

**HOUSE . . . . . No. 1049**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Paul McMurtry***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to banks and banking.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>

**HOUSE . . . . . No. 1049**

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By Mr. McMurtry of Dedham, a petition (accompanied by bill, House, No. 1049) of Paul McMurtry and others relative to banks and banking. Financial Services.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
\_\_\_\_\_

An Act relative to banks and banking.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 1 of chapter 44 of the acts of 1932, as most recently amended by  
2 Section 20 of chapter 64 of the acts of 1999, is hereby amended by inserting the following  
3 sentence after the first sentence:

4           “All the co-operative banks established under the laws of the commonwealth and subject  
5 to the provisions of chapter one hundred and seventy of the General Laws shall also be members  
6 of the corporation, and the term “member” shall mean each such savings bank and co-operative  
7 bank.”

8           SECTION 2. The third sentence of section 1 of chapter 44 of the acts of 1932, as most  
9 recently amended by section 20 of chapter 64 of the acts of 1999, is hereby stricken and the  
10 following sentence inserted in its place:

11           “Any bank established under the authority of said chapters one hundred and sixty-eight  
12 and one hundred and seventy shall upon its organization be a member bank, provided such bank

13 meets the membership qualification requirements of section 17B of chapter 43 of the acts 1934,  
14 at all times.”

15 SECTION 3. Section 1 of chapter 44 of the acts of 1932, as most recently amended by  
16 section 20 of chapter 64 of the acts of 1999, is hereby amended by inserting after the third  
17 paragraph the following new paragraph:

18 “The corporation may require each member bank to certify at least annually that it meets  
19 the membership qualification requirements of section 17B of chapter 43 of the acts of 1934 and  
20 to submit such reports and information as the corporation deems appropriate to determine  
21 whether such member bank meets or is likely to meet such membership qualification  
22 requirements.”

23 SECTION 4. The first and second sentences of section 2 of chapter 44 of the acts of  
24 1932, as most recently amended by Section 21 of chapter 64 of the acts of 1999, are hereby  
25 stricken and the following sentence inserted in their place:

26 “The officers of the corporation shall be a president, one or more vice-presidents, a  
27 treasurer, a clerk and such other officers as the by-laws may provide.”

28 SECTION 5. Section 2 of chapter 44 of the acts of 1932, as most recently amended by  
29 Section 21 of chapter 64 of the acts of 1999, is further amended by adding the following new  
30 paragraph after the last paragraph:

31 “The by-laws may provide for such matters as the board of directors deems appropriate  
32 to implement this act and shall prescribe membership qualification requirements under section  
33 17B of chapter 43 of the acts of 1934.”

34

35 SECTION 6. Clause (e) of section 7 of chapter 44 of the acts of 1932, as most recently  
36 amended by section 77 of chapter 371 of the acts of 1983, is hereby stricken and the following  
37 inserted in its place:- “(e) Deposits in federally insured banks.”

38 SECTION 7. Section 8 of chapter 44 of the acts of 1932, as most recently amended by  
39 section 9 of chapter 405 of the acts of 1985, is hereby amended by adding after the words  
40 “savings banks” the words “and co-operative banks.”

41 SECTION 8. The first paragraph of section 10 of chapter 44 of the acts of 1932, as  
42 most recently amended by section 3 of chapter 178 of the acts of 1987, is hereby amended by  
43 inserting in the first sentence after the word “agents” the following text: “and the directors,  
44 officers, employees and other agents of The Co-operative Central Bank organized pursuant to  
45 chapter 45 of the acts of 1932, as amended,”.

46 SECTION 9. The third paragraph of section 10 of chapter 44 of the acts of 1932, as  
47 most recently amended by section 3 of chapter 178 of the acts of 1987, is hereby amended by  
48 inserting in the first sentence after the words “or other agents of the corporation” the following  
49 text: “or The Co-operative Central Bank organized pursuant to chapter 45 of the acts of 1932, as  
50 amended,”.

