



June 26, 2024

The Honorable Karen Spilka  
Massachusetts State House  
24 Beacon Street, Room 332  
Boston, MA 02133

**RE: Proposed Amendments to S.2834 - An Act Relative to the Affordable Homes Act**

Dear President Spilka:

On behalf of the Massachusetts Bankers Association's (MBA) more than 120 commercial, savings and cooperative banks and federal savings institution members with 72,000 employees located throughout the Commonwealth and New England, we are writing to express our views on several amendments to *S.2834- An Act Relative to the Affordable Homes Act*.

Our views on these amendments are detailed below:

**Support Amendments #1, #35, #82 #159: Crumbling Concrete Agency & Crumbling Concrete Assistance Fund**

Amendments #1, #35, #82, & #159 seek to establish a crumbling concrete relief fund and a crumbling concrete relief agency to provide assistance to owners of residential real property with concrete foundations that have deteriorated due to the presence of pyrite or pyrrhotite.

Amendment #35 seeks to establish a new GL 21B:16 requiring entities seeking a permit to mine or expand a quarry to test the proposed area for the presence of pyrite or pyrrhotite, and for sulfur content; requires submission of a geological source report, and approval of the report by the executive office of energy and environmental affairs in consultation with the state geologist; establishes a Crumbling Concrete Assistance Fund to assist homeowners with the repair or replacement of concrete foundations; requires home inspectors to inform potential buyers of the possible presence of pyrite or pyrrhotite in the concrete foundation; sets out a process allowing homeowners to apply for residential property tax abatement due to the presence of pyrite or pyrrhotite minerals in the foundation.

Amendments #82 & #159 establish Crumbling Concrete Assistance Fund to provide financial assistance to owners of residential real property for the repair or replacement of concrete foundations of such property that have deteriorated due to the presence of pyrite or pyrrhotite and to minimize any negative economic impacts on municipalities in which such property is located; directs Comptroller to transfer \$100,000,000 into fund.

The MBA is a longtime advocate for crumbling concrete relief and respectfully requests that you **support these amendments**.

**Oppose Amendments #54, #87, #178, #179, #192, #238, #242, #301, #313: Granting a Local Option for a Real Estate Transfer Fee**



While MBA and our member institutions strongly believe that more affordable and market rate housing should be built in the Commonwealth, we are opposed to proposals to impose new taxes on real estate transactions to fund these initiatives. Taxing certain home sales will increase income stratification, raising the already expensive market rate price to become a homeowner. In our view, these taxes will add an additional barrier to homeownership for middle- and lower-income individuals and families since in some cases their transactions are more complicated due to special financing or assistance programs. The layering of a complicated transfer tax will only serve to further limit their ability to become homeowners and build equity.

In addition, transfer taxes are a logistical nightmare for buyers, sellers, lenders, closing attorneys, and other stakeholders and will add significant costs and complexity to the mortgage market. Many of these additional costs will be passed on to homebuyers or sellers. We urge you to **oppose these amendments**.

### **Oppose Amendment #214: Foreclosure Prevention Program**

This amendment seeks to create a Massachusetts Foreclosure Prevention Program (MFPP), administered by a “Foreclosure prevention program administrator” or a “Mediation Program Manager” in which the mortgagor may choose to participate in mediation proceedings with the mortgagee or their representative. While noble in its mission, the program is wholly unnecessary given the recent advancements and current conditions that exist in the Massachusetts homeowners market.

We would emphasize that foreclosure is always a last resort and banks work diligently to keep borrowers in their homes. The Massachusetts housing market is also far different than the one we experienced during the economic crisis more than a decade ago, with increasing home values and stronger underwriting requirements on home mortgages imposed by the Dodd-Frank Act and other federal laws and regulations. In addition, the federal housing GSEs, Fannie Mae and Freddie Mac, along with other government agencies, have developed comprehensive programs to assist borrowers impacted by the pandemic. Finally, we would note that the Consumer Financial Protection Bureau (CFPB) and the banking regulatory agencies have promulgated new rules to ensure that banks and other mortgage servicers are providing a wide range of options for at-risk consumers.

