

Senate, No. 2582

[Senate, Friday, July 30, 2010-- Report (in part) of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendments to the Senate Bill relative to economic development reorganization (Senate, No. 2380) (*amended by the House* by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4863)]

The Commonwealth of Massachusetts



IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT RELATIVE TO ECONOMIC DEVELOPMENT REORGANIZATION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith a business-friendly environment that will stimulate job growth and improve the ease with which businesses can operate in the markets they serve, and to coordinate economic development activities funded by the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 **SECTION 1.** To provide for a program of infrastructure development and improvements, the
2 sums set forth in section 2B for the several purposes and subject to the conditions specified in this act,
3 are hereby made available, subject to the laws regulating the disbursement of public funds and approval
4 thereof.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

SECTION 2B.

1100-7400 For the recapitalization of the Massachusetts Growth Capital Corporation.....\$20,000,000.

6001-0817 For the recapitalization of the grant program to provide for commercial and residential transportation and infrastructure development, improvements and various capital investment projects under the Growth Districts Initiative established by the executive office of housing and economic development; provided, that the secretary of housing and economic development, in consultation with the secretary of the Massachusetts Department of Transportation, shall adopt, amend or continue regulations or guidelines regarding this program; provided further, that annually not later than December 31, the secretary of housing and economic development shall issue a written report to the clerks of the senate and house of representatives, the chairs of senate and house committees on bonding, capital expenditures and state assets, the chairs of the joint committee on transportation, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on state administration and regulatory oversight and the chairs of the senate and house committees on ways and means, which shall include detailed descriptions of infrastructure improvement projects funded under this program and of all funds expended for this purpose, including, but not limited to, all information required for projects under section 25 of chapter 304 of the acts of 2008.....\$50,000,000.

7007-9031 For the recapitalization of the Massachusetts Technology Development Corporation, established in section 2 of chapter 40G of the General Laws.....\$5,000,000

SECTION 3. Section 16G of chapter 6A of the General Laws as is hereby amended by striking out, in lines 2 and 3, as appearing in the 2008 Official Edition, the words “a department” and inserting in place thereof the following words:- the Massachusetts office.

SECTION 4. Said section 16G of said chapter 6A is hereby further amended by striking out subsections (i) and (j) , as so appearing, and inserting in place thereof the following 2 subsections:-

(i) The secretary shall establish in the executive office an office of performance management and oversight. The secretary shall appoint a director to operate and administer said office who shall have experience with economic development in the public or private sector. The director shall establish

33 performance measurements for all public and quasi-public entities engaged in economic development or
34 subject to section 56 of chapter 23A and any private organizations under contract with the
35 commonwealth to perform economic development services in order to improve the effectiveness of the
36 economic development efforts of the commonwealth. In developing these measurements, the secretary
37 shall seek out private sector advice and models that can be adapted to the needs of the commonwealth.
38 Clear measurements shall be developed and effectuated while ensuring that no undue administrative
39 burden is placed on agencies and organizations subject to this section. The director shall prepare an
40 annual report for publication on progress to improve the effectiveness of the commonwealth's economic
41 development efforts and shall report regularly to the public on the progress the office and agencies
42 within the office are making towards achieving stated goals.

43 Agencies to which the system applies shall file an annual report with the office of performance
44 management and oversight. The annual report, which shall be in a form and manner prescribed by the
45 secretary, shall include but not be limited to:

- 46 (1) a secretary approved agency plan for the year including the goals set for the year and the
47 performance measurements by which to evaluate those goals and programs or initiatives;
48 and
- 49 (2) the agency's:
- 50 (i) operations and accomplishments;
- 51 (ii) performance on the goals and programs or initiative outlined in the agency's approved
52 plan;
- 53 (iii) receipts and expenditures during the agency's fiscal year; and
- 54 (iv) assets and liabilities at the end of the agency's fiscal year;

- 55 (3) audited financial reports of the agency;
- 56 (4) the number, nature and amounts of investments made and grants awarded by the agency;
- 57 (5) information detailing debt or equity investment of the agency;
- 58 (6) the number, nature and amounts of any loans, real estate loans, working capital loans and
- 59 guarantees approved by the agency;
- 60 (7) other forms of financing or financial assistance that the agency provided;
- 61 (8) a report of patents or products resulting from agency-funded activities; and
- 62 (9) a description of technical assistance that the agency provided.

