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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, October 2, 2014.

Met at seven minutes past eleven o'clock A.M. (Mr. Donnelly in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Mr. Donnelly), members, guests and staff then recited the pledge of allegiance to the flag.

Communication.

Communication from Martin J. Benison, Comptroller, (under the provisions of Section 2TT of Chapter 29 of the General Laws) submitting the annual financial plan for the Liability Management and Reduction Fund (received October 2, 2014),-- **was placed on file.**

Report.

Report of the Massachusetts Life Sciences Center (under the provisions of Section 5(e)(2) of Chapter 23I of the General Laws) submitting a report detailing its decision to extend certified status to certain life sciences companies (received September 23, 2014),-- **was placed on file.**

Petition.

Petitions were severally presented and referred, as follows:

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 2376) of Joan B. Lovely (with the approval of the mayor and city council) for legislation to authorize the city of Salem to grant 1 additional liquor license for the sale of wine and malt beverages not to be drunk on the premises [Local approval received];

Under Senate Rule 20, to the committee on Consumer Protection and Professional Licensure.

By Ms. Chandler, a petition (accompanied by bill, Senate, No. 2377) of Harriette L. Chandler, Jennifer L. Flanagan and Harold P. Naughton, Jr. (by vote of the town) for legislation to authorize the board of selectmen of the town of Clinton to appoint the Town Treasurer [Local approval received]; and

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 2374) of Sal N. DiDomenico and Wayne Matewsky (with the approval of the mayor and city council) for legislation relative to the Glenwood Cemetery Perpetual Care Fund [Local approval received];

Severally, under Senate Rule 20, to the committee on Municipalities and Regional Government.

Severally sent to the House for concurrence.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:- Resolutions (filed by Ms. Chang-Diaz) "congratulating Pleasant Hill Baptist Church on the seventy-fifth anniversary of its

founding.”; and

Resolutions (filed by Mr. Joyce) “congratulating Friends of the Blue Hills on its thirty-fifth anniversary.”

Reports of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill relative to certain loans by the Federal Home Loan Bank (House, No. 3810),-- ought to pass with an amendment by striking out, in line 8, the figure “180L” and inserting in place thereof the following figure:- “180L½”;

By inserting after section 2 the following 2 sections:-

“SECTION 2A. Section 174K of said chapter 175, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words ‘one hundred and eighty A to one hundred and eighty L’ and inserting in place thereof the following words:- 180A to 180L¾.

SECTION 2B. Section 179 of said chapter 175, as so appearing, is hereby amended by striking out, in line 12, the words ‘one hundred and eighty A to one hundred and eighty L’ and inserting in place thereof the following words:- 180A to 180L¾.”; and

By inserting after section 3 the following section:-

“SECTION 3A. Said section 180A of said chapter 175, as so appearing, is hereby further amended by striking out, in line 107, the figure ‘180L’ and inserting in place thereof the following figure:- 180L¾.”.

There being no objection, the rules were suspended, on motion of Mr. Eldridge, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill, as amended, was then ordered to a third reading and read a third time.

Remarks of Senator Anthony Petrucci.

Mr. President through you to the members.

This bill would add a new section to Chapter 175 of the General Laws modifying state insurance receivership law to provide statutory protection to Federal Home Loan Banks and their insurance company members with regard to how their collateral is treated in receivership, and makes the provided protections analogous with collateral practices for banks and credit unions.

The FHLBank system, established in 1932, is comprised of 12 regional banks organized as cooperatives within a geographical region.

Congressionally chartered and federally regulated, FHLBanks borrow funds in the global capital markets, and in turn, loan those funds to their members at attractive rates. The members (banks, credit unions, and insurance companies) apply for the loans, also called “advances,” from their regional FHLBank.

The advances are secured by collateral, which can range from mortgages to U.S. Treasury bonds (i.e., highly to less liquid).

Certain FHLB members may borrow from FHLBanks on varying terms, usually by: (i) the types of assets the FHLB will accept as collateral to secure the loan, and (ii) discounts applied to the pledged collateral.

For example, bank members are generally permitted to secure their borrowings from an FHLBank with a wider array of assets than insurance company members. Specifically, a bank member may pledge as collateral assets seen as less liquid, such as whole mortgage loans. Insurance company members are only permitted to secure their borrowings with very liquid assets, including securities issued or guaranteed by the U.S. government (or an agency thereof) and certain highly rated mortgage-backed securities.

