

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Wednesday, June 6, 2012.

Met according to adjournment at a quarter before one o'clock P.M. (Mr. Rosenberg in the Chair).

Distinguished Guests.

There being no objection, the President introduced, in the rear of the Chamber, Representative Harold Naughton, Jr. of Clinton. Representative Naughton had just returned from his second deployment. The Senate thanked him for his service to the country, welcomed him with applause and he withdrew from the Chamber.

Petitions.

By Mr. Downing presented a petition (accompanied by bill, Senate, No.2291) of Benjamin B. Downing and Paul W. Mark (by vote of the town) for legislation to authorize the town of Becket to establish a speed regulation on Fred Snow Road and Johnson Road [Local approval received];

Under Senate Rule 20, referred to the committee on Transportation.

Report of a Committee.

By Mr. McGee, for the committee on Transportation, on Senate, Nos. 1730, 1733, 1792, 1793, 1997, 1805 and 2041, an Order relative to authorizing the joint committee on Transportation to make an investigation and study of certain current Senate documents relating to transportation matters (Senate, No. 2290);

Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently

There being no objection, at fourteen minutes before one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess for the purposes of attending the Joint Session of the Two Houses.

At one o'clock P.M., the two Houses met in

IN JOINT SESSION.

and were called to order by the Honorable Therese Murray, President of the Senate.

Without action on the matters duly and constitutionally assigned for consideration, on motion of Mr. Rosenberg, at one minute past one o'clock P.M., the convention of the two branches was dissolved; and the Senate withdrew from the Joint Session, under the escort of the Sergeant-at-Arms.

At two minutes past two o'clock P.M., the Senate reassembled, the President in the Chair.

The President, members, guests and staff then recited the pledge of allegiance to the flag.

PAPERS FROM THE HOUSE

Engrossed Bills.

The following engrossed bills (the first three of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Authorizing the town of Plymouth to make improvements on unaccepted roads (see Senate, No. 1049);
Authorizing the town of Plymouth to establish an other post-employment benefits fund (see Senate, No. 2030);
Amending the charter of the town of Bourne (see Senate, No. 2114, amended); and
Authorizing the appointment of Sean C. Lewis, Sr. as a firefighter in the town of North Andover notwithstanding the maximum age requirement (see House, No. 3593).

Resolutions.

The following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:-
Resolutions (filed by Mr. Joyce) "congratulating the residents of the town of Milton on the occasion of the three hundred and fiftieth anniversary of its founding".

Report of Committees.

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of William N. Brownsberger for legislation to authorize the lease of the Daly field complex located in the Brighton section of the city of Boston.

Senate Rule 36 was suspended, on motion of Mr. Brownsberger, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on State Administration and Regulatory Oversight.

Sent to the House for concurrence.

Order Adopted.

Mr. McGee offered the following order, to wit:

Ordered that the Committee on Transportation be granted until Friday June 29, 2012 within which to make its final report on included Senate documents numbered 1746 and 1804 relative to transportation matters.

Under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. McGee, and, after remarks, the order was considered forthwith and adopted.

Sent to the House for concurrence.

Mr. McGee offered the following order, to wit:

Ordered that the Committee on Transportation be granted until Friday June 29, 2012 within which to make its final report on included Senate document numbered 1746 relative to transportation matters.

Under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. McGee, and, after remarks, the order was considered forthwith and adopted.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE

Orders Adopted.

The following House Orders (approved by the committees on Rules of the two branches, acting concurrently) were considered forthwith and, after remarks, were adopted in concurrence, as follows:

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Consumer Protection and Professional Licensure shall be granted until Thursday, June 28, 2012, within which to report on current House documents numbered H102, H116, H1004, H1016, H1029, H1850, H1883, H1893, H3404, H3405, H3498, H3677, H3760 and H3851.

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on the Judiciary shall be granted until Friday, June 8, 2012, within which to report on current House documents numbered H4055, H4057, H4068 and H4069.

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on the Judiciary shall be granted until Friday, June 8, 2012, within which to report on current House documents numbered H9, H11, H9, H11, H23, H24, H27, H28, H29, H30, H31, H40, H41, H42, H382, H389, H390, H391, H392, H393, H394, H395, H396, H397, H398, H399, H400, H401, H402, H403, H404, H405, H406, H407, H408, H409, H410, H411, H412, H413, H414, H415, H416, H417, H418, H419, H420, H421, H422,

H423, H424, H425, H426, H427, H428, H429, H430, H431, H432, H433, H434, H435, H436, H437, H438, H439, H440, H441, H442, H443, H444, H445, H446, H447, H448, H449, H450, H451, H452, H453, H454, H455, H456, H457, H458, H459, H460, H461, H462, H463, H464, H465, H466, H467, H468, H470, H471, H472, H473, H474, H475, H476, H477, H478, H479, H480, H481, H482, H483, H484, H485, H486, H487, H488, H489, H490, H491, H492, H493, H494, H495, H496, H497, H498, H499, H500, H501, H503, H504, H505, H506, H507, H508, H509, H510, H512, H513, H514, H515, H516, H518, H519, H520, H521, H522, H524, H525, H526, H527, H528, H1274, H1275, H1276, H1278, H1279, H1280, H1281, H1282, H1283, H1284, H1285, H1286, H1287, H1288, H1289, H1290, H1291, H1292, H1295, H1296, H1297, H1298, H1299, H1300, H1301, H1302, H1303, H1304, H1305, H1306, H1307, H1308, H1309, H1310, H1311, H1312, H1313, H1314, H1315, H1316, H1317, H1318, H1320, H1321, H1322, H1323, H1324, H1325, H1326, H1327, H1328, H1329, H1330, H1331, H1332, H1333, H1334, H1335, H1336, H1337, H1338, H1339, H1340, H1341, H1342, H1343, H1344, H1345, H1346, H1347, H1348, H1349, H1350, H1351, H1352, H1353, H1354, H1355, H1356, H1357, H1358, H1359, H1360, H1361, H1362, H1363, H1364, H1365, H1366, H1367, H1368, H1369, H1370, H1371, H1372, H1373, H1374, H1375, H1376, H1377, H1378, H1379, H1380, H1381, H1382, H1383, H1384, H1385, H1386, H1388, H1389, H1390, H1395, H1836, H1837, H1838, H2132, H2133, H2134, H2135, H2136, H2137, H2138, H2140, H2141, H2142, H2143, H2144, H2145, H2146, H2147, H2148, H2149, H2150, H2151, H2152, H2153, H2154, H2155, H2156, H2157, H2158, H2159, H2160, H2161, H2162, H2163, H2164, H2166, H2167, H2168, H2169, H2170, H2171, H2172, H2173, H2174, H2175, H2176, H2177, H2178, H2179, H2180, H2181, H2182, H2183, H2184, H2185, H2186, H2187, H2188, H2189, H2190, H2191, H2192, H2193, H2194, H2195, H2196, H2197, H2198, H2199, H2200, H2201, H2202, H2203, H2204, H2205, H2206, H2207, H2208, H2209, H2210, H2211, H2212, H2213, H2214, H2215, H2216, H2217, H2218, H2219, H2221, H2222, H2223, H2224, H2225, H2226, H2227, H2228, H2229, H2230, H2231, H2232, H2233, H2234, H2235, H2236, H2237, H2238, H2239, H2240, H2241, H2242, H2243, H2244, H2245, H2246, H2247, H2248, H2249, H2250, H2251, H2252, H2253, H2254, H2255, H2257, H2258, H2259, H2260, H2262, H2264, H2265, H2266, H2267, H2268, H2269, H2270, H2271, H2272, H2273, H2274, H2275, H2276, H2277, H2278, H2279, H2280, H2281, H2282, H2283, H2284, H2285, H2684, H2793, H2795, H2796, H2797, H2798, H2799, H2800, H2801, H2802, H2803, H2804, H2805, H2806, H2807, H2808, H2809, H2810, H2811, H2812, H2813, H2814, H2815, H2816, H2817, H2818, H2819, H2820, H2821, H2822, H2823, H2824, H2825, H2826, H2827, H2828, H2829, H2830, H2831, H2832, H2833, H2834, H2835, H2836, H2837, H2838, H2839, H2840, H2841, H2842, H2843, H2844, H2845, H2846, H2847, H2851, H2852, H2853, H2854, H2855, H2856, H2857, H2858, H2859, H2860, H2861, H2862, H2863, H2864, H2865, H2866, H2867, H3137, H3138, H3139, H3140, H3141, H3142, H3144, H3145, H3146, H3147, H3148, H3149, H3150, H3151, H3152, H3153, H3154, H3155, H3156, H3157, H3229, H3230, H3279, H3280, H3281, H3282, H3283, H3284, H3285, H3286, H3287, H3288, H3289, H3290, H3291, H3292, H3330, H3340, H3358, H3359, H3360, H3361, H3362, H3385, H3441, H3471, H3516, H3518, H3545, H3559, H3569, H3587, H3631, H3636, H3681, H3682, H3729, H3739, H3743, H3744, H3765, H3766, H3768, H3840, H3884, H3905, H3913, H3934, H3977, H3978, H3987, H4004 and H4050.

