

# HOUSE . . . . . No. 1192

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## The Commonwealth of Massachusetts

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PRESENTED BY:

*Kay Khan*

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*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 BANK OF MASSACHUSETTS.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/20/2011</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>9/18/2012</i>
<i>David Snieckus</i>	<i>99 CRESCENT STREET NEWTON, MA 02466</i>	

# HOUSE . . . . . No. 1192

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By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 1192) of Kay Khan, Ruth B. Balser and David Snieckus relative to creating the bank of Massachusetts. Financial Services.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act BANK OF MASSACHUSETTS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           An Act Declaring the Purpose of the State of Massachusetts to Engage in the Banking  
2   Business and Establish a System of Banking Under the Name of the Bank of Massachusetts,  
3   Operated by the State of Massachusetts, Defining the Scope and Manner of its Operation, and the  
4   Powers and Duties of the Persons Charged with its Management; Making an Appropriation, and,  
5   Providing Penalties for the Violations of Certain Provisions Thereof.

6           Be it Enacted by the Legislative Assembly of the State of Massachusetts:

7           SECTION I:

8           Massachusetts General Laws is hereby amended by inserting 167I after section 167H the  
9   following:

10          Sec. 1. For the purpose of encouraging and promoting agriculture, commerce and  
11   industry, the State of Massachusetts shall engage in the business of banking, and for that purpose

shall and does hereby, establish a system of banking owned, controlled and operated by it, under the name of the Bank of Massachusetts.

Sec. 2. The Public-Banking Commission shall operate, manage and control the Bank of Massachusetts, locate and maintain its places of business of which the principal places shall be within the state. And make and enforce orders, rules regulations and by-laws for the transaction of business. The business of the Bank, in addition to other matters herein specified, may include anything that any bank may lawfully do, except as herein restricted; but this provision shall not be held in any way to limit or qualify either the powers of the Public-Banking Commission herein granted, or the functions of said Bank herein defined. The Public-Banking Commission shall meet twenty days after the passage and approval of this Act to begin the organization of the Bank of Massachusetts.

Sec. 3. To accomplish the purposes of this Act, the Public-Banking Commission shall acquire by purchase, lease, or by exercise of the right of public domain, all requisite property and property rights, and may construct, remodel and repair buildings; but it shall not invest more than ten percent of the capital of the bank in furniture, fixtures, lands and buildings for office purposes.

Sec. 4. The Public-Banking Commission shall obtain such assistance as in its judgment may be necessary for the establishment, maintenance and operation of the Bank of Massachusetts. To that end it shall appoint a manager, and may appoint such subordinate officers and employees as it may judge expedient. It may constitute such Manager its general agent, in respect to the functions of said Bank, but subject, nevertheless, in such agency, to the supervision, limitation and control of the commission. It shall employ such contractors,

architects, builders, attorneys, cashiers, tellers, clerks, accountants, computer technicians and other experts, agents, and service providers as in the judgment of the Commission. The interests of the state may require, and shall define the duties, designate the titles, and fix the compensation and bonds of all such persons so engaged; provided, however, that subject to the control and regulation of the Commission, the Manager of the Bank shall appoint, and employ such duties, cashiers, tellers, and other subordinates, and such contractors, architects, builders, attorneys, clerks, accountants, computer technicians and other experts, agents and servants, as he shall in his judgment, deem are required by the interests of the Bank. The total compensation of such appointees and employees, together with other expenditures for the operation and maintenance of the Bank, shall remain with the appropriation and earnings lawfully available in each year for such purpose. All officers and employees of the Bank engaged upon its financial functions shall, before entering upon their duties, respectively furnish good and sufficient bonds to the state in such amount and upon such conditions as the commission may require and approve; but the bond of the Manager shall not be less than one million dollars. Such bond shall be filled with the Secretary of the State.

Sec. 5. The Public-Banking Commission may remove and discharge any and all persons appointed in the exercise of the powers granted by this Act, whether by the Commission or by the manager of the Bank, and any such removal may be made whenever in the judgment of the Commission the public interests require it; provided, however, that all appointments and removals contemplated by this Act shall be so made as the Commission shall deem most fit to promote the efficiency of the public service.

Sec. 6. The Bank shall be opened and shall proceed to transact business whenever there shall be delivered to the Public-Banking Commission bonds in the sum of one billion dollars

57 issued by the state as maybe provided by law for such purpose. The transaction of these bonds is  
58 hereby designated and shall be known as the capital of the said Bank.

59       Sec. 7. All state, county, township, municipal and school district funds, and funds or all  
60 penal, educational, and industrial institutions and all other public funds shall be, by the person  
61 having control of such funds, deposited in the Bank of Massachusetts within three months from  
62 the passage and approval of this Act, subject to disbursement for public purposed on check  
63 drawn by the proper officials in the manner now or hereafter to be provided by law; provided,  
64 however, that on a proper showing made by any official having control of public funds, the  
65 Public-Banking Commission may permit a postponement of the deposit of such funds or any part  
66 thereof in the Bank of Massachusetts, the period of such postponement not to exceed six months.  
67 And provided, further, that if any such funds are now loaned by authority of law under contract  
68 terminating at a future time, the deposit of such funds in the Bank of Massachusetts shall not be  
69 required until two months after time of expiration of such contract. Any person who shall violate  
70 any of provisions of this section shall be guilty of a misdemeanor and upon conviction thereof  
71 shall be punished by imprisonment in a county jail for not less than ninety days, and by a fine not  
72 less than one hundred thousand dollars.

