

HOUSE No. 1486

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT, BOSTON, May 26, 1932.

To The Honorable Senate and The House of Representatives:

A condition has arisen in the liquidation of the banks now in the possession of the Commissioner of Banks for the Commonwealth. It appears that there is in excess of \$8,000,000. of real estate held in possession and in foreclosure by the said banks.

The Law governing the liquidation of these institutions as it now exists, seemingly limits the power of the corporation to receive back mortgages pursuant to a sale or sales of parcels of real estate, the cases indicating that the corporate franchise is in abeyance during the period of possession. Moreover, the liquidation statute provides that the Commissioner "shall proceed to liquidate", which fairly interpreted, might well be held to mean that such real estate may be disposed of only for cash.

I have been informed the Commissioner of Banks has had repeated offers to purchase such real estate held in possession and in foreclosure provided the purchaser might have an opportunity to give back to the bank concerned a mortgage or mortgages as part payment of the purchase price.

Because of the question of the legal capacity of the corporation to take back such mortgages, it follows that such parcels of real estate may be sold only for cash. The present market conditions pertaining to real estate, known to all, together with the difficulty of obtaining mortgages from going banks and other sources, render it

difficult, if not impossible, to make favorable disposition of such real estate.

I recommend that the liquidation law pertaining to closed banks be amended, so as to empower the Commissioner of Banks, in the names of the banks concerned, to permit the taking back of mortgages pursuant to the sale of such real estate and to otherwise meet the situation above described.

JOSEPH B. ELY.