Message from the Governor — *Disapprovals in Supplemental Appropriations Bill.*

A message from His Excellency the Governor, returning, with his disapproval of certain sections contained in the engrossed Bill making appropriations for the fiscal year 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4079, amended), which on Thursday, May 5, 2012, had been laid before the Governor for his approbation,— **came from the House, in part, several sections having been passed by the House notwithstanding the disapproval of the Governor.**

The message (House, No. 4086) was read; and the Senate proceeded to reconsider several sections, which had been disapproved in accordance with the provisions of the Constitution.

Section 3 (Gaming Commission) was considered as follows:

“SECTION 3. The first sentence of subsection (l) of section 3 of chapter 23K of the General Laws, as appearing in section 16 of chapter 194 of the acts of 2011, is hereby amended by striking out the words ‘commission may’ and inserting in place thereof the following words:- ‘commission shall’.”

[The Governor disapproved this section.]

After debate, the question on passing Section 3, in concurrence, the disapproval of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-nine minutes past two o’clock P.M., as follows, to wit (*yeas 36 — nays 1*) **[Yeas and Nays No. 223]:**

YEAS

Berry, Frederick E. Keenan, John F.
 Brewer, Stephen M. Kennedy, Thomas P.
 Brownsberger. William N. Knapik, Michael R.
 Candaras, Gale D. McGee, Thomas M.
 Chandler, Harriette L. Montigny, Mark C.
 Chang-Diaz, Sonia Moore, Michael O.
 Clark, Katherine M. Moore, Richard T.
 DiDomenico, Sal N. Pacheco, Marc R.
 Donnelly, Kenneth J. Petrucci, Anthony
 Donoghue, Eileen M. Rodrigues, Michael J.
 Downing, Benjamin B. Rosenberg, Stanley C.
 Eldridge, James B. Ross, Richard J.

Fargo, Susan C. Rush, Michael F.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.
Hedlund, Robert L. Timilty, James E.
Jehlen, Patricia D. Welch, James T.
Joyce, Brian A. Wolf, Daniel A. — 36.

NAYS — 0.

Creem, Cynthia Stone. — 1

ABSENT OR NOT VOTING

Hart, John A., Jr. — 1

The yeas and nays having been completed at twenty-seven minutes before three o'clock P.M., Section 3 stands, in concurrence, notwithstanding the disapproval of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Section 4 (Gaming Commission) was considered as follows:

“SECTION 4. Said first sentence of said subsection (l) of said section 3 of said chapter 23K, as so appearing, is hereby further amended by inserting after the word “credit” the following words:- and background.”

[Governor having disapproved this section.]

After remarks, the question on passing Section 4, in concurrence, the disapproval of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at twenty-five minutes before three o'clock P.M., as follows, to wit (*yeas 36 — nays 1*) **[Yeas and Nays No. 224]:**

YEAS

Berry, Frederick E. Keenan, John F.
Brewer, Stephen M. Kennedy, Thomas P.
Brownsberger. William N. Knapik, Michael R.
Candaras, Gale D. McGee, Thomas M.
Chandler, Harriette L. Montigny, Mark C.
Chang-Diaz, Sonia Moore, Michael O.
Clark, Katherine M. Moore, Richard T.
DiDomenico, Sal N. Pacheco, Marc R.
Donnelly, Kenneth J. Petrucci, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Ross, Richard J.
Fargo, Susan C. Rush, Michael F.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.
Hedlund, Robert L. Timilty, James E.
Jehlen, Patricia D. Welch, James T.
Joyce, Brian A. Wolf, Daniel A. — 36.

NAYS — 0.

Creem, Cynthia Stone. — 1

ABSENT OR NOT VOTING

Hart, John A., Jr. — 1

The yeas and nays having been completed at twenty-two minutes before three o'clock P.M., Section 4 stands, in concurrence, notwithstanding the disapproval of His Excellency the Governor, two-thirds of the members present and voting having approved the same

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Authorizing the town of Natick to allow a lease for the former East School (House, No. 3332);

Authorizing the town of Natick to lease certain town-owned property (House, No. 3870); and

Authorizing the town of Natick to lease certain town-owned property (House, No. 3871);

Were severally read a second time and ordered to a third reading.

The House Bill making appropriations for the fiscal year 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4144),- **was read a second time.**

The pending amendment, previously recommended by the committee on Ways and Means, that the bill be amended in section 35, by striking out, in line 460, the words "or dental"; in section 36, by striking out, in line 463, the words "or dental"; in section 40, by striking out, in line 480, the words "or dental"; in section 41, by striking out, in line 486, the words "or dental"; in section 42, by inserting after the word "or", in line 490; the following words:- "stand alone"; in section 44, by inserting after the word "or", in line 504; the following words:- "stand alone"; in said section 44, by striking out, in line 506, the words "or dental"; by inserting after section 46 the following section:-

"SECTION 46A. Item 0900-0100 of section 2 of chapter 68 of the acts of 2011 is hereby amended by adding the following words:- ; and provided further that any funds remaining in this item on June 30, 2012 shall not revert and shall be available for expenditure by this item until June, 30 2013"; and by striking out sections 63 to 69, inclusive, and section 71,-- was considered and it was adopted.