The FHLBank may also apply lower discounts to the more liquid collateral pledged by insurance company members.

FHLBs attribute this disparity in collateral policies to differences between state insurance law and federal banking law in cases of financial distress or insolvency.

As such, FHLBanks are seeking certain exemptions from state insurance law.

Under state receivership law, when a Massachusetts insurance company becomes financially distressed and cannot meet its obligations, the Commissioner of Insurance is empowered to seek a court-ordered stay or injunction on the FHLBank’s exercise of its rights in collateral pledged to it by the insurance company, and/or seek to void the insurance company’s pledge of assets to secure extensions of credit by the FHLBank

Conversely, when lending to banks governed by federal banking law, the FHLBank is afforded statutory protections that prohibit the receiver (the FDIC), from voiding any extension of credit by the bank or any pledge of assets for such extension of credit. Moreover, federal law does not provide that the appointment of the FDIC as receiver for a bank member operates as an automatic stay that would prohibit the FHLBank from exercising its rights to collateral pledged by such bank member.

This legislation would add a new section to Chapter 175 of the General Laws governing insurance that provides statutory protection to loans that have an FHLBank as a party.

Specifically: (i) FHLBanks would not be subject to a stay or prohibited from exercising their rights to collateral pledged to them by a Massachusetts-domiciled insurance company member who becomes subject to an insolvency proceeding; and (ii) except in cases of fraud, excludes FHLBanks from the voidable transfer and voidable preference powers of a receiver.

If exemptions to stay and voidable preference provisions are adopted by the state, the FHLB may lower collateral requirements—i.e., expanding the funding options for less liquid assets of Massachusetts-domiciled insurance company members, resulting in more liquid assets such as Treasury and Agency securities being available to such companies for other purposes (and to the guaranty association in the event of an insolvency.)

Colorado, Indiana, Iowa, Kansas, Michigan, Nebraska and Oklahoma have already passed legislation on this point. Similar legislation is pending in Delaware, and has also been pursued by FHLBanks in Connecticut, Vermont, and New Hampshire.

The legislation will facilitate better alignment of the FHLB Boston's collateral policies and practices between their members, thereby improving all insurance company members' access to the low-cost borrowings offered by FHLBanks.
Thank you.

**On motion of Mr. Tarr, the above remarks were ordered printed in the Journal of the Senate.
After further remarks, the bill was passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment.**

By Mr. Brewer, for the committee on Ways and Means, that the House Bill modernizing the banking laws and enhancing the competitiveness of state-chartered banks (House, No. 4110),-- **ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2378.**
There being no objection, the rules were suspended, on motion of Mr. Eldridge, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.
The bill, as amended, was then ordered to a third reading and read a third time.

Remarks of Senator Anthony Petrucci.

Mr. President through you to the members.

This legislation would modernize the Commonwealth's banking laws and enhance the competitiveness of state-chartered banks.

It would also make numerous substantive changes to existing statutes, including substituting compliance with federal provisions for existing state laws, and on certain matters, changing the framework in which the laws are set out.

Specifically, the legislation proposes to significantly amend the core banking statutes in the General Laws from chapter 167 through 167H, inclusive, as well as chapters 168, 170 and 172 governing savings banks, co-operative banks and trust companies, respectively.

Furthermore, the bill would also add two new chapters to the current banking laws:

The first (new chapter 167I) covers corporate bank transactions, such as mergers and acquisitions.

The second (new chapter 167J) and the other streamlines and makes consistent existing corporate governance matters.

Finally, the legislation would make technical updates and deletions to, among other things, reflect changes from the federal Dodd-Frank Act—for example, the elimination of the Office of Thrift Supervision and the existence of the Consumer Financial Protection Bureau.

Since the legislation was originally filed and received a public hearing, the Joint Committee on Financial Services has reviewed numerous proposed changes and comments received from bank officials, the Division of Banks, as other Committee members, to name a few.

As such, the redrafted legislation subsequently reported by the Committee made upwards of 18 substantive changes to the bill while still retaining the core structure of the original legislation. Some of these changes are significant and others are procedural or technical in nature.