51 SECTION 10. The first paragraph of section 1 of chapter 43 of the acts of 1934, as most  
52 recently amended by section 24 of chapter 64 of the acts of 1999, is hereby amended by inserting  
53 the words “and co-operative banks” after the words “savings banks” in the first sentence thereof.

54 SECTION 11. The first paragraph of section 1A of chapter 43 of the acts of 1934, as  
55 most recently amended by section 12C of chapter 405 of the acts of 1985, is hereby amended by  
56 striking out the words “section twenty-five of chapter one hundred and sixty eight” and inserting  
57 in place thereof the following words “section twelve of chapter one hundred and sixty-seven J.”

58 SECTION 12. The fifth sentence of Section 3 of the chapter 43 of the acts of 1934, as  
59 most recently amended by section 33 of chapter 238 of the acts of 1996, is hereby amended by  
60 striking out the words “savings” before “bank” and inserting in place thereof the word  
61 “member;” striking out the words “thirty-four or section thirty-four D of said chapter one  
62 hundred sixty-eight” and inserting in place thereof “two, three or five of said chapter one  
63 hundred sixty-seven I;” and, striking out the words “thirty-five of said chapter one hundred  
64 sixty-eight” and inserting in place thereof the words “eight of said chapter one hundred sixty-  
65 seven I.”

66 SECTION 13. The third paragraph of section 3A of chapter 43 of the acts of 1934, as  
67 most recently amended by sections 85 and 86 of chapter 371 of the acts of 1983, is hereby  
68 amended by inserting the words “directors or” before the word “trustees.”

69 SECTION 14. The fourth paragraph of Section 3A of chapter 43 of the acts of 1934, as  
70 most recently amended by sections 85 and 86 of chapter 371 of the acts of 1983, are hereby  
71 amended by striking out the words “savings” before “bank” and inserting in place thereof the  
72 words “member;” inserting the words “directors or” before the word “trustee;” striking out the  
73 words “thirty-three of chapter one hundred and sixty-eight” and inserting in place thereof the  
74 words “fifteen of chapter sixty-seven I”; and, striking out the words “thirty-five of said chapter

75 one hundred and sixty-eight” and inserting in place thereof the words “eight of said chapter one  
76 hundred and sixty-seven I.”

77 SECTION 15. Section 6 of chapter 43 of the acts of 1934, as most recently amended by  
78 section 234 of chapter 514 of the acts of 1978, is hereby amended by inserting in the sixth  
79 sentence the words “directors or” before the word “trustees”.

80 SECTION 16. Section 7 of chapter 43 of the acts of 1934, as most recently amended by  
81 section 87 of chapter 371 of the acts of 1983, is hereby amended by inserting the words “or  
82 shareholders” after the word “corporators” and by striking the words” thirty-four, thirty-four A,  
83 thirty-four B, thirty-four D and thirty-five of chapter one hundred and sixty-eight” and inserting  
84 in their place the words” two, three and five of chapter one hundred and sixty-seven I.”

85 SECTION 17. Section 10 of chapter 43 of the acts of 1934, as most recently amended by  
86 section 25 of chapter 64 of the acts of 1999, is hereby amended by striking the remainder of the  
87 seventh sentence after the word “distribution” and inserting the following sentence after the end  
88 of the seventh sentence:

89 “Distributions shall be based upon the member banks’ respective liquidation rights in the  
90 Deposit Insurance Fund and the Share Insurance Fund of The Co-operative Central Bank as of  
91 the effective date of the transfer of the Share Insurance Fund into the Depositors Insurance Fund  
92 adjusted for any pro-rata post-transfer changes in the surplus account of the Deposit Insurance  
93 Fund based upon paid in assessments; provided, however, that the liquidation rights of co-  
94 operative bank members shall be reduced to reflect any contingent liability that is incurred by the  
95 corporation as a direct result of the merger of the two corporations pursuant to section 20 of this  
96 act within three years from the effective date of said merger.”

97 SECTION 18. Section 17 of chapter 43 of the acts of 1934, as most recently amended by  
98 section 20, of chapter 64 of the acts of 1999, is further amended by adding the following  
99 sentence to the fourth paragraph of paragraph (a) of said section:

100 “The corporation, with the approval of the commissioner, may in its sole discretion,  
101 settle or compromise the distribution rights under section 10 of a member bank that has  
102 withdrawn pursuant to section 17A.”