After remarks, Mr. Montigny moved that the bill be amended in section 45, by inserting after the words "regional justice center", the following: "; provided further, that said courthouse master plan shall be completed on or before May 1, 2013".

The amendment was adopted.

Ms. Chang-Diaz moved that the bill be amended by inserting, after section 71, the following new section:-

"SECTION 72. Section 2A of Chapter 312 of the Acts of 2008 is hereby amended, in line item 2840-7014, after the word 'Walpole,' by striking out the text 'provided further, that not less than \$5,659,000 shall be expended for construction of a permanent ice skating rink in Jamaica Plain;' and inserting in place thereof the following new text:- 'provided further, that not less than \$5,659,000 shall be expended for construction of a permanent ice skating rink and recreation center in the Jackson Square section of Roxbury and Jamaica Plain and that these funds will be provided to the developer designated by the City of Boston through the selection process initiated in July 2004 and following approval of the project through the City of Boston's Article 80 process, which approval was granted on June 16, 2011 and documented in the approved Memorandum to the Boston Redevelopment Authority of the same date;'"

After remarks, the amendment was adopted.

Mr. Timilty moved that the bill be amended by adding at the end thereof the following new section:-

"SECTION X. Notwithstanding any general or special law to the contrary, the Department of Public Health shall be prohibited from raising licensing fees for food vending machines without the approval of the Legislature."

After debate, the amendment was *rejected*.

Mr. Berry moved that the bill be amended by inserting after section 44, the following 4 sections: -

"SECTION 44A. Section 277 of chapter 60 of the acts of 1994 is hereby amended by striking out, in lines 2, 3, 7, 13, 16, 23, 25, 26, 34, 43, 48, 53, 119, 121, 126, 129, 132, 133, 135, 140, 206 and 209 the word 'college' and inserting in place thereof, in each instance, the word 'university'.

SECTION 44B. Subsection (b) of said section 277 of said chapter 60 is hereby amended by inserting after the definition of 'educational institution' the following definition: -

'Enterprise center', the enterprise center at Salem state university, a small business growth center which attracts and retains small and growing businesses and offers a wide range of workshops and educational programs for entrepreneurs, owners of small and growing businesses and managers of non-profit organizations and provides office and light manufacturing space and related facilities.

SECTION 44C. Said subsection (b) of said section 277 of said chapter 60 is hereby further amended by striking out the definition of 'site' and inserting in place thereof the following definition:-

'Site', the 37.5 acre site, within the city of Salem, which was formerly the site of the GTE/Sylvania plant, located proximately between the north and south campuses of Salem state university and such other properties, including land and buildings thereon, that are determined by the corporation to be important in allowing the corporation to fulfill its purposes under paragraph (5) of subsection (c).

SECTION 44D. Subsection (c) of said section 277 of said chapter 60 is hereby amended by striking out paragraph (5) and inserting in its place the following paragraph: -

(5) The purposes of the corporation shall be to (i) promote the orderly growth and development of the university; (ii) to assist the university in securing physical and financial resources necessary for the acquisition and development of the site; and (iii) to manage and operate the enterprise center."

The amendment was adopted.

Mr. Rush moved that the bill be amended in section 48 by adding at the end thereof the following:

"Provided further, that the Executive Office of Health and Human Services, the Executive Office for Administration and Finance, and the Department of Veterans' Services in consultation with the Federal Veterans Administration shall issue a comprehensive report to the Legislature on the projected future standing of the Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke. Said report shall include, but is not limited to: the number of veterans being served and costs associated with said service; a detailed five-year and ten-year master plan for capital facility improvements and expansion; a strategic plan to maximize unused Federal Per Diems under current VA apportionment guidelines; potential reorganization and restructuring of

said Soldiers' Homes to maximize state funding to said facilities. Said report shall be filed with the Joint Committee on Veterans and Federal Affairs and the Senate and House Committees on Ways and Means by no later than March 1, 2013".

The amendment was *rejected*.

Mr. Donnelly moved that the bill be amended by inserting at the end thereof the following new section:-

"Section XX. Item 8900-0001 of section 2 of said chapter 68 is hereby amended by adding the following words:- Provided further, that the department shall expend not less than \$2,000,000 for cities and towns hosting county correctional facilities; provided further, that of such \$2,000,000, no city or town hosting a county correctional facility shall receive more than \$500,000."; and in said section 2 of said chapter 68 by striking the figure "\$509,360,246" and inserting in place thereof the following figure:- \$511,360,246.

The amendment was *rejected*.

Mr. Tarr moved that the bill be amended in section 2 by inserting after item __ the following new item:-

"8800-0085 For services and costs associated with the repair of Mill Pond Dam in Rockport.....\$300,000"

The amendment was adopted.

Mr. Tarr moved that the bill be amended in section 28 by inserting after the word "section", in line 406, the following words:- "; provided, however, that before a waiver is sought or a Transitional Reinsurance Program is to be implemented, the commissioner shall provide a report on the decision and the details of any program to the clerks of the senate and house of representatives and the senate and house committee on ways and means."; and in Section 39 by inserting after the term "18063", in line 476, the following words:- "; provided, however, that not later than 30 days before a risk adjustment program is established the board shall provide a report of the program to the clerks of the senate and house of representatives, the senate and house committee on ways and means and the joint committee on health care financing".

After remarks, the amendment was adopted.

Mr. Hart moved that the bill be amended by inserting the following at the end:- "provided further, that the executive office shall make a supplemental payment to the fiscal year 2012 PAPE rate paid to federally qualified health centers in the southern section of the city of Boston operating under the license of a disproportionate share teaching hospital in Suffolk County to pay an overall reimbursement rate not less than the Medicaid rate paid to independent federally qualified health centers".

The amendment was *rejected*.

Messrs. Richard T. Moore and Montigny moved that the bill be amended by inserting at the end thereof the following new section:-

"SECTION __. Notwithstanding any general or special law to the contrary, not less than \$500,000 of any of the unexpended and unencumbered balances of appropriations on June 30, 2012, shall be made available to municipalities and school districts, including regional school districts, in the form of fifty percent matching grants administered by the executive office of public safety and homeland security for the purchase of automatic external defibrillators for use in schools, senior centers, or senior housing complexes, provided further, that grants may include matching funds for training in the use of such equipment and cardio-pulmonary resuscitation, CPR; and provided further, that local matching funds may be provided through the municipality or school district by local appropriation, or donations from non-profit organizations, or individual, corporate or foundation gifts. Nothing contained herein shall limit the ability of said Executive Office to obtain the equipment through a bulk purchase arrangement to maximize the number of grants that may be made through these funds. Any funds distributed under this section shall be considered one-time grant funding, and shall in no way constitute a new and continuing funding source for cities and towns."

The amendment was *rejected*.