Much effort went to ensuring that the legislation maintains the many important and unique consumer protections in Massachusetts law. It also does not have a negative impact on the state budget or the revenues generated by the Division of Banks.

The bill before the Senate today mainly includes additional minor stylistic wording changes as well as technical drafting corrections changes, and minor substantive changes.

Only noteworthy change from SWMs: removing provision that would have allowed ATMs at gaming premises

In lieu of a time-consuming review each section of this lengthy bill I will highlight instead a few key provisions.

The legislation would enhance the state's so-called "wild-card" or parity powers to level the playing field with national banks and federal thrifts.

It would also streamline and update compliance with many of the state's consumer protection laws by bringing them into conformity with federal laws and regulations.

Truth-in-Lending (Chapter 140D)

The most significant change in the redraft from the original legislation is the compliance by banks with the Truth-in-Lending law (TIL). The change came after numerous drafts and discussions with the Committee, the Division of Banks, and other interested parties.

Under the redraft, banks will remain subject to the Massachusetts TIL law. Creditors in the Commonwealth will comply with future federal changes in TIL until the Division takes further action, if any, to update Massachusetts provisions.

The legislation would also add a new authority for the Commissioner to take any action to retain the Commonwealth's exemption from the Federal Act as long as the state provisions provide more or equal protection to consumers and the Division has adequate ability to enforce the state requirements.

Authorities given to the Division of Banks (Chapter 167)

The current Chapter 167 of the General Laws contains many of the most substantial authorities granted to the Division of Banks.

The legislation proposes a number of significant changes to Chapter 167, including the addition of a list of 6 federal provisions that a state-chartered bank is required to comply with, regardless of a related Massachusetts provision. (Expedited Funds Availability; Fair Credit Billing; Electronic Fund Transfers with a maximum liability of \$50 (current limit in MGL); Safekeeping of Securities; Banking Office and Operations Security and Secrecy; Insider Loans).

The redraft would give the Commissioner the authority and sole discretion to implement a tiered regulatory structure for the supervision and examination of savings banks, co-operative banks and trust companies to reduce costs and the regulatory burden on the industry.

It also proposes to grant new authority to allow state-chartered institutions to engage in new technologies and collaborative partnerships after notice to and review by the Division of Banks.

New chapters governing Corporate Bank Transactions (new Chapter 167I) and Corporate Governance (new Chapter 167J)

In summary, the proposed new Chapters 167I and 167J would place in the appropriate chapter transactional authorities and governance provisions which were applicable to and replicated in current law—chapters 168, 170 and 172 of the General laws governing savings bank, co-operative banks and trust companies, respectively. The elimination of the replication in each law substantially streamlines these core banking statutes.

Chapter 167I will govern all corporate transactions, such as mergers, consolidations, purchase of assets and conversions, for savings, co-operative and trust companies.

Chapter 167J consolidates different sections relative to responsibilities of corporate officers and corporate provisions that previously existed in each individual bank's chartering chapter.

Among the proposed changes:

Substantive changes to the process by which mutual cooperative and savings banks to covert to stock form—for example, the requirement for the Commissioner to submit regulations to the Legislature for approval while retaining the requirement for the conversion to be subject to regulations of the Commissioner.

Major substantive change to allow a state-chartered bank to convert to any federal charter.

The Commonwealth's banking laws have not been significantly revised and updated in over 30 years. During this time, the banking and financial services landscape has dramatically changed, and technology is driving advances in the industry faster than ever.

Enacting this legislation takes an essential step towards addressing challenges faced by the banking industry due to rapid and ongoing developments in technology, as well as a long standing issue of compliance with state laws that have a counterpart, and at times conflicting, federal law.

Massachusetts has a long history of a strong and vibrant state banking system. This bill ensures that a bank charter from the Commonwealth remains a viable option for the next generation of Massachusetts consumers and businesses.
Thank you.

**On motion of Mr. Eldridge, the above remarks were ordered printed in the Journal of the Senate.
After further remarks, the bill was passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment.**

By Mr. Brewer, for the committee on Ways and Means, that the House Bill relative to credit union branching (House, No. 4139),-
- ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2379; and 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 provide forthwith for the establishment and regulation of credit union branch offices in the commonwealth and certain surrounding states, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

There being no objection, the rules were suspended, on motion of Mr. Eldridge, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill, as amended, was then ordered to a third reading and read a third time.

