

HOUSE No. 4721

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 7, 2016.

The committee on Ways and Means, to whom was referred the Bill making changes to certain references in the banking laws of the Commonwealth (House, No. 823), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4721).

For the committee,

BRIAN S. DEMPSEY.

The Commonwealth of Massachusetts

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

An Act making changes to certain references in the banking laws of the Commonwealth.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make certain changes in the banking laws of the commonwealth, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. Section 83 of chapter 62C of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out, in lines 8 to 11, the words “section twenty-
3 six of chapter one hundred and sixty-eight or section eighteen of chapter one hundred and
4 seventy or section twenty-two of chapter one hundred and seventy-two” and inserting in place
5 thereof the words:– section 9 of chapter 167J.

6 SECTION 2. Section 1 of chapter 63 of the General Laws, as so appearing, is hereby
7 amended by striking out, in line 93, the words “section 38 of chapter 167” and inserting in place
8 thereof the words:- section 15 of chapter 167C.

9 SECTION 3. Subsection (g) of section 4-406 of chapter 106 of the General Laws, as so
10 appearing, is hereby amended by striking out the number “27” and inserting in place thereof the
11 number:– 7.

12 SECTION 4. Subsection (f) of section 3 of chapter 110F of the General Laws, as so
13 appearing, is hereby amended by striking out, in lines 92 to 96, inclusive, the words “ a savings
14 bank in stock form to which certain provisions of said chapter 172 apply pursuant to section 34C
15 of chapter 168, or a cooperative bank in stock form to which certain provisions of said chapter
16 172 apply pursuant to section 26C of chapter 170” and inserting in place thereof the words:- a
17 savings bank in stock form or a cooperative bank in stock form.

18 SECTION 5. Subsection (a) of section 183 of chapter 149 of the General Laws, as so
19 appearing, is hereby amended by striking out, in lines 21 to 24, the words “a savings bank to
20 which certain provisions of said chapter 172 apply pursuant to section 34C of chapter 168, a
21 cooperative bank in stock form to which certain provisions of chapter 172 apply pursuant to
22 section 26C of chapter 170” and inserting in place thereof the following words:- a savings bank
23 in stock form, a cooperative bank in stock form.

24 SECTION 6. Section 2A of chapter 167 of the General Laws, as so appearing, is hereby
25 amended by striking out, in lines 42 and 48, the words “banks and banking” and inserting in
26 place thereof the following words:- financial services.

27 SECTION 7. Section 14 of said chapter 167, as so appearing, is hereby amended by
28 striking out, in line 41, the words “banks and banking” and inserting in place thereof the
29 following words:-financial services.

30 SECTION 8. Section 37 of said chapter 167, as so appearing, is hereby amended by
31 striking out, in lines 23 and 24, the words “sixty-seven G, inclusive, and chapters one hundred
32 and sixty eight to one hundred and seventy two A, inclusive,” and inserting in place thereof the
33 following words:- 67J, inclusive, and chapters 168, 170, 171 and 172.

34 SECTION 9. Section 3 of chapter 167A of the General Laws, as so appearing, is hereby
35 amended by striking out in lines 22 to 24, the words “section 2 shall not apply to the acquisition
36 by a bank holding company, or a company or a banking institution which would become a bank
37 holding company if” and inserting in place thereof the following words:- If the commissioner
38 determines that the reciprocity, age of institution and deposit cap requirements of section 2 have
39 been met then the other provisions of section 2 shall not apply to the acquisition by a bank
40 holding company, or a company or a banking institution which would become a bank holding
41 company; provided that”.

42 SECTION 10. Section 3 of chapter 167B of the General Laws, as so appearing, is hereby
43 amended by striking out the fourth paragraph.

44 SECTION 11. Section 12 of chapter 167C of the General Laws, as so appearing, is
45 hereby amended by striking out the fourth paragraph.

46 SECTION 12. Section 16 of chapter 167D of the General Laws, as so appearing, is hereby
47 amended by striking out, in lines 6 to 9, the words “no such transfer shall be made if the debt is
48 the result of consumer credit granted under the federal Truth in Lending Act, 15 U.S.C. section
49 1601 et. seq.” and inserting in place thereof the following words:- if the debt is the result of
50 consumer credit granted under the federal Truth in Lending Act, 15 U.S.C. section 1601 et. seq.
51 then notice, if any, shall be made in compliance with the federal act and the regulations
52 promulgated thereunder.