Mr. Richard T. Moore moved that the bill be amended by inserting at the end thereof the following new section:-

"SECTION __. Section 58 of chapter 31 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting in line 24, after the word 'examination', the following:- ' ; provided, however, that an applicant who was not twenty-one on or before the date of an original examination but has since reached his twenty-first birthday while serving on active military duty shall be eligible for any subsequent make up examination that is offered'."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at eleven minutes past three o'clock P.M., on motion of Ms. Tarr, as follows, to wit (yeas 39 – nays 0) [Yeas and Nays No. 225]:

YEAS

Berry, Frederick E. Joyce, Brian A.

Brewer, Stephen M. Keenan, John F.

Brownsberger, William N. Kennedy, Thomas P.

Candaras, Gale D. Knapik, Michael R.

Chandler, Harriette L. McGee, Thomas M.

Chang-Diaz, Sonia Montigny, Mark C.

Clark, Katherine M. Moore, Michael O.

Creem, Cynthia Stone Moore, Richard T.
DiDomenico, Sal N. Murray, Therese
Donnelly, Kenneth J. Pacheco, Marc R.
Donoghue, Eileen M. Petruccelli, Anthony
Downing, Benjamin B. Rodrigues, Michael J.
Eldridge, James B. Rosenberg, Stanley C.
Fargo, Susan C. Ross, Richard J.
Finegold, Barry R. Rush, Michael F.
Flanagan, Jennifer L. Spilka, Karen E.
Hart, John A., Jr. Tarr, Bruce E.
Hedlund, Robert L. Timilty, James E
Jehlen, Patricia D. Welch, James T.
Wolf, Daniel A. — 39.
NAYS — 0.

The yeas and nays having been completed at fourteen minutes past three o'clock P.M., the amendment was adopted.

Mr. Hart moved that the bill be amended by inserting the following at the end:- “provided further, that the executive office shall pay an overall reimbursement rate for all primary and ancillary services received on the same day by a Mass Health or Commonwealth Care patient at a federally qualified health center in the southern section of the city of Boston operating under the license of a disproportionate share teaching hospital in Suffolk County by having an above or add-on incentive rate that is case based and encompasses multiple encounters in a day”.

The amendment was *rejected*.

Mr. Brewer moved that the bill be amended in section 19, in line 328, by striking out the word “and” and inserting in place thereof the following word:- “or”; by inserting after section 41 the following section:-

“SECTION 41A. Said section 5 of said chapter 176Q, as so appearing, is hereby further amended by striking out, in line 11, the word ‘Plans’ and inserting in place thereof the following words:- ‘Health plans’; in section 53, in line 583, by striking out the words ‘May 15, 2012’ and inserting in place thereof the following words:- ‘June 30, 2012’.”; and by inserting after section 71 the following section:-

“SECTION 72. Section 13 shall take effect on October 1, 2012.”.

The amendment was adopted.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments.

The House Bill preventing unlawful and unnecessary foreclosures (House, No. 4096) (having been placed at the end of the calendar),-- **was read a second time, the main question being on ordering the bill to a third reading, with the Ways and Means new text (Senate, No. 2287) pending.**

Ms. Spilka moved that the proposed new text be amended in section 2, by striking out, in line 88, the figure “2” and inserting in place thereof the following figure:- “3”; in said section 2, by striking out, in line 202, the words “35A or (iv) the borrower’s intent to waive the right to cure period and proceed to foreclosure” and inserting in place thereof the following words:- “35A, (iv) the borrower’s intent to waive the right to cure period and proceed to foreclosure or (v) the borrower’s intent to participate in the Massachusetts foreclosure mediation program under section 35D”; and in said section 2, by adding the following section:-
“Section 35D.

(a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-
‘Borrower’, a mortgagor of a mortgage loan.

‘Creditor’, a person or entity that holds or controls, partially, wholly, indirectly, directly or in a nominee capacity, a mortgage loan securing an owner-occupied residential property, including, but not limited to, an originator, holder, investor, assignee, successor, trust, trustee, nominee holder, mortgage electronic registration system or mortgage servicer, including the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; provided, that “creditor” shall also include any servant, employee or agent of a creditor.

‘Creditor’s representative’, a person who has the authority to negotiate and approve the terms of and modify a mortgage loan, under a servicing agreement.

‘Modified mortgage loan’, a mortgage modified from its original terms including, but not limited to, a loan modified under 1 of the following: (i) the Home Affordable Modification Program (ii) the Federal Deposit Insurance Corporation’s Loan Modification Program, (iii) any modification program that a lender uses which is based on accepted principles and the safety and soundness of the institution and authorized by the National Credit Union Administration, the division of banks or any other instrumentality of the commonwealth, (iv) the Federal Housing Administration or (v) a similar federal loan modification plan.

‘Mortgage loan’, a loan to a natural person made primarily for personal, family or household purposes secured wholly or partially by a mortgage on residential property.

‘Net present value’, the present net value of a residential property based on a calculation using 1 of the following: (i) the federal home affordable modification program base net present value model, (ii) the Federal Deposit Insurance Corporation’s loan

modification program, (iii) the Massachusetts Housing Finance Agency's loan program used solely by the agency to compare the expected economic outcome of a loan with or without a modified mortgage loan or (iv) any model approved by the division of banks to consider the total present value of a series of future cash flows relative to a mortgage loan.

'Residential property', real property located in the commonwealth, on which there is a dwelling house with accommodations for 4 or fewer separate households and occupied, or to be occupied, in whole or in part by the obligor on the mortgage debt; provided, however, that residential property shall be limited to the principal residence of a person; provided, further, that residential property shall not include an investment property or residence other than a primary residence; provided, further, that residential property shall not include residential property taken in whole or in part as collateral for a commercial loan.

(b) There shall be a Massachusetts foreclosure mediation program administered by the Massachusetts office of public collaboration at the University of Massachusetts at Boston.

(c) A creditor shall, concurrently with the notice sent to the borrower of residential property under section 35A, give notice to the borrower of the borrower's right to participate in the Massachusetts foreclosure mediation program by attaching to the right to cure default notice (i) notice of the availability of foreclosure mediation, in such form as the office of public collaboration prescribes and (ii) a foreclosure mediation request form, in such form as the office of public collaboration prescribes. The notice shall include a declaration in the 5 most common languages other than English, appearing on the first page and stating: 'This is an important notice regarding a possible foreclosure on your home. Have it translated immediately.'

A borrower may request foreclosure mediation by submitting the foreclosure mediation request form to the creditor not more than 30 days after receipt of the notice.

