Statement of Deborah Sousa, Executive Director, on the behalf of the Massachusetts Mortgage Bankers Association
Regarding Legislation to Require Home Energy Audits and Energy Efficiency Improvements
Joint Committee on Telecommunications, Utilities and Energy
June 30, 2015

Chairman Downing, Chairman Golden, members of the Joint Committee, my name is Deborah Sousa and I am Executive Director of the Massachusetts Mortgage Bankers Association (MMBA). The MMBA represents roughly 200 lending institutions made up of equal representation between depository institutions (banks and credit unions) and non-depository institutions (mortgage banker/lender companies, mortgage brokers and all ancillary companies which touch the mortgage transaction throughout the Commonwealth.

Our members are deeply involved in national and local foreclosure prevention programs as well as neighborhood revitalization efforts in individual cities and towns throughout the Commonwealth. In addition to working with individual borrowers, our members have donated monies to support homebuyer counseling and foreclosure prevention programs in Massachusetts. The MMB Foundation, funded by member donations, have provided over $146,000 in grants to 39 non -profit organizations who provide credit education and affordable housing initiatives in the Commonwealth. Local lenders have also been the primary lender participants in local initiatives such as Buy Brockton, Buy Worcester, Boston's "Meet the Lender" program, and many others. As a rule, most Massachusetts based banks and lenders aggressively seek to work with borrowers to avoid defaults and preserve and sustain homeownership.

Our members are also concerned with the environment and we support energy efficiency in homes and consumers' access to financing energy improvements

There are two bills before the committee that would impact the mortgage lending community and we are thankful to submit our testimony on the following bills:

S.1761: An ACT RELATIVE TO HOME ENERGY EFFICIENCY

The MMBA opposes this legislation

This bill seeks to require sellers or their agents to perform a Mass Save energy audit prior to listing a home for sale and disclose to any prospective buyer the information in the energy audit at the time of the listing. Additionally, the bill commissions the design and implementation of an energy scoring and labeling system.

Mandatory energy audits at or prior to the transfer of property can disrupt sales and therefore have a negative impact on the Massachusetts housing economy. Additionally, requiring energy efficiency scoring on homes in Massachusetts will stigmatize older homes resulting in a decline in value and perhaps the unintended consequence of redlining neighborhoods.

The MMBA suggests a more effective and thoughtful approach, since many new homeowners plan home improvements in their new home, have Mass Save mail all new homeowners information on the energy programs available to them as a new owners. This information is readily available through public records and companies such as the Warren Group.

The MMBA Opposes S.1761

H.2889: AN ACT PROMOTING RESIDENTIAL ENERGY EFFICIENCY IMPROVEMENTS

The MMBA **strongly opposes** this legislation

This legislation promotes and encourages homeowners to make energy efficient improvements to their homes. While the MMBA supports energy efficiency in homes and consumers' access to financing energy improvements, PACE loans represent a number of obstacles to responsible mortgage lending.

First and foremost, because PACE loans are a betterment assessment, the debt is ahead of any other lien on the property, including a mortgage. The MMBA strongly opposes any financing that would have a first lien priority ahead of an existing mortgage lien. Consumers with PACE loans would have difficulty refinancing, obtaining a loan modification and selling their home.

Fannie Mae and Freddie Mac announced that they will not purchase mortgages secured by properties associated with PACE loans:

> "FHFA wants to make clear to homeowners, lenders, other financial institutions, state officials, and the public that Fannie Mae and Freddie Mac's policies prohibit the purchase of a mortgage where the property has a first-lien PACE loan attached to it. This restriction has two potential implications for borrowers. First, a homeowner with a first-lien PACE loan cannot refinance their existing mortgage with a Fannie Mae or Freddie Mac mortgage. Second, anyone wanting to buy a home that already has a first-lien PACE loan cannot use a Fannie Mae or Freddie Mac loan for the purchase. These restrictions may reduce the marketability of the house or require the homeowner to pay off the PACE loan before selling the house."

The MMBA has concerns that PACE loans could violate both federal and state regulations regarding a borrower's Ability-to-Repay (ATR) guidance. PACE loans are asset based and are not subject to an income and debt analysis which may cause borrowers to take on too much debt and impede their ability to meet existing debt obligation. The ATR rule established that most new mortgages must comply with basic requirements that protect consumers from taking on loans they do not have the financial means to pay back. The PACE loan debt could also increase the borrower's risk of defaulting on their mortgage and putting them at risk of foreclosure.

