

Massachusetts Credit Unions



Creating Cooperative Power

November 2, 2021

The Honorable Brendan Crighton
The Honorable James Murphy
Chairs
Joint Committee on Financial Services
State House
Boston, MA 02133

BY EMAIL ONLY

Dear Chairs Crighton, Murphy and Members of the Committee:

On behalf of the Cooperative Credit Union Association, Inc. (“Association”)¹ and its members, please accept this letter relative to several proposals pending before the Joint Committee on Financial Services relative to mortgage disclosures, small loans and mortgage appeals, unidentified mortgages, and the reporting of payments after bankruptcy. Each of these measures were the subject of a public hearing on October 26, 2021.

- House 1035, *An Act Providing Mortgage Customers Additional Mandatory Information Regarding Their Accounts*
- House 1054, *An Act Relative to Mortgage Review Boards and a Small Business Loan Review Board Within the Division of Banks*
- House 1073, *An Act to Establish a Resolution Trust Fund for Receipt of Reasonable Mortgage Payments*
- House 1077, *An Act Relative to Consumer Protection Following a Bankruptcy*

Oppose: House 1035

This is a refiled measure² which addresses mortgage disclosures. Massachusetts credit unions

¹ The Cooperative Credit Union Association, Inc. (“Association”) is the state credit union trade association, serving approximately 160 federally and state-chartered credit unions that are cooperatively owned by 3 million consumers as members. On average, one in three Massachusetts consumers are credit union members. Furthermore, the industry employs over 7,500 full and part-time employees. As not for profit cooperatives, over 2,000 volunteer directors further serve local credit unions who deliver \$310 million in member benefits annually. As of June 2021 call report data, credit union member benefits include higher yield on savings: \$56.5 million; lower fees: \$13.6 million; lower loan rates: \$240.3 million; and savings to nonmembers: \$121.1 million (by impact of credit union presence in the marketplace). CUNA Economics and Statistics.

² More recently the bill was filed as House 480 in the 2017-2018 legislative session and as House 902 in the 2019-2020 legislative session, both of which were reported into study orders as House 4778 and House 5160, respectively.

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strongly support clear lending disclosures to their members. This goal is especially compelling in light of complex mortgage transactions and further beneficial for members entering the home purchase arena for the first time. Financial education has been and remains the hallmark of local credit unions.

The thrust of House 1035 appears to further promote this goal by generally requiring additional mortgage disclosures. The bill suggests that consumers are uninformed or confused about mortgage statements. The Association suggest that House 1035 is unnecessary in light of credit union member education and outreach, as well as ample information promulgated by the Consumer Financial Protection Bureau (“CFPB”), available in print, by telephone and on-line. More specifically, the CFPB maintains an entire section of their website dedicated to assisting consumers on understanding the implications of maintaining a mortgage including payment, understanding how to read a mortgage statement found at <https://www.consumerfinance.gov/consumer-tools/mortgages/>. An on-line checklist guides consumers through a monthly mortgage statement by addressing:

- Amount due
- Due date
- Interest rate
- Fees and charges
- Consumer service contact information
- Information about past due payments, late fees, and any payment to bring the account current if delinquent on a loan for more than 45 days

Operational challenges also exist under House 1035. Lenders are unable to calculate monthly payments and amounts due until a consumer’s previous month’s mortgage payment is complete. The bill does not recognize the impact of late payments, schedule interruptions due to mail deliveries, or the use of coupon books requested by consumers, often senior borrowers, from time to time.

Finally, House 1035 amends Chapter 167E of the General Laws and applies its provisions to “banks and lending institutions.” The Association notes that this session of state law does not define “lending institutions” and therefore, House 1035 is vague in its application.

Support in Part: House 1054

This is a refiled measure³ which generally addresses small loans and mortgage appeals. The bill would increase the amount of a small loan from \$6,000 to \$50,000. While credit unions are exempted from the registration provisions of Chapter 140, Section 114A of the law subjects credit unions to similar limitations on offering small loans. While credit unions do not oppose the raising of the amount of a small loan, it is unclear how the \$50,000 figure was determined. The Association suggests that further study and data analysis may be necessary to determine whether

³ More recently the bill was filed as House 846 in the 2015-2016 legislative session and as House 925 in the 2019-2020 legislative session, both of which were reported into study orders as House 4111 and House 5160, respectively.