(d) An in-person mediation session shall be conducted by a neutral third-party mediator between the borrower, the borrower's representative or housing counselor and the creditor's representative, who shall have the authority to negotiate an alternative to foreclosure, including, but not limited to, (i) a modified mortgage loan, (ii) a reduction in principal, (iii) a reduction in interest rate or (iv) an increase in the amortization period of the mortgage loan; provided, however, that an alternative form of meeting may be mutually agreed upon by the mortgagor, the mortgagee and the mediator. As early as possible, but not later than 5 days before the scheduled mediation, the creditor shall provide proof of ownership, a written net present value analysis and the creditor's anticipated net recovery at foreclosure to the borrower and the Massachusetts foreclosure mediation program. When required, the creditor shall bring additional documents supporting the net present value analysis to the mediation session. If the initial mediation does not result in an agreement, the parties may agree to a second mediation session. If mediation results in an agreement, the borrower shall have not less than 7 days to review and sign the mediation agreement and return it to the Massachusetts foreclosure mediation program and the creditor. Not later than 5 days after the mediation session is complete, the mediator shall write a report setting forth the result of the mediation and send a copy of the report to the borrower and the creditor. The mediation period shall conclude not more than 120 days after the borrower elects to participate in mediation. The right to foreclosure mediation under this section shall be granted once during any 3-year period, regardless of the mortgage holder.

(e) If the borrower does not elect to participate in mediation and does not pursue a modified mortgage loan under section 35B, if eligible, foreclosure may proceed under this chapter. If a borrower elects to participate in the Massachusetts foreclosure mediation program, a creditor shall not accelerate the note or otherwise initiate foreclosure proceedings unless the mediator has certified that the creditor participated in the Massachusetts foreclosure mediation program and engaged in mediation in good faith, made all reasonable efforts to find an alternative to foreclosure and any agreement is in full compliance with all state and federal guidelines.

(f) Any costs necessary to establish and operate the Massachusetts foreclosure mediation program shall be borne by the parties to the mediation under the guidelines developed under subsection (g) and by a \$50 surcharge on the filing fee for foreclosure complaints filed under the Servicemembers Civil Relief Act. A borrower's portion of the mediation fee shall not exceed 15 per cent of the total cost of the mediation. A borrower's inability to pay for mediation shall not be a bar to participation in the Massachusetts foreclosure mediation program.

(g) The Massachusetts office of public collaboration shall develop guidelines for the mediation process, subject to approval by the attorney general.

(h) The borrower's or creditor's rights or defenses in the foreclosure action are not waived by participating in the foreclosure mediation program.

(i) Nothing in this section shall require a creditor to modify a mortgage or change the terms of payment of a mortgage."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-four minutes before five o'clock P.M., on motion of Ms. Chandler, as follows, to wit (*yeas 31 – nays 3*) [**Yeas and Nays No. 226**]:

YEAS.

Brewer, Stephen M. Joyce, Brian A.

Brownsberger, William N. Keenan, John F.

Candaras, Gale D. Kennedy, Thomas P.

Chandler, Harriette L. McGee, Thomas M.

Chang-Diaz, Sonia Montigny, Mark C.

Clark, Katherine M. Moore, Michael O.

Creem, Cynthia Stone Moore, Richard T.
 DiDomenico, Sal N. Pacheco, Marc R.
 Donnelly, Kenneth J. Petruccelli, Anthony
 Donoghue, Eileen M. Rodrigues, Michael J.
 Downing, Benjamin B. Rosenberg, Stanley C.
 Eldridge, James B. Rush, Michael F
 Fargo, Susan C. Spilka, Karen E.
 Flanagan, Jennifer L. Timilty, James E.
 Hart, John A., Jr. Welch, James T.— **31**.
 Jehlen, Patricia D.

NAYS — 0.

Hedlund, Robert L. Tarr, Bruce E.— **3**
 Knapik, Michael R.

ANSWERED “PRESENT”.

Finegold, Barry R. Wolf, Daniel A.
 Ross, Richard J.

ABSENT OR NOT VOTING

Berry, Frederick E.—

1.

The yeas and nays having been completed at twenty-one minutes before five o’clock P.M., the amendment was adopted.

Mr. Michael O. Moore and Ms. Chandler moved that the proposed new text be amended by inserting after section ____, the following new section:-

"SECTION _____. Not later than 10 days after the start of fiscal year 2013, the comptroller shall transfer \$9,000,000 from the General Fund to the Affordable Housing Trust Fund established by chapter 121D of the General Laws, and said funds shall be used by department of housing and community development as grants or loans for foreclosed property acquisition and rehabilitation, and related property inspection and improvements to local infrastructure that help promote neighborhood stabilization activities in areas that have high numbers of foreclosed and distressed properties, provided that loans and grants may be administered by the department through contracts with the Massachusetts Housing Partnership Fund established in section 35 of chapter 405 of the acts of 1985, as amended, and through the Neighborhood Stabilization Loan Fund, and provided further that notwithstanding section 3 of chapter 121D of the General Laws, the department may employ affordability restrictions consistent with federal Neighborhood Stabilization Program created pursuant to Division B, Title II of the Housing and Economic Recovery Act of 2008 and the American Recovery and Reinvestment Act of 2009."

The amendment was *rejected*.

Ms. Creem moved that the proposed new text be amended in section 2, by adding after the word “chapter”, in line 258, the following words:- “and the arm’s-length third party purchaser for value relying on such affidavit shall not be liable for any failure of the foreclosing party to so comply and title to the real property thereby acquired shall not on account of such failure be set aside”.

The amendment was adopted.

Mr. Joyce moved that the proposed new text be amended by inserting after section 4 the following section:-

“Section ___. Section 13 of chapter 258 of the acts of 2010, as so appearing, is hereby amended by striking out the figure ‘2012’ and inserting in place thereof the following figure: - 2014.”

The amendment was adopted.

Messrs. Tarr and Knapik moved that the proposed new text be amended in section 2 by striking out, in line 125, clause (v), and inserting in place thereof the following:-

“(v) or a similar loss mitigation program approved by a federal banking agency or the Consumer Financial Protection Bureau, or in accordance with the loss mitigation provisions contained in the national mortgage settlement filed with the District Court of the District of Columbia on April 4, 2012.”

The amendment was *rejected*.

Mr. Timilty moved that the proposed new text be amended in line 125 by inserting after the word “plan” the following:-

“(vi) a similar loss mitigation program approved by a federal banking agency or the Consumer Financial Protection Bureau, or in accordance with the loss mitigation provisions contained in the national mortgage settlement filed with the District Court of the

District of Columbia on April 4, 2012.”
The amendment was *rejected*.

Mr. Keenan moved that the proposed new text be amended in section 2, by inserting after the words “creditor’s representative”, in line 216, the following words:-“; provided, that the creditor shall not assign more than 2 creditor’s representatives responsible for negotiating and approving the terms of and modifying the mortgage loan”.

The amendment was adopted.

Mr. Keenan moved that the proposed new text be amended in section 2 by adding the following language:-

“(i) The division of banks shall adopt regulations requiring mortgage brokers or mortgage servicers to create, operate and maintain secure websites that allow mortgagees, borrowers, or those who have applied for mortgages or mortgage modifications to monitor the status of their mortgage or mortgage modification applications. The websites shall allow mortgagees, borrowers, or those who have applied for mortgages or mortgage modifications to securely submit any and all required documentation online. The websites shall provide unique confirmation tracking numbers for any documentation submitted online.”

The amendment was *rejected*.

Mr. Tarr moved that the proposed new text be amended by inserting after the word “foreclosure” in line 203, the following words:- “(iv) the borrower’s preference of potentially entering into a mediation process with the creditor; provided, however, that the borrower acknowledges the borrower may be subject to some of the costs of mediation”.