63 Performance measurements shall include at least the then-current fiscal year and the previous 3
64 fiscal years. All information in the performance measurement system shall be a public record unless
65 otherwise exempted by law. The annual reports of each agency shall be made available to the public not
66 later than December 31 and shall be published on the official website of the commonwealth and be
67 electronically submitted to the clerks of the senate and house of representatives, the chairs of the house
68 and senate committees on ways and means and the house and senate chairs of the joint committee on
69 economic development and emerging technologies.

70 (j) The office shall annually re-evaluate the goals and measures established by the office and
71 agencies within the office and monitor the results that the agencies report. The office shall recommend
72 changes to proposed goals and measures as are appropriate to align goals and measures with the
73 statewide economic development policy and plan required under this section.

74 The secretary shall use the performance measurements established under this section to
75 determine the quality of service of all private entities, including regional economic development

76 organizations that perform economic development services under contract with the office. The results of
77 such performance measures shall be criteria used in negotiating any such contracts

78 **SECTION 5.** Subsection (k) of said section 16G of said chapter 6A, as so appearing, is hereby
79 amended by striking out the sixth sentence.

80 **SECTION 6.** Said section 16G of said chapter 6A, as most recently amended by section 1 of
81 chapter 56 of the acts of 2010, is hereby further amended by adding the following subsection:-

82 (l) During the first year of each new gubernatorial administration, the governor shall convene an
83 economic development planning council consisting of no fewer than 12 members: 1 of whom shall be
84 the secretary of housing and economic development, who shall serve as chair; 1 of whom shall be the
85 secretary of administration and finance; 1 of whom shall be the secretary of labor and workforce
86 development; 1 of whom shall be the secretary of energy and environmental affairs; 1 of whom shall be
87 the secretary of transportation; 1 of whom shall be appointed by speaker of the house of representatives;
88 1 of whom shall be appointed by the president of the senate; and 5 of whom shall be appointed by the
89 governor: 1 of whom shall be the president of the University of Massachusetts or a president from a
90 community college, 1 of whom shall be a representative from Associated Industries of Massachusetts, 1
91 of whom shall be a representative from the Massachusetts municipal association, 1 of whom shall be a
92 representative from a chamber of commerce, and 1 of whom shall be from a venture capital firm with a
93 principal place of business in the commonwealth. The governor may also appoint additional members of
94 regional and local economic development groups and members of the business community to serve on
95 the council. Members of the council shall serve for a term of 1 year or until an economic development
96 policy has been approved by the governor under this section.

97 The secretary of housing and economic development, with the assistance of economic
98 development planning council appointed under this section, shall develop and implement a written
99 comprehensive economic development policy for the commonwealth and a strategic plan for

100 implementing the policy. The policy shall set long term goals and measurable benchmarks which are not
101 limited to a particular gubernatorial administration and shall give consideration to any impacts the plan
102 may have on businesses employing 10 or fewer people. The strategic plan shall include any major
103 economic development initiatives and programs of the secretariat and any agencies subject to this
104 section. In developing the policy, the council shall review the published economic development policy
105 and plan in effect at the commencement of the governor's term of office and may hold public hearings
106 throughout the commonwealth.

107 Once the policy and plan have been adopted by the secretary and the council, the council shall
108 submit the policy and plan to the clerks of the senate and house of representatives and the joint
109 committee on economic development and emerging technologies. The committee shall conduct a public
110 hearing on the policy and plan prior to final approval by the governor. The approved policy and plan
111 shall be published in writing and on the official website of the commonwealth not later than December
112 31 of that year.

113 **SECTION 7.** Chapter 7 of the General Laws is hereby amended by inserting after section 22N
114 the following section:-

115 Section 22O. Notwithstanding any general or special law to the contrary and to the extent
116 permitted by federal law, a state agency or authority shall establish a preference for the procurement of
117 products or services by businesses, as defined in section 3A of chapter 23A, with their principal place of
118 business in the commonwealth.. In addition, the operational services division within the executive office
119 for administration and finance shall endeavor to ensure that in any fiscal year no less than 15 per cent of
120 statewide procurement contracts are entered with businesses, as so defined, which (i) are independently
121 owned and operated; (ii) have a principal place of business in the commonwealth; and (iii) would be
122 defined as a small business under applicable federal law.