Remarks of Senator Anthony Petrucci.

Mr. President through you to the members.

This legislation proposes to modernize state law relative to credit union branching. Currently, Massachusetts is the only state in New England that does not permit regional interstate banking and branching for state-chartered credit unions.

Currently, with the permission of the Commissioner, and subject to any conditions imposed, a credit union may establish and maintain one or more branch offices or depots in the county wherein the main office is located or on a site within 50 miles from the premises of the main office in any city/town in another county. (Section 8 of Chapter 171)

The General Laws dealing with credit union mergers provides that if the Commissioner has taken possession of a credit union, or a credit union is in possession of the Massachusetts Share Insurance Corp., and it is determined that it is in the best interest of the parties involved, a merger may be effected without regard to geographical limitations within the Commonwealth. (Section 79 of Chapter 171).

Under this bill, the 50 mile limitation for branching would be removed, and a credit union may establish and maintain one or more branch offices or depots, within 100 miles of the main office, including in CT, ME, NH, NY, RI, or VT subject to such notice and hearing as the Commissioner may require.

Further, credit unions would be limited to only 1 out-of-state application (CT, ME, NH, NY, RI, or VT) per every 12 month period.

The legislation would also remove geographical limitations and provide that offices of a credit union that is consolidating or merging may be maintained as branch offices of the surviving credit union with the written consent of the Commissioner and subject such conditions as may be approved by the Commissioner.

Noteworthy changes from SWMs: Made effective date for Section one "date certain" (Section 3) and inserted an emergency preamble for Section 2, which directs the Commissioner to promulgate rules and regulations (Section 4).

This legislation, if passed, will aid in the convenient delivery of financial services to Massachusetts credit union members. It will also help Massachusetts state-chartered credit unions stay competitive in a changing branching environment.

Massachusetts working families who are members at state-chartered credit unions deserve every opportunity to meet their financial services needs in as convenient a manner as possible.

Thank you.

**On motion of Mr. Tarr, the above remarks were ordered printed in the Journal of the Senate.
After further remarks, the bill was passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment.**

PAPERS FROM THE HOUSE.

The engrossed Bill authorizing the town of Stoneham to grant 5 additional licenses for the sale of all alcoholic beverages to be drunk on the premises (see, House, No. 3786, amended),-- came from the House, with an amendment striking out all after the enacting clause and inserting in place thereof the following :

“SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Stoneham may grant up to 5 additional license for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138; provided, however, that such licenses shall be issued to establishments that hold a common victualler’s license pursuant to section 2 of chapter 140 of the General Laws.

(b) A license granted pursuant to this act shall not be transferable to any other person, corporation or organization for a period of 3 years from the date of the original issuance.

(c) If a license granted pursuant to this act is revoked or no longer in use at the location of original issuance, it shall be returned physically, with all the legal rights and privileges pertaining thereto, to the licensing authority, which may then grant the license to a new applicant at the same location only under the same conditions as specified in this act; provided, that the new applicant files with the licensing authority a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and all applicable taxes, fees and contributions have been paid.

SECTION 2. This act shall take effect upon its passage.”

The rules were suspended, on motion of Mr. Petruccelli, and the House amendment was considered forthwith and adopted, in concurrence (as corrected BTR).

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 Acting President (Mr. Donnelly) and laid before the Governor for his approbation, to wit:

Relative to liability coverage under the Massachusetts Property Insurance Underwriting Association (see Senate, No. 465, amended);

Authorizing the board of selectmen of the town of Westport to borrow money for the payment of certain medical expenses for certain public safety personnel (see Senate, No. 2193);

Authorizing the licensing authority of the city of Woburn to grant 6 additional licenses for the sale of all alcoholic beverages to be drunk on the premises (see Senate, No. 2280);

Relative to the town treasurer in the town of Blandford (see House, No. 4171); and

Relative to the charter of the town of Harwich (see House, No. 4220, amended).

Order Adopted.

On motion of Mr. Eldridge,--

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

On motion of Mr. Tarr, at twenty-nine minutes before twelve o’clock noon, the Senate adjourned to meet again on Monday next at eleven o’clock A.M.