The amendment was *rejected*.

Mr. Tarr moved to amend the proposed new text by inserting after section __, the following new section:-

“The Attorney General, in consultation with the Division of Banks and the Trial Court, shall study the feasibility of requiring mediation as a means of foreclosure prevention. The results of this study, along with any recommendations for legislative action, shall be filed with the clerk of the house of representatives and the clerk of the senate within 180 days of the passage of this act.”

The amendment was *rejected*.

Messrs. Tarr and Knapik moved that the proposed new text be amended by inserting, after section 2, the following new section:-
“SECTION 2A. Chapter 244 of the General Laws is hereby amended by striking subsections (b), (d) and (e) of section 35A and inserting in place thereof the following new subsections:-

(b) A mortgagor of residential property shall have a 90-day right to cure a default of a required payment as provided in the residential mortgage or note secured by the residential property by full payment of all amounts that are due without acceleration of the maturity of the unpaid balance of the mortgage; provided, however, that if, no more than 30 days following receipt of the notice as provided for in subsection (e), a borrower notifies a creditor of the borrower’s intent to (i) cure the default, (ii) pursue a loan modification, (iii) pursue an alternative to foreclosure, including short sale or deed in lieu, the borrower’s right to cure shall be extended automatically to 150 days from the date the notice was delivered. A borrower may also contact the creditor to waive the right to extend the right to cure period and voluntarily agree to vacate the property by agreement between the creditor and the borrower. A borrower shall be presumed to have notified the creditor if the borrower provides proof of delivery through the United States Postal Service or similar carrier. A borrower who fails to respond within 30 days to the notice provided for under subsection (e) shall be subject to a right-to-cure period lasting 90 days. The right to cure a default of a required payment shall be granted once during any 3 year period, regardless of mortgage holder.

(d) The mortgagee, or anyone holding thereunder, shall not accelerate maturity of the unpaid balance of such mortgage obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor’s failure to make any such payment in subsection (b) by any method authorized by this chapter or any other law until at least 90 days after the date a written notice is given by the mortgagee to the mortgagor; provided, however, that in the event a borrower notifies a creditor of the borrower’s intent to (i) cure the default, (ii) pursue a loan modification, (iii) pursue an alternative to foreclosure, including short sale or deed in lieu, or (iv) waive the right to extend the 90 day right to cure period and voluntarily agree to vacate the property by agreement between the creditor and the borrower, no mortgagee or anyone holding thereunder shall accelerate maturity of the unpaid balance of such mortgage obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor’s failure to make any such payment in subsection (b) by any method authorized by this chapter or any other law until at least 151 days after the date a written notice is given by the creditor to the mortgagor. Said notice shall be deemed to be delivered to the mortgagor: (i) when delivered by hand to the mortgagor; or (ii) when sent by first class mail and certified mail or similar service by a private carrier to the mortgagor at the mortgagor’s address last known to the mortgagee or anyone holding thereunder.

(e) The notice required in subsection (d) shall inform the mortgagor of the following:—

(1) the nature of the default claimed on such mortgage of residential real property and of the mortgagor’s right to cure the default by paying the sum of money required to cure the default;

(2) the date by which the mortgagor shall cure the default to avoid acceleration, a foreclosure or other action to seize the home, which date shall not be less than 90 days after service of the notice and the name, address and local or toll free telephone number of a person to whom the payment or tender shall be made;

(3) that the borrower has the right, within 30 days following receipt of the notice, to notify a creditor in writing of the borrower’s intent to pursue (i) a loan modification or (ii) an alternative to foreclosure, including short sale or deed in lieu, in which case the right to cure period shall be extended automatically to 150 days from the date the notice was delivered, or to waive the right to extend the 90 day cure period and voluntarily agree to vacate the property by agreement between the creditor and the borrower.

Failure to respond within 30 days to the notice subjects the borrower to a right-to-cure period lasting 90 days. The creditor shall include in its notice an address to which the borrower's response under this subsection must be sent;

(4) that, if the mortgagor does not cure the default by the date specified, the mortgagee, or anyone holding thereunder, may take steps to terminate the mortgagor's ownership in the property by a foreclosure proceeding or other action to seize the home;

(5) the name and address of the mortgagee, or anyone holding thereunder, and the telephone number of a representative of the mortgagee whom the mortgagor may contact if the mortgagor disagrees with the mortgagee's assertion that a default has occurred or the correctness of the mortgagee's calculation of the amount required to cure the default;

(6) the mailing address of the mortgagee to which the borrower must send any written response as required under paragraph (3);

(7) the name of any current and former mortgage broker or mortgage loan originator for such mortgage or note securing the residential property;

(8) that the mortgagor may be eligible for assistance from the Homeownership Preservation Foundation or other foreclosure counseling agency, and the local or toll free telephone numbers the mortgagor may call to request this assistance;

(9) that the mortgagor may sell the property prior to the foreclosure sale and use the proceeds to pay off the mortgage;

(10) that the mortgagor may redeem the property by paying the total amount due, prior to the foreclosure sale;

(11) that the mortgagor may be evicted from the home after a foreclosure sale; and

(12) the mortgagor may have the following additional rights, depending on the terms of the residential mortgage: (i) to refinance the obligation by obtaining a loan which would fully repay the residential mortgage debtor; and (ii) to voluntarily grant a deed to the residential mortgage lender in lieu of foreclosure.

The notice shall also include a declaration, in the language the creditor has regularly used in its communication with the borrower, appearing on the first page of the notice stating: 'This is an important notice concerning your right to live in your home. Have it translated at once.'

The division of banks shall adopt regulations in accordance with this subsection."

The amendment was *rejected*.

Mr. Keenan moved that the proposed new text be amended in section 2 by inserting, after the words "exceeds 45 years" as found in line 171, the following language:- "provided that the creditor shall have provided to the borrower during a good faith estimate detailing the actual costs of all principal and interest to be paid under said modification compared to the actual costs of all principal and interest to be paid under the existing mortgage;"

The amendment was adopted.

Mr. Keenan moved that the proposed new text be amended in section 1 by inserting, after the words "on such recital" as found in line 86, the following language:- "For the purposes of this section, mortgagee shall be defined as the entity that holds the note or other obligation secured by the mortgage, in addition to the holder of record of the mortgage."

The amendment was *rejected*.

