



July 10, 2024

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

RE: Proposed Amendments to S. 2856- An Act Relative to Strengthening Massachusetts' Economic Leadership

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. 2856 - *An Act Relative to Strengthening Massachusetts' Economic Leadership*

Our views on these amendments are detailed below:

Support Amendment #28: Amending the Estate Tax

While the last major reform of the Massachusetts estate tax law occurred less than a year ago, Massachusetts remains as one of the only 12 states that still implements an estate tax at all. Further, in recent years, the other states have also recently explored or implemented changes to their tax, primarily by increasing the amount exempt from the tax (as Massachusetts accomplished), but also by indexing the exemption amount for future inflation and tracking with federal law – both areas left largely untouched by Massachusetts recent changes. It should also be noted that seven states have repealed their estate tax laws since 2010: Kansas, Ohio and Oklahoma in 2010 and North Carolina, Indiana in 2013, Tennessee in 2016, and New Jersey & Delaware in 2018.

Even at the new \$2 million threshold, Massachusetts is still a laggard in reforming its estate tax laws and is becoming increasingly inhospitable to those with above-threshold estates -- an amount that is often attained by adding the value of a rising property prices and retirement savings or sale of a business. In addition, when higher income Massachusetts residents change their domicile, Massachusetts also loses personal income tax revenue – a true lose-lose for Massachusetts.

Amendment #28 would alter the estate tax law for estates of persons dying after July 1, 2023, to provide credit shall be allowed against the tax equal to the amount of such tax up to \$182,000 and also looks to provide that estates shall not be required to pay any tax if the value of the federal taxable estate is not more than \$5,000,000, an amount to be adjusted annually for inflation. As lenders to individuals and business owners, investment managers and providers of trust services to our clients, our banks witness first-hand how the state's tax laws inhibit economic growth and vitality of our communities. For these reasons we support Amendment #28, as well as any other legislative efforts aimed at softening the blow of Massachusetts' archaic estate tax.

MBA respectfully asks that **you support** Amendment #28.



Amend Amendment #88: Location Shield Provisions

While we fully understand and respect the intended purpose of the amendment, we do have concerns that there will be unintended consequences, particularly with financial institution's fraud prevention efforts, if this language were to pass as currently written. Specifically, our members would now be unable to prevent potential identity theft based on location information due to the amendment's restrictive nature.

Further, as currently written, financial institutions would be extremely burdened to comply with the prescribed consent requirements. For instance, a "discrete consent" would be required for each purpose when the location is used. While financial institutions disclose their collection/use pursuant to the federal Gramm-Leach-Bliley Act (GLBA), GLBA does not require discrete consent for cell location.

In order to alleviate these unintended consequences, we respectfully **request an amendment** containing a complete exemption for financial institutions subject to the Gramm-Leach-Bliley Act (GLBA) of 1999 with suggested language of: *"(This chapter shall not apply to) "a financial institution subject to Title V of the federal Gramm-Leach-Bliley Act of 1999 (15 U.S.C. §6801 et seq.), and the implementing regulations promulgated thereunder."* if Amendment #88 is adopted.

Oppose Amendments #110 & #234: Transparency in Credit Card Fees

We have general concerns with proposed changes to existing statute as it relates to how credit card transactions are currently processed. Massachusetts law prohibits merchants from implementing a surcharge on credit card transactions. Specifically, **Amendments #110 & #234** would change [Section 28A of Chapter 140D](#) of the General Laws and provide merchants the ability to include surcharges on credit card transactions and recoup the cost of using credit card systems otherwise known as interchange fees.

As you know, interchange fee agreements with card issuers and merchants partially reimburse card issuers for the activities they perform and the risk they take on for a transaction. In addition to the risk assumed for each transaction, there are also significant costs that go into operating a card program, such as billing and collection, customer service, data processing, fraud and security, and compliance.

Conversely, merchants benefit greatly by accepting debit, credit, and other forms of electronic payment as countless studies have demonstrated that customers prefer convenience. When a customer pays by a credit or debit card, merchants are guaranteed nearly instant payment and since a retailer is in business to sell merchandise, the merchants that are most efficient in encouraging customers to purchase quickly and with the greatest ease will gain more business.

By allowing merchants the opportunity to include surcharges on credit transactions, the cost of doing business with the credit payment systems will be covered by the consumer and not the merchant.

We respectfully request **you oppose** Amendments #110 & #234.

Support Amendment #149: Improving Financial Literacy



The challenges facing today's young adults are greater than ever, especially when it comes to managing their finances. Our local, national and international economies continue to deal with enormous change and stress as we attempt to recover from the pandemic. Today's financial services markets are far more complex and competitive than ever, and consumers of all ages and backgrounds need to be educated on the differences in various products and services, how they work and how to determine which best meet their needs and help them reach their goals.

