



May 19, 2021

Via Email: James.Eldridge@masenate.gov

The Honorable James Eldridge  
State House, Room 511-C  
Boston, MA 02133

**RE: Amendments to S. 3, An Act making appropriations for the fiscal year 2022 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements**

Dear Senator Eldridge:

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, I am writing to express our views on several amendments to S 3, An Act making appropriations for the fiscal year 2022 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements.

Our views on these amendments are detailed below:

**Support Amendment #102: Advanced Payment of Sales Tax**

MBA remains concerned by the continued attempts by the Baker Administration to implement an accelerated sales tax remittance system in the Commonwealth. We believe these initiatives will have disruptive unintended consequences for the retail sector during what is already a very difficult time. Although we understand similar provisions were deemed necessary to inject one-time revenue into the state's reserves last year, we believe adding an alternative for retailers – such as the estimated sales tax payment formula option incorporated in Amendment #905 – could achieve the same goal while also alleviating many of the unintended consequences and conforming the sales tax prepayment provisions to the requirements in other states.

MBA Amendment #905 is a common-sense alternative that will reduce the compliance burden on local businesses while ensuring that the Commonwealth receives sales tax revenues on an accelerated basis. It is our understanding that all the other states that mandate prepayment of sales tax allow a similar estimated payment formula; therefore, MBA strongly encourages you to support Amendment #905 filed by Senator Joan Lovely.

**Support Amendment #656: Crumbling Concrete Foundations**

Amendment #656, which was filed by Senator Anne Gobi, provides important relief to homeowners in central and western Massachusetts whose properties may be affected by faulty concrete poured by a Connecticut company. The concrete, which contains the mineral pyrrhotite, can cause these foundations

to deteriorate and crumble, leaving the homeowner with almost no choice but to spend their own funds to pour a new foundation for their property.

This amendment provides assistance for those that wish to have their foundations tested to determine whether it contains pyrrhotite. We urge you to support Amendment #656, which provides much-needed relief and guidance to these homeowners.

### **Revise Amendment #143: Remote Notarization**

The Association believes there is a need for a more modern, electronic-based, system to facilitate the remote notarization of documents in the Commonwealth. However, we are concerned that Amendment #143 does not sufficiently update Massachusetts law and extends what was originally proposed as a temporary measure during the pandemic in perpetuity. We respectfully recommend two revisions to the amendment.

First, MBA believes that the amendment unnecessarily broadens the scope of the Commonwealth's current unauthorized practice of law statute. Specifically, subsection (m) of the proposed amendment seeks to permanently codify new additions to the unlawful practice of law statute (MGL ch. 221 s. 46A) elsewhere and should be revised and limited to the following language:

“Nothing in this section shall affect any law or regulation governing, authorizing or prohibiting the practice of law.”

This change strikes the expansive language currently included in the amendment which states:

*“including, but not limited to, the requirement that the closing of a transaction involving a mortgage or other conveyance of title to real estate may only be conducted by an attorney duly admitted to practice law in the commonwealth.”*

While this language was included in Chapter 71 of the Acts of 2020, An Act providing for virtual notarization to address challenges related to COVID-19, as we noted above this law was a temporary, emergency measure passed when facilitating the notarization of certain documents was difficult or impossible because of the restrictions imposed during the pandemic. It is important to note that Chapter 71 was always intended to sunset three (3) days after the Governor's March 10, 2020 state of emergency declaration was rescinded.

Finally, to facilitate a transition between the temporary emergency provisions and what we hope is a new, more comprehensive remote notarization statute, we also urge the Senate to include a sunset date on this provision of December 31, 2021. This will allow all the stakeholders to work together with the Legislature on a more permanent law.

### **Conclusion**

Thank you for considering our views on these amendments to S 3. If you have any questions or need additional information, please contact us at any time.

Sincerely,



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