Ms. Clark and Ms. Chang-Diaz moved that the proposed new text be amended in section 14, by inserting, in line 77, after the words "notice is mailed," the following words:- "a valid affidavit,"; by striking out, in lines 80-86, the following:- "The notice shall not be defective if any holder within the chain of assignments either changed its name or merged into another entity during the time it was the mortgage holder; provided, that recited within the body of the notice is the fact of any merger, consolidation, amendment, conversion or acquisition of assets causing the change in name or identity, the recital of which shall be conclusive in favor of any bona fide purchaser, mortgagee, lienholder or encumbrancer of value relying in good faith on such recital,"; by striking out, in lines 91-93, the following definition:- " 'Affordable monthly payment', a borrower's ability to make monthly payments on a mortgage loan, taking into account the borrower's current circumstances, including verifiable income, assets and obligations,"; by striking out, in lines 123-124, the following words:- "the division of banks or any other instrumentality of the commonwealth," and inserting in line 125, after the words "federal loan modification plan.", the following sentence:- "If a particular federal or state loan modification program applies to the loan, the creditor must, at a minimum, perform the net present value evaluation for the loan under the applicable federal or state modification program,"; by striking out, in lines 142-143, after the word "receivership" the following words:- "or proceedings in United States bankruptcy court,"; by striking out, in lines 144 and 163, the words "publish notice of a foreclosure sale, as required by section 14", and inserting in place thereof the following words:- "commence foreclosure"; by striking out, in lines 147-148, after the words "has considered:" the following:- "(i) an assessment of the borrower's ability to make an affordable monthly payment," , and inserting in place thereof the following:- "(i) an assessment of the borrower's current circumstances including, without limitation, the borrower's current income, total debts and obligations,"; by striking out, in lines 165-166, the following:- "(i) determines a borrower's current ability to make an affordable monthly payment," , and inserting in place thereof the following:- "(i) determines a borrower's current ability to make monthly payments, reasonably taking into account the borrower's current circumstances including income, debts and obligations,"; by inserting, in line 180, after the words "federal loan modification plan," the following sentence:- "If a particular federal or state loan modification program applies to the loan, the creditor must, at a minimum, perform the net present value evaluation for the loan under the applicable federal or state modification program,"; by striking out, in line 185, after the word "foreclosure" the following:- "or does not meet the borrower's affordable monthly payment,"; and by striking out, in line 187, after the word "analysis" the following:- "and the borrower's current ability to make monthly payments,"; by inserting, in line 191, after the word "loan" the following four paragraphs:-

"Said notice shall include a declaration in the five most common languages other than English, appearing on the first page and stating: 'This is an important notice regarding a possible foreclosure of your home. Have it translated immediately.'

Said notice shall also include the following language ‘You are being sent this loan modification offer because your loan has been identified as having certain predatory characteristics. This is because of a new Massachusetts Law. It requires lenders holding loans with these characteristics to compare their losses from a loan modification you can afford with how much they lose if they foreclose your mortgage. They must provide you an alternative to foreclosure if they would lose more by foreclosing your mortgage.

You must reply within 30 days of receipt of this notice to participate in this program; you must provide financial information as required. Your lender must respond in thirty days to your response. If you do not reply in time to meet this 30 day deadline or future deadlines specified in this process, your Right to Cure period may be shortened by as much as 60 days although you may still be eligible to apply for a loan modification not under this new law.

Keep proof of sending all materials in this process. If your lender claims not to have received them, your receipts of mailings is proof of compliance and may be used in legal action pre-or post foreclosure.”;

By striking out, in lines 202-203, the following:- “or (iv) the borrower’s intent to waive the right to cure period and proceed to foreclosure.”; by striking out, in lines 204-205, the following:- “provided for in this section shall” ; and inserting in place thereof the following:- “except for good cause”; by striking out, in lines 222-223 and 233-234, the following:- “waive the borrower’s rights as provided by this section and proceed to foreclosure.”; and inserting in place thereof the following:- “end the loan modification process.”; by inserting, in line 224, after the words “shall include” the following words:- “reasonable and applicable”; by striking out, in lines 248, the following:- “publishing a notice of a foreclosure sale, as required by section 14,” ; and inserting in place thereof the following:- “commencing foreclosure.”; by inserting, in line 252, after the words “this affidavit” the following words:- “concurrent with the filing in the Land Court under the Servicemembers Civil Relief Act”; by striking out, in lines 253-262, the following paragraph from section (f):- “the affidavit certifying compliance” through “purchaser’s heirs, successors and assigns.”; by striking out, in lines 270-273, after the words “under subsection (c)” the following:- “; provided, that, such regulations may include requirements for reasonable steps and good faith efforts of the creditor to avoid foreclosure and safe harbors for compliance in addition to those under this section. The division of banks shall make any available net present value models accessible to all creditors.”; by striking, in line 292, after the word “not” the following words:- “publish notice of foreclosure, under section 14”; and inserting in place thereof the following words:- “commence foreclosure”; and by striking, in lines 334-337, after the words “said chapter 244” the following:- “provided, that, such regulations may include requirements for reasonable steps and good faith efforts of the creditor to avoid foreclosure and safe harbors for compliance in addition to those under said section 35B of said chapter 244.”

The amendment was *rejected*.

Messrs. Tarr and Knapik moved that the proposed new text be amended by inserting, in line 93, after the word “and” the following words:- “monthly housing”; by striking out, in line 97, the word “with” and inserting in place thereof the following words:- “ , the original terms of which had”; by striking out, in line 99, the following words:- “for any period of time”; by striking out, in line 102, in subsection (iv), the following word:- “full”; by striking out, in lines 107-110, the following: “provided, however that a loan shall be a certain mortgage loan if, after the performance of reasonable due diligence, a creditor is unable to determine whether the loan has 1 or more of the loan features in clause (i) through (vii), inclusive” and by inserting in place thereof the following: “; provided, however that loans refinanced under the federal Home Affordable Refinance Program shall not be certain mortgage loans.”; by striking out, in line 125, (v) a similar federal loan modification plan.”, and inserting in place thereof the following:- “(v) a similar loss mitigation program approved by a federal banking agency or the Consumer Financial Protection Bureau, or in accordance with the loss mitigation provisions contained in the national mortgage settlement filed with the District Court of the District of Columbia on April 4, 2012.”; by inserting, after line 125, the following new definition: “‘Modified mortgage loan offer’, an offer by a creditor to a borrower to permanently or, on a trial basis, modify a mortgage from its original terms pursuant to this section.”;

By inserting, in line 134, after the word “loan”, the following words: “; provided, however, that the division of banks shall make any available net present value models accessible to all creditors”; by inserting, in line 182, after the words “the loan”, the following words: “or offer a trial modification”; by striking out, in lines 258-261, the following sentence: “The filing of such affidavit shall not relieve the affiant, or other person on whose behalf the affidavit is executed, from liability for failure to comply with this section, including by reason of any statement in the affidavit.” by striking out subsection (g) of the proposed section 35B of chapter 244; and by striking out sections 5, 6 and 7 and insert in place thereof the following section:

“SECTION 5: Section 2 shall take effect on October 1, 2012 and apply to all mortgages of residential real property located in the commonwealth consisting of a dwelling house with accommodations for 4 or less separate households and occupied in whole or in part by the mortgagor and which secures a loan before, on or after the effective date of this act.

Said Section 2 shall not apply to such mortgages accelerated or whose statutory condition has been voided under the terms of the mortgage to secure the note, prior to the effective date of this act; provided further, that Section 2 shall expire on December 31, 2015.”

The amendment was *rejected*.