"PACE bonds issued pursuant to this section shall not be subject to or otherwise included in the principal amount of debt obligations issued under section 29."

PACE loans should be subject to Truth-in-Lending: This legislation states that the agency shall disclose to the property owner the costs associated in participating in this program. Both state and federal truth in lending laws require creditors to inform consumers about the costs of the credit transactions they are entering. By examining these costs, and comparing offers from more than one creditor on any proposed credit transaction, consumers can shop around for the best credit deal, just as they shop around for the best price on the purchase they are contemplating. Regulation Z is the federal truth in lending statute governing disclosures for both "closed end" and "open end" credit transactions.

Consumers may be making energy improvement decisions based upon an immediate need such as a heating system needing to be replaced in the winter or an air conditioning unit fails during the summer without taking the chance to shop and see what programs or services are available. Unlike a private party transaction where a party can sue for nonperformance, PACE debt goes on regardless of the consumer actually received promised savings. Therefore the MMBA feels strongly that the disclosures provided to the consumer as well as the agency arranging financing should be regulated under the applicable federal and state lending laws.

The MMBA strongly opposes H.2889

Conclusion

The MMBA and our member lenders will continue to work with borrowers, local communities, and elected officials on ways to sustain homeownership and encourage energy efficiency in this challenging housing market. We would like to offer the MMBA and our membership as a resource to you for any questions or clarifications on the impact of any bills in this committee.

Thank you for the opportunity to provide you with written testimony before the Committee.

MMBA
MASSACHUSETTS MORTGAGE BANKERS ASSOCIATION

THE FOUNDATION
MASSACHUSETTS MORTGAGE BANKERS FOUNDATION, INC.

The Massachusetts Mortgage Bankers Association (MMBA) is the Commonwealth's trade association representing the real estate finance industry. Founded in 1974, the MMBA is the largest mortgage association in New England and is one of the most successful in the country. The association works to ensure the continued strength of the Commonwealth's residential real estate markets; to expand homeownership prospects through affordability; and to extend access to affordable housing. The MMBA promotes fair and ethical lending practices and promotes excellence and integrity among real estate finance professionals through a wide range of educational programs, advocacy and industry-wide publication.

The Massachusetts Mortgage Bankers Association (MMBA) represents 225 lending institutions made up of equal representation between depository institutions (banks and credit unions) and non-depository institutions (mortgage banker/lender companies, mortgage brokers and all ancillary companies) which facilitate mortgage transactions throughout the Commonwealth.

The MMB Foundation was established in 2004 as the philanthropic branch of the MMBA. The mission of the Foundation is to support homebuyer and homeowner education as well as supporting affordable housing in Massachusetts. Since its inception, the Foundation has provided $146,500 in grants to 39 non-profit agencies recommended by MMBA members.

Massachusetts Statistics (as of 12/31/2014)

- 147 banks & 187 credit unions, which includes federal charters
- 203 mortgage brokers
- 108 mortgage lenders
- 109 companies holding both a mortgage lender & mortgage broker license
- 8,138 licensed mortgage loan originators

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Massachusetts

Data as of First Quarter, 2015, unless otherwise noted.

	Massachusetts	United States
Homeownership Rate		
Q3 2014	64.7%	64.4%
Q4 2014	62.7%	64.0%
Q1 2015	61.7%	63.7%
Total Purchase & Refinance Originations in 2013		
Number of Loans	202,254	8,120,756
Dollar Volume ($ thousands)	$ 58,101,170	$ 1,753,939,760
Average Loan Amount	$ 287,268	$ 215,982
FHA Purchase & Refinance Originations in 2013		
Number of Loans	14,268	1,097,090
Dollar Volume ($ thousands)	$ 3,566,303	$ 191,678,566
Average Loan Amount	$ 249,951	$ 174,715
Housing Stock Measures (ACS Data, 2009-2013)		
Total Housing Units	2,808,549	133,582,681
Vacant Units	278,402	16,741,597
Occupied Units	2,530,147	116,841,084
Owner-Occupied	56%	57%
Renter Occupied	34%	31%
Mortgage Performance		
Serious Delinquency Rate (NSA)		
Q1 2014	5.53%	5.04%
Q4 2014	5.23%	4.52%
Q1 2015	5.00%	4.24%
Foreclosure Starts Rate (NSA)		
Q1 2014	0.20%	0.45%
Q4 2014	0.37%	0.46%
Q1 2015	0.49%	0.45%
Employment (SA, quarterly data)		
Non-Farm Employment	3,450,567	140,368,633
Private non-farm	2,991,167	118,347,167
Government	459,400	21,901,333
YOY Change in Total Non-Farm Emp	61,400	3,027,133
Unemployment Rate (SA)	4.93%	5.57%
Mortgage Market Activity (NSA)		
Refinance Share of Total Applications	73.1%	65.7%
Gov't (FHA/VA/USDA) Share of Purchase Apps	21.7%	30.4%
Home Prices ($)		
YOY Change in Home Prices (as of Q4-14)	4.80%	5.48%
Population*	6,745,408	318,857,056
YOY Change in Population	36,534	2,359,525

