



The Commonwealth of Massachusetts

Office of the Commissioner of Banks

One South Station

Boston, Massachusetts 02110

JANE SWIFT
GOVERNOR

THOMAS J. CURRY
COMMISSIONER

July 18, 2001

Peter A. Milewski
Director, Mortgage Insurance Fund
Massachusetts Housing Finance Agency
One Beacon Street
Boston, MA 02108

Dear Mr. Milewski:

This letter is in response to your correspondence to the Division of Banks (the "Division") dated June 15, 2001 inquiring as to a state-chartered bank's authority to make loans of greater than 95% loan to value of the real estate under a program of the Mortgage Insurance Fund (the "Fund") of the Massachusetts Housing Finance Agency ("MHFA"). Your letter cites subsection C of section 2 of chapter 167E of the Massachusetts General Laws as the authority for state-chartered savings banks, co-operative banks and trust companies to make such loans in conjunction with MHFA and the Fund. According to your letter, such loans will assist low to moderate income homebuyers as well as first time homebuyers.

Massachusetts General Laws chapter 167E, section 2, subsection C states "Any such bank may make or acquire any mortgage residential real estate loan, other than a reverse mortgage loan, on a dwelling house with accommodations for four or less separate households and occupied, or to be occupied, in whole or in part by the mortgagor; provided, however, that such mortgage loan is saleable in the secondary market or is underwritten in accordance with mortgage loan programs of public instrumentalities created by the commonwealth for the purpose of financing and expanding the supply of residential mortgages or affordable housing." As set out in your letter and in prior correspondence to the Division the language of the statute referring to mortgage loan programs of public instrumentalities created by the commonwealth for the purpose of financing and expanding the supply of residential mortgages and affordable housing is a description that applies to MHFA and the Fund. The Division has made that determination in previous opinions and confirms that position.

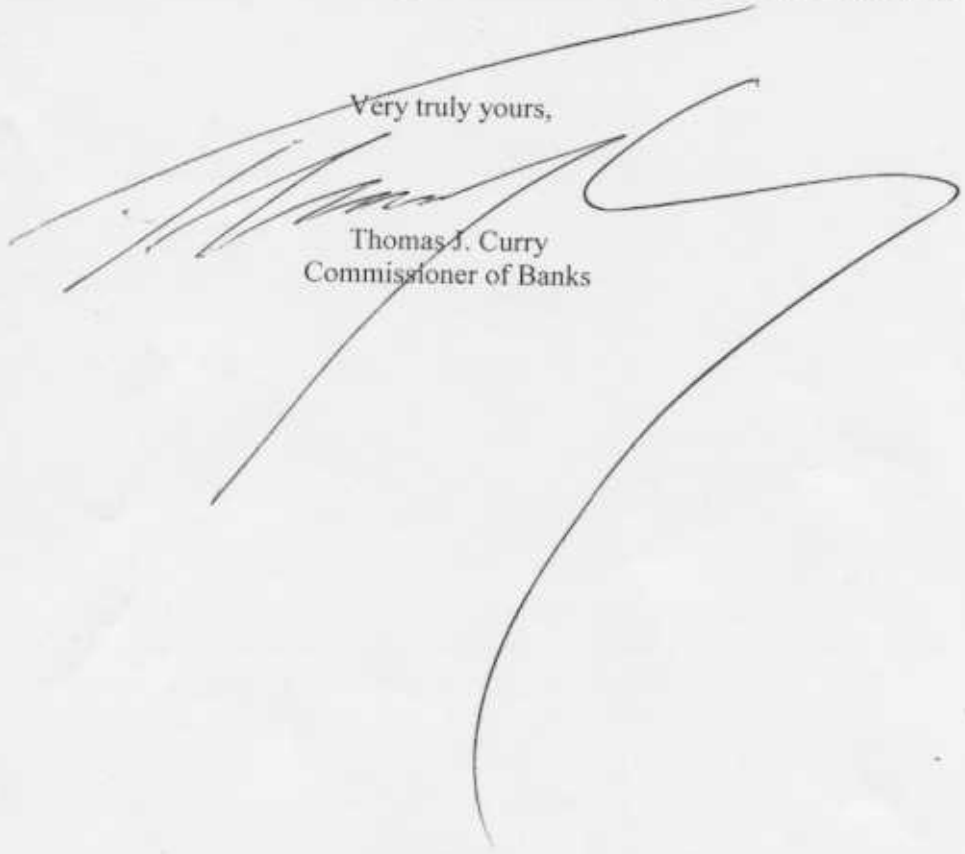


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Based upon the facts in your letter it is the position of the Division that a state-chartered bank can make a mortgage loan, other than a reverse mortgage loan, in conjunction with MHFA and the Fund for an amount greater than 95% of value of the real estate under the provisions of said subsection C section 2 of said chapter 167E.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from those presented may result in a different position statement by the Division.

Very truly yours,



Thomas J. Curry
Commissioner of Banks

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