

**To: House Committee on Commerce and Economic Development**

**From: Federal Home Loan Bank of Boston**

**Date: March 23, 2023**

**Subject: FHLBank Amendment to S.95**

My name is Keith Walsh. I am the General Counsel of the Federal Home Loan Bank of Boston (“FHLBank Boston”), one of eleven regional Federal Home Loan Banks (FHLBanks) chartered by Congress in 1932. Banks, credit unions, insurance companies, and community development financial institutions located in the six New England states are eligible to join FHLBank Boston as a member. FHLBank Boston currently has 427 members, including 32 in Vermont.

**BACKGROUND:**

The FHLBanks, which are government sponsored enterprises (GSEs), are cooperatively structured, member-owned wholesale banks that provide highly reliable wholesale funding to our members to support housing finance and community development. The FHLBanks are regulated by the Federal Housing Finance Agency (FHFA). In order to access FHLBank funding, members pledge collateral, primarily consisting of residential loans or securities backed by residential loans. Members can thus “liquefy” their residential mortgage assets by pledging them to support their FHLBank borrowings, using the proceeds from those borrowings for further lending and investment within their communities. In this way, the FHLBanks support housing finance and the local economy.

The FHLBanks also contribute at least 10% of our annual net income toward grants and subsidized loans for affordable rental and homeownership projects, in partnership with our members. As part of its Equity Builder and Housing Our Workforce programs, FHLBank Boston awards grants for down-payment and closing-cost assistance to help low- to moderate-income families realize the dream of homeownership. Moreover, since 2016, FHLBank Boston has provided discounted advances to members through its Jobs for New England program so that members can in turn provide critical below market-rate financing to small businesses in New England, many of which are owned by minorities, women, or veterans. These small business loans stimulate local economies by providing the funding needed to expand businesses and create or preserve jobs that would have otherwise been lost. New for 2023, FHLBank Boston plans to launch a Special Purpose Credit Program providing down payment assistance to people of color in an effort to close

the racial homeownership gap.

The FHLBanks' government sponsored enterprise status enables us to borrow funds in global capital markets at attractive rates and pass on the benefit of such low-cost funds to our members by making loans to them on very narrow margins. Having access to this reliable source of liquidity helps our insurance company members manage their balance sheets more efficiently and build capital to protect policyholders. Unlike commercial lenders that may halt lending to insurance companies at times when they face their own liquidity pressures, FHLBanks have historically been able to maintain access to the global capital markets and continue lending to our members across business cycles, including during times of economic and market stress, serving as a stabilizing force in the economy. The events in the banking industry over the last two weeks have further highlighted the importance of the FHLBanks. When the banking industry became destabilized as a result of two high profile bank failures (Silicon Valley Bank and Signature Bank), the FHLBanks stepped up to meet the needs of our depository institution members by raising record amounts of funding in the global capital markets. While the recent bank failures have largely been a non-event for the insurance industry, the FHLBank amendments contained in S.95 are designed to enable the FHLBanks to serve our Vermont insurance company members when market forces or more unique circumstances create a liquidity need, just as we are able to do for our Vermont depository institution members. Consequently, with the FHLBank amendments contained in S.95, FHLBanks can help protect the Vermont consumers, who are the policyholders of a struggling insurance company member, from the uncertainty and confusion that can result from the sudden, chaotic collapse of an insurance company.

#### WHY WE ARE HERE:

We are here to resolve disparities between federal law and Vermont law that result in worse treatment of a FHLBank claim in the rare event that a Vermont insurance company member is subject to a receivership as compared to when a Vermont bank or credit union member is subject to a receivership. Although the revisions contained in S.95 at issue relate to the Vermont insurance company receivership laws, there is no imminent failure or anticipated failure of a Vermont insurance company member of FHLBank Boston. Instead, the FHLBank amendments contained in S.95 address an extremely rare "what if" scenario. In fact, since 1932, there have only been two instances of a FHLBank insurance company member going into a receivership (and in each case, the insurance company member was successfully rehabilitated with the support of a FHLBank). The FHLBank amendments contained in S.95 will enable FHLBank Boston to work with our insurance company members in Vermont when they need us most. Let me describe this in more

detail.

#### PRESENT LAW:

As a government sponsored enterprise, FHLBank Boston is heavily regulated by the FHFA and is only permitted to advance funds to its members on a fully secured basis. Due to disparities between federal banking law and state insurance law, and concern over those disparities on the part of our regulator, FHLBank Boston's credit posture must be more conservative toward our Vermont insurance company members than our Vermont bank and credit union members.

A central reason for this disparity is that Vermont insurance law does not provide the same protections that are afforded to the FHLBanks under federal banking law. For example, Vermont insurance law gives the receiver broad powers to settle an insolvent insurance company's affairs, which could result in FHLBank Boston, as secured creditor, being subjected to a stay or injunction delaying its statutory right to resort to its collateral or subjected to "voidable transfer" or similar challenge to its secured position. Due to protections specific to the FHLBanks that are built into federal banking law, FHLBank Boston does not face these risks when it lends to bank and credit union members in Vermont.

#### ARGUMENT IN FAVOR:

By equalizing these disparities between state and federal law, the FHLBank amendments contained in S.95 will enable FHLBank Boston to equalize its approach to lending to insurance company members, on the one hand, and bank and credit union members, on the other hand, in Vermont.

FHLBank Boston worked closely with the Vermont Department of Financial Regulation (DFR) on developing the language in S.95, providing documentation and materials as the DFR determined necessary to assess the FHLBank amendments contained in S.95. Moreover, the FHLBank amendments contained in S.95 include revisions recommended by the National Association of Insurance Commissioners that subject the FHLBank to a short stay period in the event of an insurance company receivership (10 days) and require the FHLBank to work closely with the DFR (or their appointed receiver) during that short stay period to, among other things, develop a timeline for the release of excess collateral and the redemption or repurchase of FHLBank stock.

The certainty provided to the FHLBank (and the DFR) through the amendments to S.95 will enable the FHLBank to continue to lend to a Vermont insurance company member when it needs funding the most

and additional liquidity may be the only thing staving off a receivership. This would benefit policyholders by helping to stabilize the insurance company, and if not avoiding receivership, at least facilitating an orderly resolution or rehabilitation of the insurance company. Without the FHLBank amendments contained in S.95, the uncertainty under Vermont insurance laws as to the treatment of an FHLBank's claim will require FHLBank Boston to be more conservative when a Vermont insurance company member's needs are at their greatest than when a Vermont bank or credit union has a similar pressing need for liquidity.

Similar legislation has already become law in 24 states. Furthermore, the American Council of Life Insurers supports this legislation, as it will strengthen insurance companies by providing them with better access to FHLBank funding.

CONCLUSION:

Thank you for your consideration of our position in support of this the FHLBank amendments contained in S.95. On behalf of the Federal Home Loan Bank of Boston, I respectfully request the Committee report S.95 favorably.

Respectfully submitted,

A handwritten signature in blue ink that reads "Keith R. Walsh". The signature is written in a cursive style.

Keith R. Walsh  
Senior Vice President/General Counsel