53 SECTION 13. Section 1 of chapter 167E of the General Laws, as so appearing, is hereby
54 amended by striking out, in line 10, the word “muform” and inserting in place thereof the
55 words:- mutual form.

56 SECTION 14. Section 2 of chapter 167H of the General Laws, as so appearing, is hereby
57 amended by striking out, in line 9, the words “the merger” and inserting in place thereof the
58 following words:- the organization of an interim bank or the merger.

59 SECTION 15. Subsection (a) of said section 2 of said chapter 167H, as so appearing, is
60 hereby amended by striking out, in line 14, the word “mutual”.

61 SECTION 16. Section 2 of said chapter 167H, as so appearing, is hereby amended by
62 striking out, in line 32, the words “the merger” and inserting in place thereof the words:- the
63 organization of an interim bank or the merger.

64 SECTION 17. Said section 2 of said chapter 167H, as so appearing, is hereby further
65 amended by adding the following subsection:-

66 (d) The certificate of authority with a copy of the articles of organization for a subsidiary
67 banking institution established pursuant to a reorganization under clause (2) of subsection (a) or
68 clause (2) of subsection (b) shall be filed with the secretary of state.

69 SECTION 18. Section 6 of said chapter 167H, as so appearing, is hereby amended by
70 striking out, in lines 9 and 10, the words “may elect to follow the corporate governance
71 procedures of the General Laws” and inserting in place thereof the following words:- may elect,
72 from time to time, to follow the corporate governance provisions of chapter 156D.

73 SECTION19. Clause (2) of section 7 of said chapter 167H, as so appearing, is hereby
74 amended by striking out, in line 11, the words “ form and” and inserting in place thereof the
75 words:- form, an out-of-state-bank, as defined in section 1 of chapter 167 in mutual form, and.

76 SECTION 20. The definition of the term “Stock bank” in section 1 of chapter 167I of the
77 General Laws, as so appearing, is hereby amended by striking out, in line 40, the term “chapter
78 168 or 170” and inserting in place thereof the words:-chapter 167H or section 9 of this chapter.

79 SECTION 21. The first paragraph of section 2 of said chapter 167I, as so appearing, is
80 hereby amended by inserting after the first sentence the following two sentences:- One or more
81 mutual banks, one or more thrift institutions and a subsidiary banking institution may merge or
82 consolidate into the single subsidiary banking institution, upon terms approved by a vote of at
83 least 2/3 of the board of each mutual bank, by the board of each thrift institution in accordance
84 with the laws under which each such thrift institution is organized, and the board of the
85 subsidiary banking institution and approved in writing by the commissioner. For the remaining
86 provisions of this section references to a mutual bank or mutual banks shall also mean a
87 subsidiary banking institution.

88 SECTION 22. The second sentence of said section 2 of said chapter 167I, as so
89 appearing, is hereby amended by inserting after the word “body”, in line 11, the following
90 words:- present and voting thereon.

91 SECTION 23. The second sentence of section 3 of said chapter 167I, as so appearing, is
92 hereby amended by inserting after the words “stock bank”, in line 13, the following words:-
93 present and voting thereon.

94 SECTION 24. The fifth sentence of said section 3 of said chapter 167I, as so appearing,
95 is hereby amended by inserting after the words “stock bank”, in line 36, the following words:-
96 present and voting.

97 SECTION 25. The third paragraph of said section 3 of said chapter 167I, as so appearing,
98 is hereby amended by striking out, in line 64, the word “ascertained” and inserting in place
99 thereof the following words:– ascertained and paid.

100 SECTION 26. Section 11 of said chapter 167I, as so appearing, is hereby amended by
101 inserting after the words “voting body”, in line 2, the first time they appear, the following
102 words:– present and voting.

103 SECTION 27. Section 13 of said chapter 167I, as so appearing, is hereby amended by
104 striking out, in lines 29 and 30, the words “stockholders owning at least 2/3of the stock of such
105 corporation” and inserting in place thereof the following words:– 2/3 of the stockholders present
106 and voting thereon.

107 SECTION 28. Section 15 of said chapter 167I, as so appearing, is hereby amended by
108 inserting after the word “bank”, in line 4, the second time it appears, the following words:-
109 present and voting thereon.