123 **SECTION 8.** Subsection (c) of section 12 of chapter 7A of the General Laws, as appearing in
124 section 4 of chapter 26 of the acts of 2009, is hereby amended by adding the following paragraph:-

125 The comptroller shall publish a list of state authorities and, in the comptroller’s sole discretion,
126 identify those entities within the list that shall be required under generally accepted accounting principles
127 to report to the commonwealth for financial reporting purposes in a schedule and manner the comptroller
128 deems necessary.

129 **SECTION 9.** Section 10 of chapter 10 of the General Laws, as appearing in the 2008 Official
130 Edition, is hereby amended by adding the following paragraph:- The state treasurer shall semi-annually
131 report to the house and senate committees on ways and means and the joint committee on revenue the
132 lending and banking institutions into which the cash deposits of the commonwealth are being deposited.

133 **SECTION 10.** Said chapter 10 is hereby amended by inserting after section 10 the following
134 section:-

135 Section 10A. The state treasurer shall whenever possible, establish a preference in the deposit of
136 the commonwealth’s cash reserves to those lending and banking institutions that exceed the statewide
137 average for lending to small businesses, as defined in section 57 of chapter 23A; provided, however, that
138 this shall not prohibit the treasurer from depositing and investing said reserves in such a manner as to
139 secure the highest rate of return available consistent with the safety of said reserves.

140 **SECTION 11.** Section 35J of chapter 10 of the General Laws, as appearing in the 2008
141 Official Edition, is hereby amended by striking out, in lines 16 and 17, the words “International Trade
142 Council” and inserting in place thereof the following words:- international trade office.

143 **SECTION 12.** Chapter 10 of the General Laws is hereby amended by inserting after section 56
144 the following section:-

145 Section 56A. The council shall be subject to section 16G of chapter 6A and section 56 of chapter
146 23A.

147 **SECTION 13.** Section 1 of chapter 23A of the General Laws is hereby amended by striking
148 out, in lines 2 to 4, inclusive, as appearing in the 2008 Official Edition, the words “department of
149 business and technology in this chapter called the department, which shall be under the control of the
150 director of business and technology” and inserting in place thereof the following words:- “Massachusetts
151 office of business development, in this chapter referred to as MOBD, which shall be under the control of
152 the director of business development.”.

153 **SECTION 14.** Said section 1 of said chapter 23A is hereby further amended by striking out
154 subsection (b), as amended by section 3 of chapter 56 of the acts of 2010.

155 **SECTION 15.** Section 3A of said chapter 23A is hereby amended by striking out the
156 definition of “Enhanced expansion product”, inserted by section 2 of chapter 166 of the acts of 2009, and
157 inserting in place thereof the following definition:-

158 “Enhanced expansion project”, a facility that in its entirety and as of the project proposal date:
159 (i) is located or will be located within the commonwealth; (ii) generates substantial sales from outside of
160 the commonwealth; and (iii) generates a net increase of at least 100 full-time employees within 2 years
161 before or after project certification, but not before January 1 of the year preceding the year in which the
162 project receives certification and which shall be maintained for a period of not less than 5 years;
163 provided, however, that in the case of a facility that as of the project proposal date is already located in
164 the commonwealth, ”enhanced expansion project” shall refer only to a facility at which the controlling
165 business has expanded or proposed to expand the number of permanent full-time employees at such
166 facility and the expansion shall represent: (1) an increase in the number of permanent full-time
167 employees employed by the controlling business within the commonwealth; and (2) not a replacement or
168 relocation of permanent full-time employees employed by the controlling business at any other facility
169 located within the commonwealth; provided, further, that in the case of a facility to be located within the
170 commonwealth after the project proposal date, “enhanced expansion project” shall refer only to a facility
171 that is: (a) the first facility of the controlling business to be located within the commonwealth; or (b) a
172 new facility of such business and not a replacement or relocation of an existing facility of such

173 controlling business located within the commonwealth; or an expansion of an existing facility of the
174 controlling business that results in an increase in permanent full-time employees.

175 **SECTION 16.** The definition of "Facility" in said section 3A of said chapter 23A, as appearing
176 in section 3 of said chapter 166, is hereby amended by inserting after the word "buildings" the following
177 words:- or locations.

178 **SECTION 17.** Said section 3A of said chapter 23A is hereby further amended by striking out
179 the definition of "Gateway municipality", as appearing in said section 3 of said chapter 166, and
180 inserting in place thereof the following definition:-

181 "Gateway municipality", a municipality with a population greater than 35,000 and less than
182 250,000, a median household income below the commonwealth's average and a rate of educational
183 attainment of a bachelor's degree or above that is below the commonwealth's average.