Sources:

MBA's Monthly Profile of State and National Mortgage Activity (Quarterly, NSA), Bureau of Labor Statistics, Bureau of the Census, Federal Housing Finance Agency, Federal Financial Institutions Examination Council - Home Mortgage Disclosure Act, Mortgage Bankers Association

NSA - Non-seasonally adjusted, SA - seasonally adjusted

** Annual estimates as of December 2014*

The Mortgage Bankers Association (MBA) is the voice of the real estate finance industry representing more than 2,200 member companies including mortgage companies, mortgage brokers, commercial banks, thrifts, life insurance companies and others in the mortgage lending field.

As the market environment continues to change, MBA recognizes the important role the real estate finance industry plays in the strength of the economy and is working diligently to restore confidence and liquidity into the market while avoiding an overreaction to the current environment and causing harm down the road.

MBA supports efforts that will stabilize the mortgage market, help struggling homeowners to be able to avoid foreclosure and stay in their homes and ensure that the conditions that have gotten us into this crisis are never repeated.

The health of the economy depends on a strong residential and commercial real estate market and MBA is dedicated to ensuring credit remains to fund the buildings where Americans work, shop and live.

MMBA

MASSACHUSETTS MORTGAGE BANKERS ASSOCIATION

Beacon Hill Day

June 10, 2015

About the MMBA

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Legislative Issues

1. Prohibiting Eminent Domain
2. Super Lien Priority Bills
3. Tenant Rights for Foreclosed Borrowers
4. Mandatory Energy Scoring
5. Local City/Town Ordinances
6. Consumer Privacy and Credit Triggers

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Prohibit Eminent Domain

S.55 – Proposal for a Legislative Amendment to the Constitution Prohibiting Eminent Domain was referred to the Judiciary Committee

There are currently three bills before the Judiciary Committee involving Eminent Domain. In general, the Association supports any legislation which thoughtfully limits the conditions under which real estate, or any interest, could be taken by eminent domain. Eminent domain should be exercised only when absolutely needed for the best interests of the public and never because the land could be used more profitably by public agencies, commercial enterprise, private economic development or any private use of the property.

Action Needed: Support S.55 prohibiting eminent domain

SUPER LIEN PRIORITY BILLS

There are currently 2 bills pending that place liens as a priority before a mortgage. This means that in the case of non-payment, an energy improvement loan or a condominium fee could force a property into foreclosure and/or result in a mortgage not being satisfied. This is extremely problematic in obtaining mortgage financing and may result in loans being excluded for sale to Fannie Mae or Freddie Mac.

H.2889 – An Act promoting residential energy efficiency improvements was referred to the Joint Committee on Telecommunication, Utilities and Energy. This legislation would provide a property owner a PACE loan for energy improvements but with a lien priority that would come before an existing mortgage which would not be able to be sold on the secondary market.

S.707 – An Act to clarify condominium priority liens was referred to the Joint Committee on Housing. This legislation expands the existing 6 month money priority lien and would allow a condo association to combine an unlimited amount of late HOA fees that would automatically have a lien priority before an existing mortgage. This bill would likely have a negative impact on financing of condominiums in Massachusetts such as higher interest rates or larger down payments because of the additional risk.

A mortgage is a contract between two parties – the lender and the borrower – the MMBA strongly opposes legislation that allows liens, with the exception of real estate taxes, to have a lien priority over mortgage loans.

Action: Oppose H.2889 and S.707