110 SECTION 29. Section 8 of chapter 167J of the General Laws, as so appearing, is hereby
111 amended by striking out, in line 3, the words “state or federally chartered” and inserting in place
112 thereof the following words:- federal savings bank or federal.

113 SECTION 30. Section 11 of said chapter 167J, as so appearing, is hereby amended by
114 striking out, in lines 7 and 8, the word “submitted” and inserting in place thereof the following
115 words:- submitted or as of the close of the last business day of the preceding month or as of the
116 close of a business day not more than ten days prior to the date of the meeting.

117 SECTION 31. Section 21 of said chapter 167J, as so appearing, is hereby amended by
118 striking out, in lines 3 and 4, the words “may elect to follow the corporate governance
119 procedures” and inserting in place thereof the following words:- may elect, from time to time, to
120 follow the corporate governance provisions.

121 SECTION 32. Section 17 of chapter 168 of the General Laws, as so appearing, is hereby
122 amended by striking out, in line 26, the words “or federal” and inserting in place thereof the
123 following words:- or federal savings bank or federal.

124 SECTION 33. Section 19 of chapter 168, as so appearing, is hereby amended by striking
125 out the third sentence and inserting in place thereof the following sentence:—

126 Within 60 days after the annual meeting, the clerk shall cause to be filed with the records
127 of the corporation a list containing the names of the corporators indicating those who are
128 trustees.

129 SECTION 34. Section 8A of chapter 171 of the General Laws, inserted by section 56 of
130 chapter 482 of the acts of 2014, is hereby repealed.

131 SECTION 35. Said chapter 171 is hereby further amended by inserting after section 8F,
132 as appearing in the 2014 Official Edition, the following section:-

133 Section 8G. For the purposes of this section, the following words shall, unless the context
134 clearly requires otherwise, have the following meanings:-

135 “Electronic branch”, an electronic device, other than a telephone operated by a consumer,
136 through which a consumer may initiate an electronic fund transfer. Such term includes, but is not
137 limited to automated teller machines and cash dispensing machines. Such term does not include a

138 teller machine or similar device located on the premises of and operated solely by an employee
139 of a financial institution or a point-of-sale terminal.

140 “Organization”, any person, corporation, association or partnership which assists or
141 provides services to a financial institution or merchant in order to make available electronic fund
142 transfers; provided, however, that a financial institution or merchant shall not be considered an
143 organization.

144 “Point-of-sale terminal”, an electronic terminal located on the premises of a merchant
145 when such terminal is used with the assistance of an employee of a merchant for a customer's
146 purchase or lease of goods or services sold or leased by such merchant or adjustments thereto or
147 the receipt of cash by the customer which is ancillary to the customer's purchase or lease of
148 goods or services from such merchant; provided, however, that such terminal shall be deemed an
149 electronic branch for the purposes of this chapter whenever it is used for any other electronic
150 fund transfer, or for an electronic fund transfer involving a customer's account held by an
151 organization, or for an electronic fund transfer solely for customers of a single financial
152 institution or bank holding company subject to chapter 167A or the federal Bank Holding
153 Company Act of 1956, 12 U.S.C. section 1841 et seq.

154 A credit union shall comply with the federal Electronic Fund Transfer Act, 15 U.S.C.
155 section 1693 et seq. and the regulations promulgated thereunder; provided, however, the
156 maximum liability of a consumer under 15 U.S.C. section 1693g shall be limited to \$50.00.

157 After a vote of its board of directors, a credit union, except as otherwise provided in this
158 section, may purchase, establish, install, operate, lease or use individually or with any other
159 financial institution or organization or share with any other financial institution or organization

160 any number of manned or unmanned electronic branches at which a customer may make
161 deposits, withdrawals, transfers of funds, obtain advances against preauthorized lines of credit,
162 cash checks or pay obligations, and any number of point-of-sale terminals; provided, however,
163 that withdrawals from such electronic branches, other than those located at an office of a credit
164 union, shall be made only from a demand deposit account, negotiable withdrawal order account,
165 or statement account or against a preauthorized line of credit; and provided, further that the credit
166 union shall have applied for and obtained the approval of the commissioner for such electronic
167 branch except that a credit union at whose office such electronic branch is located need not have
168 applied for or obtained such approval. The commissioner shall approve such application if, in the
169 commissioner's opinion, such action will promote a sound banking system which provides for
170 the needs of the people and business, encourages competition, discourages monopolies and does
171 not ignore legislative policies.