Mr. Keenan moved that the proposed new text be amended in section 2 by striking subsection (h) in its entirety and inserting in place thereof the following:-

“(h) The division of banks shall adopt, amend or repeal regulations to aid in the administration and enforcement of this section, including the minimum requirements which constitute a good faith effort by the borrower to respond to the notice required under subsection (c), and limits fees that can be charged by creditors as part of the modification process; provided, that, such

regulations may include requirements for reasonable steps and good faith efforts of the creditor to avoid foreclosure and safe harbors for compliance in addition to those under this section. The division of banks shall make any available net present value models accessible to all creditors.”

The amendment was *rejected*.

Mr. Keenan moved that the proposed new text be amended by inserting a new section:-

“SECTION XX: Section 6D of Chapter 183 of the Massachusetts General Laws is hereby amended by adding the following paragraph:-

Each assignment of mortgage secured by residential property, as defined in said Section 1 of Chapter 255E, shall be forwarded within 30 days of the date of execution of said assignment to the appropriate registry district for recording.”

The amendment was *rejected*.

Messrs. Eldridge, McGee, Donnelly and Wolf, Ms. Donoghue and Ms. Chang-Díaz moved that the proposed new text be amended by inserting at the end thereof the following new section:-

“SECTION X. There shall be established a task force consisting of a representative of the Massachusetts Bankers Association, the Office of the Massachusetts Attorney General, the chairs of the joint committee on housing, the chairs of the joint committee on financial services, the chairs of the joint committee on the judiciary, and five representatives to be appointed by the Governor two of whom shall be representatives of a legal organization which represents consumers or homeowners in the Commonwealth. The task force shall study ways in which the Commonwealth can encourage the prevention of unnecessary vacancies following foreclosures. This shall include the feasibility of allowing a homeowner to continue to occupy such foreclosed property in whole or in part until a binding purchase and sale agreement has been executed for a bona fide with a purchaser who intends to occupy the housing accommodation as such purchaser’s primary residence and who is not a foreclosing owner. The task force shall study the feasibility in which these situations would be subject to landlord/tenant law in the Commonwealth, and where the foreclosure sale purchaser may initiate eviction proceedings against the mortgagor pursuant to the provisions of Chapter 239 of the General Laws in possession of the property.”

After remarks, the amendment was adopted.

Mr. Brewer moved that the proposed new text be amended in section 1, by inserting after the word “mailed”, in line 77, the following words:- “, a valid affidavit”; in section 2, by striking out the definition of “Affordable monthly payment” and inserting in place thereof the following definition:- “‘Affordable monthly payment’, monthly payments on a mortgage loan, which, taking into account the borrower’s current circumstances, including verifiable income, debts, assets and obligations enable a borrower to make the payments.”; by striking out, in lines 142 to 143, inclusive, the words “condemnation, receivership or proceedings in United States bankruptcy court” and inserting in place thereof the following words:- “condemnation or receivership”; in said section 2, in the definition of “Modified mortgage loan”, by adding the following sentence:- “If a particular federal or state loan modification program applies to the loan, the creditor shall, at a minimum, perform the net present value analysis for the loan under the applicable federal or state modification program.”; by striking out, in lines 191 and 193, each time it appears, the word “mortgagor” and inserting in place thereof the following word:- “borrower”; by striking out, in line 193, the word “mortgagor’s” and inserting in place thereof the following word:- “borrower’s”; in said section 2, in subsection (c) of proposed section 35B of chapter 244 of the General Laws, by striking out the fourth sentence and inserting in place thereof the following sentence:- “The process for determining whether a modified mortgage loan is offered shall take no longer than 150 days.”; and That the bill (House, No. 4096) be amended by inserting before the enacting clause the following emergency preamble:- “Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith the citizens of the commonwealth and prevent unnecessary foreclosures, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

The amendment was adopted.

The pending Ways and Means amendment, as amended, was then adopted.

The bill (House, No. 4096) was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment [For text of Senate amendment, see Senate, No. 2298]. Sent to the House for concurrence.

The House Bill providing for certain reforms to the Massachusetts Department of Transportation (House, No. 4125) (its title having been changed by the committee on Ways and Means) (having been placed at the end of the Calendar),-- **was read a third time.**

Pending the question on passing the bill to be engrossed, Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill by striking out section 3 (as amended by the Senate) and inserting in place thereof the following section:-

“SECTION 3. Section 132 of chapter 25 of the acts of 2009 is hereby amended by adding the following sentence:- Section 6 of Chapter 15 of the Acts of 1993 shall cease to have legal effect 60 days after the authority provides notice of any sale, conveyance, mortgage, pledge, lease, exchange, abandonment or other disposition of said garage to the clerks of the senate and house of representatives, the senate and house committee on ways and means and to the joint committee on transportation.”

The amendment was adopted.

The bill, as amended, was then passed to be engrossed, in concurrence, with the amendment. Sent to the House for concurrence in the amendment.

Order Adopted.

On motion of Mr. Hart,--

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

Moment of Silence.

The Senator from Hampden and Hampshire, Ms. Candaras, requested that the Senate observe a moment of silence to the memory of Springfield Police Officer Kevin Ambrose.

Kevin E. Ambrose of Wilbraham, 55, Badge #7 and 36 year police officer for the city of Springfield, died Monday, June 4, 2012 surrounded by his loving family at Baystate Medical Center, Springfield. Kevin, a son of Arthur F. Ambrose of Springfield and the late Carlene (Farrows) Ambrose was born in Springfield on June 22, 1956. Raised in Springfield, he graduated from Springfield Technical High School and received his criminal justice degree from Springfield Technical Community College. He started his career with the Springfield Police as a cadet in 1974 and became a police officer in 1976. Kevin works in Squads A, C and B, in the records division, and the traffic and detective bureaus. He received commendations in 1978, 1993, 1999, and 2005. Kevin coached youth soccer, baseball and basketball for many years. He resided in Springfield most of his life and in Wilbraham for the past 24 years and was a communicant of St. Cecilia's Church. Kevin was an avid sports fan, he enjoyed playing golf and was a member of the police golf league and enjoyed watching the New England Patriots, Boston Red Sox, Bruins and Celtics. Kevin loved to spend time with his family especially his granddaughter, Victoria. In addition to his father Arthur and granddaughter Victoria, Kevin is survived by his wife of 30 years, Carla J. (Cyr) Ambrose; a daughter, Krista M. Ambrose and a son, Kyle B. Ambrose of Wilbraham; a brother, Martin Ambrose and his wife Anne of Wilbraham; two sisters, Donna Sheperd and her husband Richard of Longmeadow and Karen Illig and her fiancé Norman Levesque of Springfield; his father and mother-in-law, Ronald and Alice (Leonard) Cyr of Wilbraham; a brother-in-law Bryon Cyr and his wife Eileen of Wilbraham; a sister-in-law, Missy Cyr of Ludlow; three nieces, Julie, Jodi, and Maura; three nephews, Kevin, Sean, and Brenden; and his loyal companion his dog, Zeus.

On motion of Mr. Rosenberg, at ten minutes past five o'clock P.M., the Senate adjourned to meet again tomorrow at eleven o'clock A.M.