184 **SECTION 18.** Said section 3A of said chapter 23A is hereby further amended by striking out
185 the definition of "Manufacturing retention project", as so apperaing, and inserting in place thereof the
186 following definition:-

187 "Manufacturing retention and job growth project", a manufacturing facility that in its entirety
188 and as of the project proposal date: (i) is located or will be located within a gateway municipality; (ii)
189 retains a minimum of at least 50 permanent full-time positions or creates a minimum of 25 new full-time
190 positions; provided, however, that if the controlling business increases the number of full-time positions
191 at the facility, it shall be within 2 years after certification of the project and the controlling business shall
192 make a commitment that the positions created or retained are to be maintained for at least a 5-year
193 period; and (iii) generates substantial sales from outside of the commonwealth; provided, however, that
194 in the case of a facility that as of the project proposal date is already located in the gateway municipality,
195 "manufacturing retention project" shall refer only to a facility for which there is a proposed expansion or
196 retention of the number of permanent full-time employees at such facility by the controlling business, to
197 occur after the project proposal date and the expansion shall represent a retention of at least 50
198 permanent full-time positions or creates a minimum of 25 new full-time positions employed by the
199 controlling business within the project and shall not represent a replacement or relocation of permanent
200 full-time employees employed by the controlling business at any other facility located within the
201 commonwealth; and provided, further, that in the case of a facility to be located after the project proposal
202 date, the "manufacturing retention project" shall refer only to a facility that is: (1) the first facility of the
203 controlling business to be located within the commonwealth; or (2) a new facility of such business and

204 not a replacement or relocation of an existing facility of such controlling business located within the
205 commonwealth.

206 **SECTION 19.** Said section 3A of said chapter 23A is hereby further amended by inserting after
207 the definition of “Manufacturing retention project proposal”, inserted by said section 3 of said chapter
208 166, the following definition:

209 “MOBD”, the Massachusetts office of business development established in section 1.

210 **SECTION 20.** The introductory paragraph of subsection (1) of section 3F of said chapter 23A
211 is hereby amended by inserting after the word “retention” , inserted by section 7 of chapter 166 of the
212 acts of 2009, the following words:- and job growth.

213 **SECTION 21.** Said subsection (1) of said section 3F of said chapter 23A is hereby further
214 amended by inserting after the word “retention” , inserted by section 8 of said chapter 166, the following
215 words:- and job growth.

216 **SECTION 22.** Said subsection (1) of said section 3F of said chapter 23A is hereby further
217 amended by inserting after the word “retention”, inserted by section 14 of said chapter 166, the following
218 words:- and job growth.

219 **SECTION 23.** Clause (c) of subsection (5) of said section 3F of said chapter 23A, inserted by
220 section 18 of said chapter 166, is hereby amended by inserting after the word “retention” the following
221 words:- and job growth.

222 **SECTION 24.** Section 3I of said chapter 23A is hereby amended by striking out, in lines 2 and
223 33, as appearing in the 2008 Official Edition, the words “the department” and inserting in place thereof,
224 in each instance, the following words:- Massachusetts office of business development.

225 **SECTION 25.** Said chapter 23A is hereby further amended by inserting after section 3I the
226 following 3 sections:

227 Section 3J. (a) The Massachusetts office of business development shall partner with regional
228 economic development organizations to establish a plan for business development which supports

229 regionally-based efforts to grow and retain existing businesses and attract new business to the
230 commonwealth. To implement the business development plan and to provide efficient and consistent
231 response to businesses seeking assistance from the commonwealth, the office shall create a regional
232 economic development program in order to provide efficient and consistent response to businesses
233 seeking assistance from the commonwealth. To implement the program the office shall contract with
234 eligible regional economic development organizations, as defined in section 3K, which shall serve as the
235 primary points of contact in the various regions of the state for businesses seeking assistance, services or
236 information from the commonwealth. The contracts and reimbursements shall be designed to support
237 regionally-based efforts to stimulate, encourage, facilitate and nurture economic growth and prosperity in
238 the commonwealth, including, but not limited to, activities related to the growth and retention of existing
239 businesses and the attraction of new businesses into the commonwealth. The contracts shall support a
240 network of partnerships between regional economic development organizations and the Massachusetts
241 office of business development.