172 There shall be no geographical limitation on the location of electronic branches which a
173 credit union may purchase, establish, install, operate, lease or use individually or with any other
174 financial institution or organization or share with any other financial institution or organization;
175 provided, however, that the site location for such electronic branches, other than an electronic
176 branch located at an office of a financial institution or in another state, shall be subject to
177 approval by, and regulation of, the commissioner. An electronic branch may be located in a
178 mobile unit under such conditions and limitations as the commissioner, by regulation, shall
179 establish.

180 A credit union shall adopt and maintain safeguards to insure the safety of a customer
181 using the electronic branch, to insure the safety of the funds, items and other information at the
182 electronic branch and to assist in the identification of criminals. The commissioner may

183 promulgate rules and regulations establishing minimum standards for such safeguards. Such
184 safeguards shall be in place and operational at the time such electronic branch begins to transact
185 business; provided, however, that such safeguards shall not apply to an electronic branch located
186 at an office of a credit union.

187 SECTION 36. The eighth paragraph of section 9A of chapter 172 of the General Laws, as
188 so appearing, is hereby amended by striking out, in line 78, the words "through 167G" and
189 inserting in place thereof the words:- through 167J.

190 SECTION 37. Section 2 of chapter 183C of the General Laws, as so appearing, is hereby
191 amended by striking out the definition of "High cost home mortgage loan" and inserting in place
192 thereof the following definition:-

193 "High cost home mortgage loan", a consumer credit transaction that is secured by the
194 borrower's principal dwelling, other than a reverse mortgage transaction, with an annual
195 percentage rate or fees which exceed the limitations set pursuant to regulations issued by the
196 Commissioner of Banks which shall be no less protective than limitations set forth at 12 CFR
197 1026.32(a)(1).

198 SECTION 38. Said chapter 183C, as so appearing, is hereby further amended by striking
199 out section 3 and inserting in place thereof the following section:-

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

204 SECTION 39. Section 4 of said chapter 183C, as so appearing, is hereby amended by
205 striking out the second paragraph and inserting in place thereof the following paragraph:– There
206 shall be a presumption that the borrower is able to make the scheduled payments if, at the time
207 the loan is made, the lender has complied with 209 CMR 32.43 or 12 CFR 1026.43 in
208 determining the borrower’s ability to repay.

209 SECTION 40. Section 6 of said chapter 183C, as so appearing, is hereby amended by
210 striking out, in lines 2 and 3, the following words:– “greater than 5 per cent of the total loan
211 amount or \$800, whichever is greater”.

212 SECTION 41. The last sentence of the first paragraph of section 1A of chapter 43 of the
213 acts of 1934, as amended by section 167 of chapter 189 of the acts of 1984, is hereby amended
214 by striking out the words “ bank, pursuant to section twenty-five of chapter one hundred sixty-
215 eight “ and inserting in place thereof the word:– bank.

216 SECTION 42. The fourth sentence of section 3 of said chapter 43, as amended by section
217 33 of chapter 238 of the acts of 1996, is hereby amended by striking out the words:– under
218 section thirty-three of chapter one hundred and sixty-eight of the General Laws..

219 SECTION 43. The fifth sentence of said section 3 of said chapter 43, as so appearing, is
220 hereby amended by striking out the words “under section thirty-four or thirty-four D of said
221 chapter one hundred and sixty-eight, or in the case of a sale of assets of such bank to and the
222 assumption of liabilities by one or more savings banks under section thirty-five of said chapter
223 one hundred and sixty-eight” and inserting in place thereof the following words:– under chapter
224 167I of the General laws or in the case of a sale of assets of such bank to and the assumption of
225 liabilities by one or more savings banks under said chapter 167I.

226 SECTION 44. The fourth paragraph of section 3A of said chapter 43 is hereby amended
227 by striking out the first sentence, as amended by section 86 of chapter 371 of the acts of 1983,
228 and inserting in place thereof the following sentence:– Notwithstanding the provisions of the
229 General Laws relative to voluntary dissolution and liquidation of a savings bank, in order to give
230 effect to the purpose of this section and subject to the approval of the commissioner and of the
231 corporation, such member bank may be dissolved and liquidate its affairs if authorized by vote of
232 at least two-thirds of its trustees; provided that another savings bank shall have assumed and
233 agreed to pay the whole of the deposits of such member bank under chapter 167I of the General
234 Laws.