73       Sec. 8. Whenever, any of the public funds hereinbefore designated shall be deposited in  
74 the Bank of Massachusetts, as hereinbefore provided, the official having control thereof, and the  
75 sureties on the bond of every such official, shall be exempt from all liability by reason of loss of  
76 any such deposited funds while so deposited.

77       Sec. 9. The Bank of Massachusetts may receive deposits from any source, including the  
78 United States Government and any foreign or domestic individual, corporation, association,

Municipality, bank or government. Including reasonable fees from the transactions occurring within Massachusetts from the buying and selling of goods and services with a credit card issued by the Bank of Massachusetts. Funds may be deposited to the credit of the Bank of Massachusetts in any bank or agency, approved by the Public-Banking Commission.

Sec. 10. All deposits in the Bank of Massachusetts are hereby guaranteed by the State. Such deposits shall be exempt from State, Country and Municipal taxes of any and all kinds.

Sec. 11. Funds deposited by State Banks in the Bank of Massachusetts shall be deemed “available funds.” For banks that make the Bank of Massachusetts a reserve depository, it may perform the functions and render the service of a clearinghouse, including all facilities for providing domestic and foreign exchange, and may re-discount paper, on such terms as the Public-Banking Commission shall provide.

Sec. 12. The Public-Banking Commission, unless otherwise limited by law, shall from time to time fix the rates of interest allowed and received in transactions of the Bank. Such rates shall be as nearly uniform and constant as practicable, and shall not be fixed or changed to work any discrimination against or in favor of any person or corporation. But in respect to time deposits received by the Bank, transactions may be reasonably classified as to the amounts and duration of time involved, and a reasonable differentiation of interest based on such classification may be allowed. When interest is allowed on any deposits it shall not be less than one or more than six percent. The Public-Banking Commission shall also fix reasonable charges, without unjust discrimination, for any and all services rendered by the Bank.

Sec. 13. All checks and other instruments and items of exchange payable on demand, sent by the Bank of Massachusetts to any State Bank or banking association in Massachusetts, for

101 collection, shall be by such State bank or banking association remitted for at par to the Bank of  
102 Massachusetts. Any person or corporation who shall violate any of the provisions of this section  
103 shall be guilty of a misdemeanor.

104         Sec. 14. The Bank of Massachusetts may deposit funds in any such bank or banking  
105 association within or without the state upon such terms and conditions as the Public-Banking  
106 Commission shall determine.

107         Sec. 15. The Bank of Massachusetts may transfer funds to other departments, institutions,  
108 utilities, industries, enterprises or business projects of the state, which shall be returned with  
109 interest to the Bank. It may make loans to countries, cities, or political subdivisions of the state,  
110 or to state or national banks on such terms, and under such rules as the Public-Banking  
111 Commission may determine; but it shall not make loans or give its credit to any individual,  
112 association or private corporation, except that it may make loans to any individual, association or  
113 private corporation, secured by duly recorded first mortgages on real estate in the State of  
114 Massachusetts in amounts not to exceed one-half the value of the security, or secured by  
115 warehouse receipts issued by the Public-Banking Commission or by any licensed warehouse  
116 within the state, in amounts not to exceed ninety per cent of the value of the commodities  
117 evidenced thereby. It shall not, however, loan on real estate security more than thirty percent of  
118 its capital, nor in addition thereto, more than twenty percent of its deposits. Additional funds,  
119 that may be required for such real estate loans shall be procured from the sale of state bonds as  
120 may be provided by law.

121         Sec. 16. The Public-Banking Commission shall prescribe the forms of application for a  
122 mortgage loan on real estate, and shall provide for appraisal of the proposed security.

123           Sec. 17. Every such mortgage shall contain an agreement providing for the re-payment of  
124 the loan on an amortization plan by mean of a fixed number of annual installment sufficient to  
125 cover, first, a charge on the loan, at a rate not exceeding the interest rate in the last series of real  
126 estate loan bonds issued, if any, by the State of Massachusetts; second, a charge for  
127 administration and surplus, at a rate not exceeding one per cent, per annum on the unpaid  
128 principal, said two rates combined constituting the interest rate on the mortgage; and, third, such  
129 amounts to be applied on the principal as will extinguish the debt in not less than ten or more  
130 than thirty years; provided however, that advanced payment of one of more annual installments,  
131 for the reduction of the principle, or the payment of the entire principal, may be made at any  
132 regular installment date; and, provided further, that in case of a crop failure which reduces the  
133 mortgagor's reasonable crop income by one-half, all payments under said mortgage may, in the  
134 discretion of the Public-Banking Commission, be extended for one year, upon condition that on  
135 the payment all the installments, such further annual payment shall be made as will pay the  
136 interest, with interest thereon, for the years for which no payment were made. The Public-  
137 Banking Commission shall determine whether a mortgagor is entitled to an extension of the  
138 payment of any installment, under the provisions of this section.

