

SENATE No. 546

The Commonwealth of Massachusetts

PRESENTED BY:

Anthony W. Petrucci

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:

Anthony W. Petrucci

DISTRICT/ADDRESS:

First Suffolk and Middlesex

SENATE No. 546

By Mr. Petruccelli, a petition (accompanied by bill, Senate, No. 546) of Anthony W. Petruccelli for legislation to amend the banking laws and related statutes. Financial Services.

The Commonwealth of Massachusetts

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

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 2012 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 subsection
5 (d).

6 SECTION 2. Section 34 of said Chapter 29 is hereby further amended by inserting after
7 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 appearing in the 2012 Official Edition
17 is hereby amended by striking 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 mentions 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 appearing in the 2012
33 Official Edition is hereby amended by striking out the second paragraph and inserting in place
34 thereof the following paragraph:– Unless otherwise specified, all moneys of the MTDC from

35 whatever source derived shall be paid to the treasurer of the MTDC. Said moneys shall be
36 deposited in the first instance by the treasurer in one or more national banks, trust companies,
37 savings banks, cooperative banks, federal savings banks or federal savings and loan associations
38 in compliance with section 34 of chapter 29. Funds in said accounts shall be paid out on the
39 warrant or other order of the treasurer of the MTDC or of such other person or persons as the
40 board may authorize to execute such warrants or orders.

41 SECTION 5. Section 55 of Chapter 44 of the General Laws, as appearing in the 2012
42 Official Edition is hereby amended by striking out, in lines 25 and 26, the words “banking
43 companies or co-operative banks” and inserting the words:– or cooperative banks or in
44 accordance with the provisions of the second paragraph of section 55B of this chapter.

45 SECTION 6. Section 55B of Chapter 44 is hereby amended by adding the following
46 paragraph:–

47 Moneys of any city, town, district or regional school district invested in compliance with
48 this section may be invested in accordance with the following conditions: (1) the moneys are
49 initially invested through a banking institution doing business in the commonwealth selected by
50 the city, town, district or regional school district; (2) the selected banking institution arranges for
51 the redeposit of the moneys in deposit accounts in one or more banks or savings and loan
52 associations wherever located; and (3) the full amount of principal and any accrued interest of
53 each such deposit account is insured by the Federal Deposit Insurance Corporation. The
54 provisions of section 62 shall not apply to this section.

55 SECTION 7. Section 51 of Chapter 93 of the General Laws as appearing in the 2012
56 Official Edition is hereby amended by inserting after paragraph (b), the following three
57 paragraphs:–

58 (c) a consumer reporting agency shall not engage in or offer any service whereby the
59 agency sells or otherwise makes available to a third party any information pertaining to a loan
60 application a consumer has made with a bank, credit union, federal bank, foreign bank, out-of-
61 state bank or out-of-state federal bank as defined in chapter 167, a federal credit union as defined
62 in section 1 of chapter 171 and a foreign and out-of-state credit union as defined in section 8A of
63 chapter 171, a mortgage lender as defined in chapter 255E or an entity subject to section 96 of
64 chapter 140, unless the consumer has consented to make said information available to third
65 parties.

66 (d) Every financial lending institution as referred to in paragraph (c) shall, provide notice
67 to any consumer of his right to opt into any service whereby the agency sells or otherwise makes
68 available to a third party any information pertaining to a loan application a consumer has made,
69 and clearly and accurately disclose to the consumer, in substantially the following manner:

70 You have the right to opt into any offer or service provided by the financial lending
71 institution regarding the sharing of any information on your loan application by the financial
72 lending institution to third parties. You may opt into said offer or service by providing your
73 consent to such offer or service on the loan application. You may be entitled to collect
74 compensation, in certain circumstances, if you are damaged by a person's negligent or
75 intentional failure to comply with the credit reporting act.

76 (e) The written notice shall be in a clear and conspicuous format and be no smaller than
77 ten point type. The notice shall inform the consumer of the consumer's rights under this chapter,
78 provided clearly and conspicuously on the application, in substantially the following manner:

79 I consent to have any information pertaining to my loan application made available to
80 third parties for the purposes of this loan application.

81 SECTION 8. Chapter 167D of the General Laws, as appearing in section 35 of chapter
82 482 of the Acts of 2014, is hereby amended by inserting the following section:—

83 Section 3A. A bank may receive deposits in conjunction with a savings promotion raffle
84 pursuant to the federal American Savings Promotion Act. For the purposes of this section the
85 term "savings promotion raffle" means a contest in which the sole consideration required for a
86 chance of winning designated prizes is obtained by the deposit of a specified amount of money in
87 a savings account or other savings program, where each ticket or entry has an equal chance of
88 being drawn, such contest being subject to regulations that may from time to time be
89 promulgated by the appropriate federal regulator.

90 SECTION 9. Chapter 167I of the General Laws inserted by chapter 482 of the acts of
91 2014, is hereby amended by inserting after section 9 the following section:—

92 Section 9A. A bank organized under chapter 168, 170, or 172 may subject to the approval
93 of the commissioner and the provisions of chapter 156C convert to a limited liability company. A
94 bank organized as a limited liability company may convert to a corporation chartered under
95 chapter 168, 170 or 172 subject to the provisions of chapter 156C and the approval of the
96 commissioner.

97 SECTION 10. Section 5 of Chapter 168 of the General Laws, as amended by section 54
98 of chapter 482 of the acts of 2014 is hereby amended by adding the following paragraph:– A
99 savings bank may be organized as a limited liability company under chapter 156C and subject to
100 the provisions thereof and to such terms and conditions that the board may impose.

101 SECTION 11. Section 5 of chapter 170 of the General Laws, as amended by section 55 of
102 chapter 482 of the acts of 2014, is hereby amended by adding the following paragraph:– A co-
103 operative bank may be organized as a limited liability company under chapter 156C and subject
104 to the provisions thereof and to such terms and conditions that the board may impose.

105 SECTION 12. Section 5 of chapter 172 of the General Laws, as amended by section 58 of
106 chapter 482 of the acts of 2014, is hereby amended by adding the following paragraph:– A trust
107 company may be organized as a limited liability company under chapter 156C subject to the
108 provisions thereof and such terms and conditions as the board may impose.

109 SECTION 13. Section 2 of chapter 183C of the General Laws, as appearing in the 2012
110 official edition, is hereby amended by striking out the definition of “High cost home mortgage
111 loan” and inserting in place thereof the following definition:–

112 “High cost home mortgage loan”, a consumer credit transaction that is secured by the
113 borrower’s principal dwelling, other than a reverse mortgage transaction, with an annual
114 percentage rate or fees which exceed the limitations set pursuant to regulations issued by the
115 Commissioner of Banks which shall be no less protective than limitations set forth at 12 CFR
116 1026.32(a)(1).

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

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

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

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

131 SECTION 17. Section 7 of chapter 271 of the General Laws, as appearing in the 2012
132 Official Edition, is hereby amended by adding the following paragraph:– Notwithstanding the
133 provisions of this section or any other general or special law to the contrary, a bank may conduct
134 a savings promotion raffle pursuant to the federal American Savings Promotion Act. For the
135 purposes of this section the word “bank” and the term “savings promotion raffle” shall be as
136 defined in section 1 and section 3A of chapter 167D.