103 SECTION 19. Chapter 43 of the acts of 1934, as most recently amended by chapter 64 of  
104 the acts of 1999, is further amended by adding the following new section after section 17A:

105 “Section 17B. A member bank shall at all times meet the membership qualification  
106 requirements prescribed by the corporation’s by-laws adopted pursuant to section 2 of chapter 44  
107 of the acts of 1932, as amended.

108 Whenever the corporation, by at least a two-thirds vote of the full membership of its  
109 board of directors, determines that a member bank is unlikely to meet the membership  
110 qualification requirements of the corporation’s by-laws, it shall inform the commissioner of such  
111 determination and the basis therefor. If the commissioner concurs in such determination, the  
112 directors may require such member bank to bring itself into compliance with such membership  
113 qualification requirements by: (i) restructuring its balance sheet; or (ii) taking such other actions  
114 as the directors deem appropriate. The terms and conditions of any such required actions shall  
115 become effective when approved by the commissioner.

116 Whenever the directors determine that a member bank is unlikely to meet the  
117 membership qualification requirements of the corporation’s by-laws, the directors shall notify  
118 such bank in writing thereof, including an explanation of the basis for said determination, and

119 advise said bank of any of the requirements imposed pursuant to the preceding paragraph. In any  
120 such event, said member bank shall either comply therewith within 60 days following such  
121 written notification or notwithstanding any general or special law to the contrary, a member  
122 bank, which is not a savings bank so notified, shall by operation of law, become a savings bank  
123 subject to the provisions of chapter 168 of the General Laws at the end of such 60-day period.

124           The corporation may make rules and establish procedures for making membership  
125 qualification determinations under this section.

126           Upon the conversion of a member bank into a savings bank, the corporate existence of  
127 such bank shall not terminate, but such savings bank shall be deemed to be a continuation of the  
128 entity of the bank so converted and all property of said bank including its right, title and interest  
129 in and to all property of whatsoever kind, whether real, personal or mixed, and things in action,  
130 and every right, privilege, interest and asset of any conceivable value or benefit then existing, or  
131 pertaining to it, or which would inure to it, shall immediately, by act of law and without any  
132 conveyance or transfer and without any further act or deed, remain and be vested in and continue  
133 and be the property of such savings bank into which said bank has converted itself, and such  
134 savings bank shall have, hold and enjoy the same in its own right as fully and to the extent as the  
135 same was held, possessed and enjoyed by the converting bank, and such savings bank, as of the  
136 effective date of said conversion, shall continue to have and succeed to all the rights, obligations  
137 and relations of said converting bank. All pending actions and other judicial proceedings to  
138 which said converting bank is a party shall not be deemed to have been abated or to have been  
139 discontinued by reasons of such conversion, but may be prosecuted to final judgment, order or  
140 decree in the same manner as if such conversion into such savings bank had not been made, and  
141 such savings bank resulting from such conversion may continue such action in its corporate



142 name as a savings bank, and any judgment, order or decree may be rendered for or against it  
143 which might have been rendered for or against such converting bank theretofore involved in such  
144 judicial proceedings.

145         After compliance with the foregoing requirements, the succeeding corporation shall  
146 thereafter be entitled to exercise all of the rights and privileges, and shall be subject to all of the  
147 duties and obligations of, a savings bank, and shall conduct its business subject to the provisions  
148 of chapter 168 of the General Laws and of other applicable laws; provided, however, that, with  
149 the approval of the commissioner, the succeeding corporation shall have a reasonable time after  
150 the effective date of the conversion within which to comply with any particular provisions of  
151 such laws not hereinbefore specifically provided for and which it shall be unable to comply with  
152 on or before said date.”

