

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 miscellaneous proposals pending before the Joint Committee on Financial Services relative to account fees and a fintech task force. Each of these measures were the subject of a public hearing on October 26, 2021.

- House 1129, *An Act Relative to Establishing a Financial Technology Task Force*
- House 1126, *An Act Relative to the Equitable Assessment of Bank Fees*
- House 1205, *An Act Relative to Inactive Bank Account Fees*

Support with an Amendment: House 1129

The thrust of the measure is to establish and regulate the membership and operation of a special task force to review and report on the impact of financial technology operations and current bank charter regulations. The bill also requires submission of findings, including draft legislation, within 12 months of the passage of the act.

Massachusetts continues to be a premier center for financial services including for the advancement of emerging fintechs. As an integral part of these developments, the local credit union industry has been closely engaged with the fintech movement. It is unquestioned that fintech companies are using different strategies to expand their reach to consumers and access to the financial system and credit unions seek to match cutting edge innovations to better serve

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.

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members. Accordingly, the Association believes that the time is now for action and supports the proposed special task force set forth in House 1129 as amended.

More specifically, the Association seeks an amendment to House 1129 to add credit union representation on the special task force. Such amendment would substantially contribute to its mission as the Association believes that credit unions, as not-for-profit financial cooperatives, are uniquely situated and experienced to do so. Amongst its industry expertise is the FinTech Innovation Center successfully launched by Digital Federal Credit Union in Boston in 2018.² Of the many activities of the Center, it also maintains a focus on helping startups gain initial customer traction and provides proof-of-concept fintech startups with one year of free mentorships, community, workspace, and access to an extensive fintech centric network.

The Association respectfully seeks an amendment to include credit union representation in House 1126.

Oppose: House 1126

This is a refiled measure³ which addresses credit union law exclusively relative to the imposition of fees for depositing checks with insufficient funds and strikes its application to deposits made into accounts established for personal, family or household purposes. The Association raises concern as there are companion statutes governing the consumer deposit accounts of state-chartered banks, yet House 1126 only addresses relevant credit union provisions.⁴ In addition, by deleting the qualifications of the consumer account, the limitations expand to all types of accounts.

The provisions across state chartered financial institutions are intended to be substantially identical consumer protections. It is a longstanding premise that consumer protection rules do not apply to deposit accounts held by businesses. For purposes of clarity, the Commonwealth's consumer protections extend to its residents and all businesses must generally comply. However, it should be noted that even if an account is not covered by the scope of the restriction found within statute, a credit union can still contractually obligate itself to treat the account as if it were covered by the language in its agreements. Some credit unions use a risk-based business decision to use the same documentation and apply the same rules to all accountholders thereby treating all members of the financial cooperative the same. In fact, the Association notes that the annual Deposit Return Item Fee Decision ("DRI") issued by the Commissioner of Banks also expressly encourages institutions to elect to impose a lower DRI fee or to waive the fee for their customers.⁵

The Association is unable to ascertain a compelling reason to distinguish amongst state chartered financial institutions as proposed by House 1126. Furthermore, to reverse public policy, without material justification, and extend consumer fee protections to business accounts is unwarranted.

² [DCU - DCU Fintech Innovation Center](#)

³ More recently the bill was filed as House 540 in the 2017-2018 legislative session and as House 1017 in the 2019-2020 legislative session, both of which were reported into study orders as House 4778 and House 5160, respectively.

⁴ The statutes were inserted by St. 1997, c.178, ss.1-2 as amended by St. 2014, c.482, s.35.

⁵ [2021 Deposit Return Item Fee Decision | Mass.gov](#)

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The Association respectfully opposes House 1126.

Oppose: House 1205

This bill is a refiled proposal⁶ which seeks to amend statutory provisions, dating back to 1984, governing certain demand deposit bank accounts and savings accounts, commonly referred to as the 18-65 law, by prohibiting the imposition of inactive account fees. The provisions of M.G.L. c.167D, s.5 were recently reviewed and amended by this Committee.⁷ At no time was an expansion to prohibited fees adopted due to the specificity found within the current statutory framework. Furthermore, the Association suggests that the plain reading of the statute renders action on House 1205 moot as M.G.L. chapter 167D, s. 2, subparagraph 1, sets forth, in pertinent part, that:

“[A] natural person 18 years of age or under or 65 years of age or older may choose 1 demand deposit account and 1 savings account which, in each instance, shall include a joint account in which the spouse of the eligible depositor, regardless of age, is the joint tenant therein or the joint tenant would otherwise be an eligible depositor, and which has been established and used for personal, family or household purposes, upon which no service, maintenance or other similar charge shall be imposed.” (emphasis added)

The Association respectfully opposes House 1205.

Thank you for your consideration of the views of credit unions relative to House 1126, House 1129, and House 1205. 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

⁶ More recently the bill was filed as House 2976 in the 2017-2018 legislative session and as House 1107 in the 2019-2020 legislative session, both of which were reported into study orders as House 4778 and House 5160, respectively.

⁷ Chapter 338 of the Acts of 2020; Chapter 234 of the Acts of 2010; MA Reg. Bull. 3.3-101.