

To: House Corporations Committee

From: Federal Home Loan Bank of Boston

Date: February 27, 2024

Subject: H7432, Relating to Insurance, Insurers' Rehabilitation and Liquidation Act

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 22 Rhode Island members, including 7 insurance companies.

BACKGROUND:

The FHLBanks, which were formed by Congress in 1932 in response to the Great Depression, 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 our 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. Beginning in 2023, FHLBank Boston also offers a Special Purpose Credit Program that provides 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 last March 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, H7432 is designed to enable the FHLBanks to serve our Rhode Island insurance company members when market forces or more unique circumstances create a liquidity need, just as we are able to do for our Rhode Island depository institution members. Consequently, with the amendments to the Rhode Island insurance laws contained in H7432, FHLBanks can help protect the Rhode Island 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.

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 Rhode Island insurance company members than our Rhode Island bank and credit union members.

A central reason for this disparity is that Rhode Island insurance law does not provide the same protections that are afforded to the FHLBanks under federal banking law. For example, Rhode Island insurance law gives the receiver broad powers to resolve 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 Rhode Island. Importantly, under Rhode Island insurance law, a secured creditor is entitled to the value of its collateral in an insolvency proceeding. Therefore, H7432 does not provide FHLBank Boston with additional collateral, it merely allows the FHLBank Boston to liquidate its collateral on a timely basis if necessary.

ARGUMENT IN FAVOR:

By equalizing the noted disparities between state and federal law, H7432 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 Rhode Island. Although the amendments contained in H7432 relate to the Rhode Island insurance company receivership laws, there is no imminent failure or anticipated failure of a Rhode Island insurance company member of FHLBank Boston. Instead, H7432 addresses 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). Nevertheless, the amendments to the Rhode Island insurance company receivership laws in H7432 address concerns raised by the FHLBanks' federal regulator, the FHFA.

H7432 includes terms 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 Department of Business Regulation (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. H7432 also mirrors a model act adopted last summer by the National Council of Insurance Legislators (NCOIL) during their annual meeting.

The certainty provided to the FHLBank (and the Rhode Island DBR) through H7432 will enable the FHLBank to continue to lend to a Rhode Island 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 amendments contained in H7432, the uncertainty under Rhode Island insurance laws as to the treatment of an FHLBank's claim will require

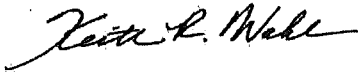
FHLBank Boston to be more conservative when a Rhode Island insurance company member's needs are at their greatest than when a Rhode Island bank or credit union has a similar pressing need for liquidity.

Similar legislation to H7432 has already become law in 27 states, including New Hampshire, New Jersey, and Vermont, each of which passed analogous legislation in 2023. Similar legislation was also reported out of committee favorably in Massachusetts during the current legislative session and remains pending. 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 H7432. On behalf of the Federal Home Loan Bank of Boston, I respectfully request the Committee report H7432 favorably.

Respectfully submitted,



Keith R. Walsh
Senior Vice President/General Counsel

