HOUSE No. 2679

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel Cahill

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:	DISTRICT/ADDRESS:	DATE ADDED:
Daniel Cahill	10th Essex	1/17/2019
Stephan Hay	3rd Worcester	1/30/2019

HOUSE No. 2679

By Mr. Cahill of Lynn, a petition (accompanied by bill, House, No. 2679) of Daniel Cahill and Stephan Hay relative to deposits of public monies. State Administration and Regulatory Oversight.

The Commonwealth of Alassachusetts

In the One Hundred and Ninety-First General Court (2019-2020)

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:

- SECTION 1. The first sentence of section 34 of Chapter 29 the General Laws as
- 2 appearing in the 2016 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 in
- 5 subsection (d).
- 6 SECTION 2. Section 34 of said Chapter 29, as so appearing, is hereby further amended
- 7 by adding after 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
- 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
- institution arranges for the redeposit of the funds in deposit accounts in one or more banks or

savings and loan associations wherever located; and (3) the full amount or principal and any accrued interest of each such deposit account is insured by the Federal Deposit Insurance Corporation.

SECTION 3. Chapter 35 of the General Laws, as appearing in the 2016 Official Edition is hereby amended by striking out section 22 and inserting in place thereof the following section:—

Section 22. Except as otherwise provided, county treasurers, clerks of the courts, clerks of the district courts, sheriffs and superintendents of jails and houses of correction, probation officers, registers of probate and insolvency and register of deeds, having more money in their hands than is required for immediate use, shall deposit it, in their official names, in national banks, trust companies, savings banks, co-operative banks, federal savings banks or federal savings and loan associations, at the best practicable interest rates. County treasurers may also deposit in time deposits in such national banks, trust companies, savings banks, co-operative banks, federal savings banks or federal savings and loan associations, and invest in United State treasury bills. Interest thereon shall be paid to the county, except that interest accruing to deposits by registers of probate and clerks of courts shall be paid to the Commonwealth; provided, that interest accruing on the deposit as aforesaid of any money paid to any official mentioned in this section which is so paid under order of a court or which is otherwise subject to the direction of a court shall, if the court so directs, be paid to the parties entitled to the principal fund of such deposit.

SECTION 4. Section 4 of Chapter 40G of the General Laws as appearing in the 2016

Official Edition is hereby amended by striking out the second paragraph and inserting in place

thereof the following paragraph:— Unless otherwise specified, all moneys of the MTDC from whatever source derived shall be paid to the treasurer of the MTDC. Said moneys shall be deposited in the first instance by the treasurer in one or more national banks, trust companies, savings banks, cooperative banks, federal savings banks or federal savings and loan associations in compliance with section 34 of chapter 29. Funds in said accounts shall be paid out on the warrant or other order of the treasurer of the MTDC or of such other person or persons as the board may authorize to execute such warrants or orders.

SECTION 5. Section 55 of Chapter 44 of the General Laws, as appearing in the 2016 Official Edition is hereby amended by striking out, in lines 25 and 26, the words "banking companies or co-operative banks" and inserting the words:— or cooperative banks or in accordance with the provisions of the second paragraph of section 55B of this chapter.

SECTION 6. Section 55B of Chapter 44, as so appearing is hereby amended by adding the following paragraph:—

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

56 SECTION 7. Chapter 167 of the General Laws, as appearing in the 2016 Official Edition, 57 is hereby amended by adding after section 51 the following section:-58 Section 52. For the purpose of this section the following words shall, unless the context 59 clearly indicates otherwise, have the following meanings:-60 "Core processor", an entity, other than a financial institution, bank holding company, 61 mutual holding company or credit union service organization, that provides data processing for three or more of the following services to a financial institution: 62 63 1) Making and servicing loans 64 Opening new accounts 2) 65 3) Processing cash deposits and withdrawals Processing payments and checks 66 4) Managing customer accounts. 67 5) 68 6) Maintaining records for all the bank's transactions. 69 "Financial institution", a bank or federal bank as defined in section 1 or a federal credit 70 union as defined in section 1 of chapter 171. 71 The following unfair methods and unfair and unsafe acts or practices are hereby declared 72 to be unlawful. 73 (a) It shall be a violation of this section for a core processor in contracting with a

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financial institution:

1. To require contracts in excess of five years without a commitment to upgrade their products and services to meet safe and sound tenets of banking and compliance with state and federal requirements.

