



July 13, 2022

The Honorable James Arciero
State House, Room 146
Boston, MA 02133

Dear Representative Arciero:

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 proposed amendments to H 5007, An Act Relating to Economic Growth and Relief for the Commonwealth. As you know, the House is expected to consider this legislation later this week.

Our views on specific amendments are below:

Oppose Amendment #15, Debt Collection Fairness Act

The Association continues to have concerns with the provisions in Amendment #15, which includes the language of the Debt Collection Fairness Act. Specifically, under the amendment, the statute of limitations for all consumer loans including unsecured credit lines is shortened from six to four years. Any voluntary payment towards a defaulted consumer loan does not restart the limitation period unless the payment completely cures the default and pays off any delinquency. This is inconsistent with Massachusetts caselaw and could inadvertently incentivize creditors to pursue formal remedies, including filing lawsuits, rather than working directly with consumers to settle their debts.

In addition, to preserve their rights, creditors may have to enter into shorter voluntary repayment agreements with higher payments if an account is nearing the statute of limitations, where if it were clarified that payments restart the limitations period, this would not be an issue. We are also concerned with several other technical provisions in the amendment, including a lack of consistency and clarity in several of the definitions. For these reasons, we ask that you oppose Amendment #15.

Oppose Amendment #170, Credit Card Surcharges

MBA is strongly opposed to Amendment #170, which allows merchants in the Commonwealth to impose a surcharge for customers using a credit card. Studies have shown that consumers prefer to pay with credit and debit cards. The Federal Reserve Bank of San Francisco's Diary of Consumer Payment Choice survey found that only 20 percent of consumers chose cash payments in 2021 – down from more than 30 percent in 2016. The pandemic sped the adoption of other payment methods, with more consumers using payment apps and contactless payment options.

Eliminating the prohibition on surcharging credit card sales will increase costs for consumers at businesses throughout the Commonwealth. Many merchants also underestimate the cost of accepting cash, which requires in-person bank deposits and in some cases armored car services to transport. We urge you to oppose Amendment #170.

Oppose Amendment #379, Nonprofit Receivership Authorization

MBA has concerns with Amendment #379, which appears to allow nonprofit entities to purchase properties directly out of receivership without the receiver foreclosing on the property. While there may be limited circumstances where a local nonprofit organization could purchase and renovate homes that are in the receivership process, the amendment gives substantial new powers to the courts to allow sales of properties in receivership without going through the traditional foreclosure process.

Specifically, it is unclear how the title is transferred, the property is valued or under what parameters a court could decide to effectuate the sale. In addition, there is no language detailing how the proceeds of the sale will be distributed or if the property owner retains any right to reside in the property during the receivership. There also appear to be only limited protections for the homeowner, mortgagee or other lienholders in this process.

For example, the language states that “with notice to the owner, mortgagee, and all interested parties, may allow for the sale of the property to a nonprofit entity for fair market value in its then current condition” without defining what type of and how the notice must be provided. Under the amendment, a property could also be sold only 30 days after the notice is provided – which leaves owners with little opportunity to bring their property up to code.

MBA believes that these policy concerns must be addressed to ensure that the rights of property owners, mortgagees and other lienholders continue to be protected in the state’s receivership process. We urge you to oppose Amendment #379.

Oppose Amendments #176, 748 and 791, Real Estate Transfer Fees


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 transfer 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 particular, these taxes will be another 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 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 Amendments #176, 748 and 791.

Thank you for considering our views on these proposed amendments to H 5007, An Act Relating to Economic Growth and Relief for the Commonwealth. If you have any questions or need additional information, please contact us at any time.

Sincerely,


Jon K. Skarin
Executive Vice President


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Vice President, Government Affairs &
Counsel