139           Sec. 18. Every such mortgage, and the note or other obligation thereby secured, shall run  
140 to the "Manager of the Bank of Massachusetts, his successors in office or his assigns," as payee  
141 and mortgagee, and shall contain a recital that it is executed and delivered in conformity with  
142 and upon the conditions expressed in this Act, designated by its title and the date of its approval.  
143 After having been duly recorded in each county in which the lands therein described are situated,  
144 every such mortgage shall be delivered to the Manager of the said Bank and together with said  
145 note or other obligation shall be held by the Manager as a part of the assets of the bank, or shall



be otherwise disposed of, as hereafter provided. If so held, payments upon the note or other obligation secured by said mortgage shall be made to the Bank of Massachusetts, and whenever it shall have been fully paid, the Manager shall promptly satisfy and discharge the mortgage lien of record and deliver the mortgage cancelled, with a satisfaction thereof, to the person entitled to receive it.

Sec. 19. Every such mortgage, together with the note or other obligation thereby secured, may be sold and assigned upon the payment to the bank of the full value thereof, and upon such sale and assignment, the Manager may endorse either with or without recourse. In that case payments upon said note or other obligation shall be made to the persons entitled to receive them; but each such assignment shall be made subject to the provisions concerning extension of the time of payments on account of crop failures as provide in Section 17 of this Act, and subsequent action of the Public-Banking Commission in that regard shall be binding upon the assignee of such mortgage; provided, however, that after assignment of such mortgage extensions of payments for a yearly period shall be limited to total number to not more than one for every period of five years or fraction thereof during which such mortgage has to run after the date of assignment.

Sec. 20. Every such mortgage together with the note or other obligation thereby secured, may be assigned, and upon order of the Public-Banking Commission shall be assigned to the State Treasurer of Massachusetts as security for bonds to be issued by the sate as provide by law. In case of such assignment all payments due upon said note or other obligation shall be made by the State Treasurer, and the money so by him received shall be by him held or disbursed as may be provided by law. If while any such mortgage so assigned to the State Treasurer is in his hands, the note or obligation thereby secured shall have been fully paid, the State Treasurer shall so

169 certify to the manager of the bank, who shall thereupon proceed to satisfy said mortgage in the  
170 same manner as though said note or other obligation had been paid directly to the bank. In case  
171 of such assignment to the State Treasurer of any mortgage, the provisions contained in Section  
172 19 of this Act, respecting extensions on account of crop failure shall be effective and shall be  
173 applied.

174           Sec. 21. All business of the bank may be conducted under the name of “The Bank of  
175 Massachusetts.” Title to property pertaining to the operation of the bank shall be obtained and  
176 conveyed in the name of “The State of Massachusetts, doing business as the Bank of  
177 Massachusetts.” Written instruments shall be executed by any two members of the Public-  
178 Banking Commission, of whom the Governor shall be one, or by the Manager of the Bank of  
179 Massachusetts within the scope of his authority as to do as defined by the Public-Banking  
180 Commission.

181           Sec. 22. Civil actions may be brought against the State of Massachusetts on account of  
182 causes of action claimed to have arisen out of transactions connected with the operation of the  
183 Bank of Massachusetts, upon condition that the provisions of this section are complied with: In  
184 such actions the state shall be designated as “The State of Massachusetts, doing business as Bank  
185 of Massachusetts,” and the service or process therein shall be made upon the manager of the said  
186 Bank. Such actions may be brought in the same manner and shall be subject to the same  
187 provisions of the law as other civil actions brought pursuant to the provisions of the Code of  
188 Civil Procedure. Such actions shall be brought however, in the county where the Bank of  
189 Massachusetts shall have its principal place of business.

190           Sec. 23. The State Examiner shall personally or through deputy examiners visit the Bank  
191 of Massachusetts at least twice annually, and shall inspect and verify the assets in its possession  
192 and under its control, with sufficient thoroughness of investigation to ascertain with reasonable  
193 certainty whether the valuations are correctly carried on its books. He shall investigate its  
194 methods of operation and accounting.

195           Sec. 24. There is hereby appropriated out of the general funds of the State, not otherwise  
196 appropriated, one million dollars, or so much therefore as may be necessary, to carry out the  
197 provisions of this Act. This appropriation is hereby made available immediately upon the  
198 passage and approval of this Act. The Public-Banking Commission shall, out of the earnings of  
199 the bank, make provisions for accumulating a fund with which to replace in the general funds of  
200 the state, the amount received by the commission under this appropriation, as may be directed by  
201 the Legislative Assembly.

202           Sec. 25. All acts and parts of previous Acts inconsistent with this Act are hereby  
203 repealed.

204           Sec. 26. This Act is hereby declared to be an emergency measure and shall take affect  
205 and be in force from and after its passage and approval.