153         SECTION 20. (1) The Co-operative Central Bank, a corporation established by chapter  
154 45 of the acts of 1932, may merge with and into the corporation, under the name of the  
155 corporation, pursuant to an agreement and plan of merger which shall have been approved by a  
156 two-thirds vote of the boards of directors of each of The Co-operative Central Bank and the  
157 corporation. Said agreement and plan of merger shall establish the terms and conditions of said  
158 merger, in addition to those terms and conditions set forth in this section, which shall include  
159 membership qualification requirements to be incorporated into the corporation’s by-laws,  
160 effective as of the consummation of any such merger, and any other provisions the corporation  
161 deems appropriate to effectuate the provisions of this act.

162         Upon receipt of the required approval of the directors of both corporations,  
163 articles of merger and the surviving corporation’s amended by-laws shall be filed with the

164 commissioner, which shall state: (i) the Depositors Insurance Fund as the surviving corporation;  
165 and (ii) the effective date of the merger determined pursuant to the agreement or plan of merger.  
166 Such articles of merger shall be signed by the president and the clerk of each corporation, who  
167 shall state under the penalties of perjury that the plan or agreement of merger has been duly  
168 executed on behalf of such corporation and has been approved by the directors as required.

169 (2) No such merger shall occur until the merger and restated by-laws of the surviving  
170 corporation are approved in writing by the commissioner under such terms and conditions as he  
171 may impose. Upon his approval of the merger and the amended by-laws, the commissioner shall  
172 endorse his approval upon said articles of merger.

173 (3) Upon the merger authorized under the provisions of this act, the corporate  
174 existence of The Co-operative Central Bank shall cease. All of the rights and privileges of The  
175 Co-operative Central Bank and its right, title and interest to all property of whatever kind and  
176 thing in action, and every right, privilege, interest or asset then existing which would inure to it  
177 except for such merger, shall fully, and without any right of reversion, by operation of law be  
178 transferred to or vested in the Depositors Insurance Fund, without further act or deed, and the  
179 Depositors Insurance Fund as the continuing corporation shall have and hold the same in its own  
180 right to every extent that the same was owned and held by The Co-operative Central Bank.

181 (4) The Co-operative Central Bank's obligations and liabilities to any member,  
182 creditor, or other person, as of the effective date of the merger, shall remain unimpaired and the  
183 Depositors Insurance Fund shall, by of operation of law, succeed to all such obligations and  
184 liabilities, as though it had itself incurred the obligation or liability; and its liabilities and  
185 obligations to creditors, existing for any cause whatsoever, shall not be impaired by the merger;

186 nor shall any obligation or liability of any member in The Co-operative Central Bank or  
187 Depositors Insurance Fund, be affected by any such merger, but such obligations and liabilities  
188 shall continue as fully and to the same extent as the same existed before the merger.

189 (5) The Share Insurance Fund of The Co-operative Central Bank established by  
190 chapter 73 of the acts of 1934 shall be combined with and into the Deposit Insurance Fund of the  
191 Depositors Insurance Fund established by chapter 43 of the acts of 1934. The Reserve Fund of  
192 The Co-operative Central Bank established by chapter 45 of the acts of 1932 shall be combined  
193 with and into the Liquidity Fund of the Depositors Insurance Fund established by chapter 44 of  
194 the acts of 1932.

195 SECTION 21: Notwithstanding any general or special law to the contrary, a co-operative  
196 bank that does not meet the corporation's membership qualification requirements, as of the  
197 effective date of the merger authorized under section 20 of this act, shall immediately be  
198 converted into a savings bank under section 17B of chapter 43 of the acts 1934, without any  
199 further action by the corporation or the commissioner as of the effective date of said merger.

200 SECTION 22: Notwithstanding the provisions of section 2 of chapter 44 of the acts of  
201 1932, as most recently amended by section 21 of chapter 64 of the acts of 1999, for a period of  
202 three years after the effective date of this act, the by-laws of the Depositors Insurance Fund may  
203 provide for a number of directors greater than twelve and may impose term limits in order to  
204 effectuate the purposes of this act.

205

206           SECTION 23: Chapter 45 of the acts of 1932, as amended, and chapter 73 of the acts of  
207 1934, as amended, are hereby repealed upon the commissioner's approval of the articles of  
208 merger under section 20 of this act.