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that figure is appropriate in light of the economy and nature of loans made in the Commonwealth.

In addition, the bill consolidates the existing four regional mortgage review boards into two such boards, reduces board composition from seven to five members, and consolidate the existing four small business loan review boards into one such board. The scope of review for each such appeal process is unchanged in the bill. Credit unions support House 1054 as an efficiency measure in the mortgage appeal and small business loan review processes. Such action is appropriate considering the decrease in volume of both mortgage and small business loan appeal filings.

Oppose: House 1073

The bill, a refiled measure,⁴ creates a Massachusetts Resolution Trust Fund to be administered by the Community Economic Development Assistance Corporation to generally receive unidentified mortgage loans and payments. The bill contains limited timeframes in which recordings and notifications to mortgagors must be made. Additionally, both courts involved with such mortgages and the Fund may modify terms of the mortgage for compliance with traditional prime lending characteristics.

It is unclear how any loan made by a credit union to its members, would result in becoming unidentified. As strong and reliable mortgage lenders in the Commonwealth, Massachusetts credit unions question the necessity, applicability, and reasonableness of the provisions of the bill. The making of mortgage loans, and subsequent loan modification, is a highly technical process which requires certain expertise. The administration of the Fund is vague. It is unclear how transferred loans would be monitored, and how loans identified by the fund for modification would be underwritten, modified, and funded, particularly by courts which have no experience in making loan modifications.

Finally, the first paragraph of the bill states that its primary function is to address predatory lending practices which have decapitalized the Commonwealth. Massachusetts credit unions have not and do not offer predatory products or services to their members, and yet are wrapped up in this one-size fits all legislation. The Association strongly disputes the applicability of the purported purpose this bill to credit unions, and opposes House 1073.

Oppose: House 1077

The bill, a refiled measure,⁵ adds a new section to Chapter 93 that establishes that any lending institution that reports the credit transactions of its consumers to one of the major credit reporting agencies has an affirmative duty to report to those agencies any payments that continue to be made by the consumer after the filing of bankruptcy, if the individual's account has been reaffirmed by a judge presiding over the bankruptcy case.

⁴ More recently the bill was filed as House 3676 in the 2017-2018 legislative session and as House 961 in the 2019-2020 legislative session, both of which were reported into study orders as House 4778 and House 5160, respectively.

⁵ More recently the bill was filed as House 519 in the 2017-2018 legislative session and as House 965 in the 2019-2020 legislative session, both of which were reported into study orders as House 4778 and House 5160, respectively.

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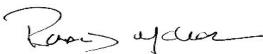
Of primary concern is the unclear standards of the duties imposed on credit unions by the bill. Bankruptcy proceedings are a timely undertaking, and often are not resolved for months if not years. Yet, the provisions of the bill require credit unions to affirmatively and timely report payments after the filing of bankruptcy and when an account has been reaffirmed. Credit unions are not in a position to know of these triggering events in a timely manner, or sometimes at all, thereby creating an operational impossibility. It is also unclear when the credit union's duty to report ends.

In addition, terminology used throughout the bill is unclear, inconsistent and vague. A number of key terms are included in the definition section of the bill, but are not used in the bill text, including "consumer credit reporting agencies," "reaffirmed debt," and "financial or lending institution." Without clarity on such a significant duty imposed, credit unions are in a position of uncertainty as to which entities must receive reports and what the triggering events are to report.

Finally, the bill imposes significant civil liability on a credit union's failure, negligent or otherwise, to report such information, to include up to a \$1,000, \$2,500, and \$5,000 for the first, second, and subsequent offenses. Such significant liability is overly punitive, particularly when a credit union is not in a position to have the necessary information to make the necessary reports. The Association opposes the provisions of this bill as they are vague, overly punitive, and create operational impossibilities for credit unions.

Thank you for your consideration of the views of credit unions relative to House 1035, 1054, House 1173, and House 1177. The Association remains available to respond to any questions or concerns of the Committee and its staff at your convenience.

Sincerely,



Ronald McLean
President/CEO
Cooperative Credit Union Association, Inc.

RM/KB/MAC