- 2. Failure to indemnify the financial institution from infringement claims arising out of software or technology products or services provided or licensed by the core processor.
- 3. To charge excessive or previously undisclosed fees or charges for a financial institution to obtain its own data including tapes of such data.
- 4. To charge termination penalties from a financial institution that is not the continuing entity upon consummation of a merger with another financial institution, including a merger with and into a financial institution that utilizes the same core processor, (a) that exceed the total of all non-extraordinary assessments for such products or services to such financial institution during the twelve months preceding the merger or combination, or (b) the financial institution terminating or cancelling such agreement has maintained an arrangement for core processing with such provider continuously for no less than six years preceding the merger or combination.
- 5. To perform abusive audits of existing contracts over extended retroactive periods upon notification by a financial institution that it will not to renew its contract with that core processor.
- 6. To act to accomplish, either directly or indirectly, through any parent company, subsidiary or agent, what would otherwise be prohibited under this section.
- 7. To coerce a financial institution to assent to a release, assignment, novation, waiver or estoppel that would prospectively relieve any person from liability imposed by this section.

- 95 (b) Any provision of a contract between a core processor and a financial institution or 96 practice thereunder in violation of this section shall be void and unenforceable.
 - (c) This section shall apply to all contracts between a core processor and a financial institution existing on or after the effective date of this chapter.

SECTION 8. Section 3 of chapter 167A of the General Laws, as so appearing, is hereby amended by striking out in lines 22 to 24, the words "section 2 shall not apply to the acquisition by a bank holding company, or a company or a banking institution which would become a bank holding company if" and inserting in place thereof the following words:- If the commissioner determines that the reciprocity, age of institution and deposit cap requirements of section 2 have been met then the other provisions of section 2 shall not apply to the acquisition by a bank holding company, or a company or a banking institution which would become a bank holding company; provided that".

SECTION 9. Said section 2 of said chapter 167H, as so appearing, is hereby further amended by adding the following subsection:-

- (d) The certificate of authority with a copy of the articles of organization for a subsidiary banking institution established pursuant to a reorganization under clause (2) of subsection (a) or clause (2) of subsection (b) shall be filed with the secretary of state.
- SECTION 10. The second paragraph of section 6 of said chapter 168 of the General Laws, as so appearing, is hereby amended by inserting, after the word "issue", in line 23, the following words:- unless such time is extended by the board. Said extension shall be limited to 1 occurrence subject to such terms and conditions as the board may impose.

SECTION 11. The second paragraph of section 25 of said chapter 168, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:-

The directors shall elect the treasurer and may elect or select any other officers as they determine.

SECTION 12. The second paragraph of section 6 of said chapter 170 of the General Laws, as so appearing, is hereby amended by inserting, after the word "issue", in line 24, the following words:- unless such time is extended by the board. Said extension shall be limited to 1 occurrence subject to such terms and conditions as the board may impose.

SECTION 13. The second paragraph of section 19 of said chapter 170, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:-

The directors shall elect the president, the vice-president or vice-presidents, treasurer and may elect or select any other officers as they determine.

SECTION 14. The second paragraph of section 6 of said chapter 172 of the General Laws, as so appearing, is hereby amended by inserting, after the word "issue", in line 23, the following words:- unless such time is extended by the board. Said extension shall be limited to 1 occurrence subject to such terms and conditions as the board may impose.

SECTION 15. The second paragraph of section 13 of said chapter 172, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:-

The directors shall elect the treasurer and may elect or select any other officers including an executive vice-president as they determine.

SECTION 16. Section 2 of chapter 183C of the General Laws, as so appearing, is hereby amended by striking out the definition of "High cost home mortgage loan" and inserting in place thereof the following definition:— "High cost home mortgage loan", a consumer credit transaction that is secured by the borrower's principal dwelling, other than a reverse mortgage transaction, with an annual percentage rate or fees which exceed the limitations set pursuant to regulations issued by the Commissioner of Banks which shall be no less protective than limitations set forth at 12 CFR 1026.32(a)(1).

SECTION 17. Said chapter 183C, as so appearing, is hereby further amended by striking out section 3 and inserting in place thereof the following section:—Section 3. A creditor may not make a high-cost home mortgage loan without first receiving certification from a counselor in accordance with the requirements pursuant to 209 CMR 32.34(1) or 12 CFR 1026.34(a)(5). A high cost home mortgage loan originated by a lender in violation of this section shall not be enforceable.

SECTION 18. Section 4 of said chapter 183C, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:— There shall be a presumption that the borrower is able to make the scheduled payments if, at the time the loan is made, the lender has complied with 209 CMR 32.43 or 12 CFR 1026.43 in determining the borrower's ability to repay.

SECTION 19. Section 6 of said chapter 183C, as so appearing, is hereby amended by striking out, in lines 2 and 3, the following words:—"greater than 5 per cent of the total loan amount or \$800, whichever is greater".

157

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