235 SECTION 45. Section 7 of said chapter 43, as amended by section 87 of chapter 371 of
236 the acts of 1983, is hereby amended by striking out the words “sections thirty-four, thirty-four A,
237 thirty-four B, thirty-four D and thirty-five of chapter one hundred and sixty-eight” and inserting
238 in place thereof the following words:– or purchase of assets and assumption of liabilities under
239 chapter 167I.

240 SECTION 46. The first sentence of section 12 of said chapter 43, as amended by section
241 26 of chapter 64 of the acts of 1999, is hereby amended by striking out the words:– referred to in
242 section 6 of chapter 167F of the General Laws.

243 SECTION 47. Paragraph (d) of section 17 of said chapter 43, as amended by section 22
244 of chapter 405 of the acts of 1985, is hereby amended by striking out the words:– as provided in
245 section 6 of chapter 167F of the General Laws.

246 SECTION 48. Paragraph (i) of section 19 of said chapter 43, as added by section 22A of
247 chapter 405 of the acts of 1985, is hereby amended by striking out the following words:– as
248 provided in section six of chapter one hundred and sixty-seven F of the General Laws.

249 SECTION 49. The seventh sentence of section 2 of chapter 45 of the acts of 1932, as
250 amended by section 1 of chapter 176 of the acts of 1984, is hereby amended by striking out the
251 words “sections twenty-eight and twenty-nine of chapter one hundred and seventy” and inserting
252 in place thereof the words:– section 17 of chapter 167I.

253 SECTION 50. Section 1 of chapter 73 of the acts of 1934 is hereby amended by striking
254 out the sixth sentence, as appearing in section 17 of chapter 235 of the acts of 2012, and inserting
255 in place thereof the following sentence:– All assessments under this section and all payments
256 under section 17 of chapter 167I of the General Laws shall be held as a fund to be known as the
257 Share Insurance Fund and shall be in addition to all other payments to the central bank required
258 under said chapter 45 and under said section 17 of chapter 167I.

259 SECTION 51. The fourth sentence of the first paragraph of section 1A of said chapter 73,
260 as appearing in section 18 of chapter 235 of the acts of 2012, is hereby amended by striking out,
261 in line 19, the words:– under section 14 of chapter 170..

262 SECTION 52. The first sentence of the second paragraph of section 3 of said chapter 73,
263 as appearing in section 22 of chapter 235 of the acts of 2012, is amended by striking out the
264 words “section 25 of chapter 170 of the General Laws, or in the case of a sale of assets of such
265 bank to and the assumption of its liabilities by 1 or more co-operative banks under section 7 or
266 under section 24 of chapter 170” and inserting in place thereof the following words:– 167I of the

267 General Laws, or in the case of a sale of assets of such bank to and the assumption of its
268 liabilities by one or more co-operative banks under section 7 or under chapter 167I.

269 SECTION 53. The fourth paragraph of section 3A of said chapter 73 is hereby amended
270 by striking out the first sentence, as appearing in section 23 of chapter 235 of the acts of 2012,
271 and inserting in place thereof the following sentence:– Notwithstanding the provisions of the
272 General Laws relative to voluntary dissolution and liquidation of a co-operative bank, in order to
273 give effect to the purpose of this section and subject to the approval of the commissioner and of
274 the central bank, such member bank may be dissolved and liquidate its affairs if authorized by a
275 vote of at least two thirds of its directors; provided that another depository institution, the
276 deposits of which are insured by a federal deposit insurance agency, shall have assumed and
277 agreed to pay the whole of the deposits of such member bank under chapter 167I.

278 SECTION 54. Section 7 of said chapter 73, as appearing in section 29 of chapter 235 of
279 the acts of 2012, is hereby amended by striking out, in lines 6 and 7, the words “sections 24, 25,
280 26, 26A, 26B, and 26D of the General Laws” and inserting in place thereof the following:– or
281 purchase of assets or assumption of liabilities under chapter 167I.

282 SECTION 55. Paragraph (d) of section 16 of said chapter 73, as appearing in section 35
283 of chapter 235 of the acts of 2012, is hereby amended by striking out the words:– as provided in
284 section 6 of chapter 167F of the General Laws.