Since 2007, the Massachusetts legislature has enacted three major changes to the state’s foreclosure laws: Chapter 206 of the Acts of 2007, Chapter 258 of the Acts of 2010, and most recently Chapter 194 of the Acts of 2012. Each one of these laws extended new protections for Massachusetts consumers, added costs to the lending community and significantly delayed the time frames to complete a foreclosure in the Commonwealth. This is in addition to the Dodd Frank Act which substantially changed the mortgage origination process for all banks improving disclosures, defining a qualified mortgage and instituting strict Ability-to-Repay rules.

Unfortunately, unless a homeowner acts quickly in acknowledging a delinquency and agrees to work with the lender to address it, a short sale, deed-in-lieu or a foreclosure may ultimately be the only solutions.

During the 90-day right to cure period, banks make regular weekly calls to borrowers to understand their situation. Foreclosure is the final event when all alternatives have been exhausted. Many times, changes in a family’s household financial situation require downsizing of debt and the sale of the home.



The most recent law also created the “Foreclosure Impacts Task Force”, which was charged with studying foreclosure mediation. It is important to note that after extensive research and analysis of mediation laws in a number of other states, the Task Force did not issue a recommendation in favor of mandatory foreclosure mediation in Massachusetts. In fact, the Task Force urged that any approach to foreclosure mediation be mindful of the existing foreclosure statutes before layering the mediation process on top of existing state foreclosure laws.

Given the numerous changes to state law in recent years, the state and federal aid to at-risk borrowers over the last 18 months, and the continued strength of the Massachusetts housing market - even throughout the recent public health emergency - MBA questions the need for a mandatory foreclosure mediation program in the Commonwealth. We respectfully ask you to **oppose Amendment #214**.

### **Oppose Amendment #235: Guarantee a Tenant’s First Right of Refusal**

MBA opposes Amendment #235, which provides for a tenant’s right of first refusal for many residential real estate sales in the Commonwealth. The provision, which is structured as a local option for municipalities, will create significant delays in the conveyancing of real estate throughout Massachusetts, potentially affecting sale prices and other market conditions.

Under the amendment, property owners are required to adhere to a schedule determined by the municipality, provide notice to tenant organizations about the impending sale, and wait for specified periods of time before moving forward with a sale to a third party. The provisions would also apply to short sales and foreclosures, further complicating these processes at a time when the state is under a foreclosure moratorium. MBA urges you to **oppose Amendment #235**.

### **Support Amendment #258: Federal Home Loan Bank**

By way of background, Federal Home Loan Banks (FHLBs) were chartered by Congress in 1932 as cooperatively structured member-owned wholesale banks. Locally, the FHLB of Boston serves our membership by providing low-cost funding to support housing, finance, and community development throughout Massachusetts and New England. The FHLB of Boston also serves credit unions and insurance companies.

As you are aware, banks and credit unions are governed by federal law, while insurance is regulated by each state. This existing structure creates a distinction for the FHLB of Boston as it can only lend to MA insurance companies on more conservative terms than they can lend to banks and credit unions. Amendment #258 would modify insurance insolvency regulation provisions specifically related to stays and voidable transfers.

Additionally, this amendment would ensure that insurance companies are treated similar to depository institutions; allowing them to borrow at the cheapest possible rate, so savings are passed downstream to consumers and stability of the insurance industry is enhanced. MBA supported legislation, H.958 & S.641, which were filed at the start of this legislative session. For your reference, similar legislation has already been adopted in 25 states with at least a half dozen others considering comparable legislation this session.



MBA respectfully requests you **support Amendment #258**.

**Oppose Amendment #329: Municipal Right of First Refusal**

Amendment #329 would establish a program allowing for municipalities to have the first right of refusal for the purchase of property to be used as affordable housing. The provision, which is structured as a local option for municipalities, will create significant delays in the conveyancing of real estate throughout Massachusetts, potentially affecting sale prices and other market conditions.

We respectfully ask you to **oppose Amendment #329**.

**Conclusion**

Thank you for considering our views on these proposed amendments to *S.2834- An Act Relative to the Affordable Homes Act*.

If you have any questions or need additional information, please contact us at any time.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Papalardo', with a long horizontal flourish extending to the right.

Brad S. Papalardo, Esq.  
Senior Vice President,  
Chief of Government Affairs & Counsel