nature to H 1855, it appears it has been enhanced and therefore not completely consistent with the fully revised **uniform language**. We respectfully request that **S 1048 and S 1110** be amended to reflect the existing language in H 1855 consistent with the full revised RUFADAA language before any action is taken by the Committee.

The Association and our member institutions believe that RUFADAA is an appropriate step forward to address the issue of digital assets after death. The full model law establishes a framework under which fiduciaries can meet their obligations while recognizing the privacy obligations other third parties must meet. These protections **only exist** when the legislation is **adopted in its full form as reflected in H 1855**.

Thank you for considering our views and we look forward to working with you to advance this important piece of legislation this session.



**The Massachusetts Bankers Association
Records Support On
H 1856 & S 1112 - An Act relative to the Massachusetts Uniform Trust Decanting Act
Joint Committee on the Judiciary
April 22, 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

to **H 1856 & S 1112 - *An Act relative to the Massachusetts Uniform Trust Decanting Act***

MBA appreciates being recorded in support of **H 1856 & S 1112**, which would enact a uniform law that provides methods for reforming and modernizing existing irrevocable trusts. Decanting is used to distribute assets from one trust to another and allows greater flexibility to address unforeseen circumstances. This uniform law has been enacted in **19** states, and we urge the committee to give this bill a favorable report. Thank you for considering our views.