Studies suggest that a college graduate today, on average, will borrow more than \$825,000 in their lifetime for homes, motor vehicles, college tuition, credit cards, and other reasons. Are these students prepared to make educated and informed decisions on what loans, bank accounts, investments and retirement plans are best suited to their needs? Most studies suggest they are not, including the [2023 National Report Card on State Efforts to Improve Financial Literacy in High Schools](#) published by the Center for Financial Literacy which has given Massachusetts a grade letter "F" for financial literacy from 2017 – 2023. Furthermore, Massachusetts is currently projected to be one of only four states with the same letter grade by 2028. Our New England neighbors fared much better with Connecticut, New Hampshire, and Rhode Island projected to reach a grade letter "A" by 2028, while Maine and Vermont are projected to achieve "B" and "C" grades respectively.

Several years ago, Massachusetts banks and banks across the nation recognized the substantial need to provide financial education services to many audiences, but especially students. Our Association and dozens of Massachusetts banks have actively participated in programs with local schools such as Savings Makes Sense created by the State Treasurer, the FDIC Money Smart Program, *JumpStart*, operating branches in local high schools and the *Credit Smarts* program initiated by the Office of Consumer Affairs, among others. Many banks are also active supporters of Credit for Life fairs in their local high schools and now virtually. At these fairs, students are engaged in hands-on interactive lessons that prepare them for the demands of balancing their income and expenses and making sound financial decisions that impact their future.

While financial literacy education has been voluntarily offered for decades, it has not been an integral part of most public-school curriculum, usually just offered in economics or related classes, if at all. Unfortunately, financial literacy programs often depend on the initiative of a local teacher or principal. Nationally, at least twenty-one (25) states require students to take a course in financial literacy to graduate from high school while at least forty (40) require financial literacy standards for grades 9-12. States across the nation, despite severe fiscal and time challenges, recognize the importance of incorporating financial literacy curriculum into K-12 education and we believe Massachusetts should join this growing list.

MBA requests that **you support** Amendment #149.

Support Amendment #383: Remediation of Home Heating Oil Releases

This amendment, which passed the Senate last legislative session, provides homeowners throughout the Commonwealth who rely on home heating oil to heat their homes with important protections should their storage tanks leak and create an environmental hazard.

As you know, more than 650,000 homes in Massachusetts rely on home heating oil. However, it is estimated that less than 50,000 of these homeowners have insurance to cover the cost of cleaning up an



oil spill. Under M. G. L. Chapter 21E, owners of properties that have oil spills are strictly liable to pay for the cleanup of the oil on their own property and on any other impacted properties. These costs are typically more than \$20,000 and can greatly exceed that figure depending on the type of property and the amount of oil released. These costs can affect a homeowner's ability to pay their mortgage, property taxes and other obligations and in extreme cases a borrower may walk away from a property entirely.

Under current law, property insurers are required to "make ... available" insurance for heating oil releases but *does not require* insurers to inform homeowners that the coverage may be purchased.

Homeowners must opt-in to receive the coverage. Amendment #383 requires that oil release coverage be automatically provided to all homeowners and raises coverage limits to keep pace with rising cleanup costs. It is estimated that the cost to a homeowner for oil spill cleanup insurance is under \$100 per year.

This requirement will protect homeowners, their properties, surrounding properties, lienholders and all other stakeholders at a minimal cost to Massachusetts residents.

This amendment addresses an important gap in insurance coverage for thousands of homeowners and we respectfully request **you support** Amendment #383.

Support Amendment #417: ETF Modernization

Amendment #417 would modernize Massachusetts law to align with recommended guidance from the National Association of Insurance Commissioners (NAIC) on how insurance companies treat fixed income exchange traded funds (ETFs) for accounting purposes. The House adopted identical legislation in 2022.

Over the past decade, fixed income ETFs emerged as a tool for insurance companies to diversify their portfolios and to better manage their risk. However, because Massachusetts does not align with NAIC's guidance, an insurer using an ETF has to meet higher regulator capital levels (i.e. funds on hand) than it would if it directly owned the bonds that compose the ETF. The amendment changes the law, so ETFs and bonds are treated equally. Importantly, it does not create a mandate but instead an option for insurers.

Amendment #417 would improve business competitiveness in Massachusetts, both by opening up a channel for new business development and modernizing a business statute to meet current practices. New York State already adopted these changes, leaving Massachusetts businesses at a disadvantage compared to the NY counterparts. Importantly, there is no impact on the state's budget.

MBA requests that **you support** Amendment #417.

Support Amendment #419: 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 #419 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 that **you support** Amendment #419.

Support Amendment #500: Regulation of Money Transmission by the Division of Banks

Amendment #500 seeks to establish a regulatory structure for non-bank domestic money transmission in the Commonwealth. As you know, banks in Massachusetts are subject to regular federal and state examinations for compliance with consumer protection laws. While every state currently regulates foreign money transmission, including Massachusetts, the Commonwealth is the **only state that does not** license or regulate non-bank domestic money transmitters at the state level.

With the significant increase in fintech firms offering products that allow consumers to transmit funds as well as existing non-depository businesses providing these services, a state regulatory system would standardize consumer protections and ensure that the Division of Banks has the appropriate oversight authority over this rapidly changing industry.

MBA respectfully requests that **you support** Amendment #500.

Conclusion

Thank you for considering our views on these proposed amendments to *S. 2856 - An Act Relative to Strengthening Massachusetts' Economic Leadership*.

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 line extending to the right.

Brad S. Papalardo, Esq.
Senior Vice President,



Chief of Government Affairs & Counsel