242 The Massachusetts office of business development shall locate staff throughout the regions of
243 the commonwealth in order to establish efficient and rapid access to all state government and quasi-
244 public business services. The Massachusetts office of business development shall provide information to
245 the regional economic development organizations about state economic development, business
246 assistance, capital access and incentive programs, marketing activities and programs offered by agencies,
247 authorities and private entities.

248 (b) Each contract shall include performance criteria specific to the contracting organization
249 developed under section 16G of chapter 6A and uniform standards for the use of contract funds related to
250 accounting procedures, personnel practices, purchasing procedures and conflict of interest rules. As a
251 condition to its receipt of funds, the contracting organization shall agree to follow these standards and to
252 perform the contracted services in conformity with conflict of interest rules which shall include
253 provisions requiring that in any matter in which a person, corporation or other business entity in which

254 any partner is in any way interested, such interest shall be disclosed in advance and that no partner
255 having such an interest may participate in a decision relating to such person, corporation or other
256 business entity. The contracting organization shall also agree to a biennial audit and examination of its
257 audited financial statements conducted by the auditor of the commonwealth.

258 (c) The Massachusetts office of business development shall establish standard governance
259 provisions to be required of regional economic development organizations that contract with the
260 commonwealth as provided in this section. The standards shall include the participation of local
261 government officials and a broad range of regional representatives of businesses, nonprofit
262 organizations, higher education institutions, planning professionals, organizations and economic and
263 workforce development professionals.

264 Section 3K. (a) (1) The Massachusetts office of business development shall award up to 12
265 contracts for regional business development services. Each contract shall specify the municipalities
266 which comprise the region to be served under that contract.

267 (2) Eligible organizations shall be corporations, foundations, organizations or institutions that
268 are exempt from federal taxation under section 501(c) of the Internal Revenue Code. Eligible
269 organizations shall have a primary focus on economic development. Governmental regional entities
270 which serve as regional or district planning commissions under chapter 40B, regional employment
271 boards, tourism councils under section 14 of chapter 23A or entities which are a political subdivision of
272 a municipality or wholly owned by a municipality shall not be eligible.

273 (3) In order to be eligible to be a regional business development service, an applicant shall
274 demonstrate the following:

275 (i) The applicant operates regionally and its service area or membership includes more than
276 10 contiguous cities or towns. The organization shall describe the economic
277 interdependency of its contiguous member municipalities and articulate a

278 comprehensive vision for recognition of those municipalities as a self identified region
279 with interrelated economic assets such as industrial base, public infrastructure, research,
280 educational and financial institutions and environmental characteristics.

281 (ii) The governance structure and leadership of the applicant organization complies with the
282 standards established by the Massachusetts office of business development.

283 (iii) The applicant is engaged primarily in activities intended to promote job and business
284 retention, creation and attraction across all industry sectors within its identified region.

285 (iv) The applicant has a history of collaboration with the area business community, local
286 officials, economic development organizations, higher education institutions and other
287 public and private organizations within the identified region. The applicant must
288 describe a plan for a formal program encouraging participation in activities by a wide
289 variety of organizations, governments and businesses operating in the identified region.

290 (v) The applicant has received or has commitments to receive substantial financial and in
291 kind support from private sources or member municipalities.

292 (vi) The applicant is capable of and agrees to provide services to the entire region identified
293 in the application.

294 (b) The Massachusetts office of business development shall give preference in awarding
295 contracts to organizations that have prior experience furnishing advice and assistance to businesses
296 within or seeking to locate to the identified region, a working knowledge of the region, the region's
297 industrial base, the region's demographics and the region's strengths and weaknesses and prior
298 experience and involvement with regional governmental entities including, but not limited to, regional
299 competitiveness councils, regional planning agencies and regional employment boards.

300 (c) Contracts for services entered into under this section shall include, but not be limited to, the
301 following required services to be performed by the organization on behalf of the commonwealth:

- 302 (i) act as the primary contact for businesses seeking assistance from state or local
303 governments, including those seeking to locate within the region or expand existing
304 operations;
- 305 (ii) identify public funding sources for business activity and provide assistance in accessing
306 public tax incentive programs;
- 307 (iii) identify potential sites for business development and maintain an inventory of key
308 development parcels;
- 309 (iv) market the identified region in coordination with the Massachusetts marketing
310 partnership established under section 13A and in compliance with the marketing
311 materials developed by the partnership;
- 312 (v) furnish advice and assistance to businesses and industrial prospects which may locate in
313 the region, existing businesses and industries and persons seeking to establish new
314 businesses or industries and engage in related activities;
- 315 (vi) establish and maintain a network of public and private expertise related to regional
316 assets, industry clusters, workforce and education opportunities and public tax and
317 regulatory incentive and capital access programs;
- 318 (vii) partner with the Massachusetts office of business development representative to the
319 region and representatives of quasi-public agencies and authorities engaged in economic
320 development activities to exchange information and jointly provide direct consultation
321 with businesses seeking to expand or locate to the region;
- 322 (viii) act as the primary contact for the region for a business seeking state assistance and
323 incentives in a location decision;
- 324 (ix) in partnership with the staff of the Massachusetts office of business development, assist
325 member municipalities with economic development efforts related to business attraction
326 and retention and with access to state economic development programs; and

327 (x) submit an annual report to the Massachusetts office of business development on the
328 business development activities conducted under the contract. The report shall include:
329 a summary of the preceding year's program activities, objectives and accomplishments;
330 a description of how the programs and marketing strategy conducted under the contract
331 align with the commonwealth's overall economic development and strategies; an
332 analysis of how the contracting organization's involvement in promotion activities has
333 generated prospective business expansion and relocation clients; and a summary of its
334 efforts to obtain funds from local, private and federal sources.

335 (d) Contracts entered into under this section shall be for a term not longer than 3 years and may
336 provide for the renewal of the contract at the discretion of the Massachusetts office of business
337 development; provided, however, that the renewal shall be for a term not longer than 2 years. Nothing in
338 this subsection shall preclude a regional organization from re-applying to provide services under a new
339 contract.

340 (e) The Massachusetts office of business development may cancel any contract under this
341 section upon a showing that the regional economic development organization has failed to provide the
342 necessary regional services listed in subsection (c)

343 (f) The Massachusetts office of business development shall develop a formula to determine
344 funding for contractual reimbursements. That formula shall reflect demographic and economic
345 indicators, including, but not limited to, population and the number of business establishments operating
346 in the region, as well as an assessment of regional needs and the priorities of the statewide economic
347 development plan created under section 16G of chapter 6A. The formula shall also reflect the significant
348 need for increased economic activity in regions which include target areas, as defined in section 2 of
349 chapter 40H. Renewal contracts shall also provide incentives to reward reporting in compliance with
350 performance measurements and to reward achievement of specific performance goals.

351 (g) Organizations entering into contracts with the commonwealth under this section may enter
352 into additional contracts with the commonwealth to provide additional regional services which do not
353 constitute business assistance activities.

354 (h) If MOBD determines through the request for proposals process that no organization meets
355 the requirements in this section or a region is not served by any eligible regional economic development
356 organization, then MOBD may either rebid the contract or serve as the primary coordinator for business
357 development initiatives in that region and rebid the contract at its discretion.

358 Section 3L. (a) The Massachusetts office of business development shall provide initial assistance
359 to a business which contacts the office requesting service. The Massachusetts office of business
360 development shall provide the business with information about the various regional economic
361 development organizations with which it has contracted and continue to serve as primary contact for that
362 business until the business has established a relationship with a particular region. The Massachusetts
363 office of business development shall notify all regional economic development organizations, on a
364 nondiscriminatory basis, of business prospects that have expressed interest to the Massachusetts office of
365 business development in moving to the commonwealth.

366 (b) The Massachusetts office of business development shall coordinate activity among regional
367 economic development organizations and between regional economic development organizations and the
368 commonwealth's economic development agencies and the commonwealth's initiatives: (i) to ensure that
369 initiatives led by the commonwealth or quasi-public economic development agencies receive
370 information and advice from the regional economic development organizations; and (ii) to ensure that
371 initiatives led by the regional economic development organizations receive information and advice from
372 agencies within the executive branch and from quasi-public economic development agencies.

373 (c) The Massachusetts office of business development shall support the secretary of housing and
374 economic development in the creation of the statewide economic development plan under section 16G of
375 chapter 6A.

376 **SECTION 26.** Section 4 of said chapter 23A, as appearing in the 2008 Official Edition, is
377 hereby amended by striking out the words “department of economic” and inserting in place thereof the
378 following words:- Massachusetts office of business.

379 **SECTION 27.** Said section 4 of said chapter 23A, as so appearing, is hereby further amended
380 by adding the following sentence: The Massachusetts office of business development shall locate staff
381 throughout the regions of the commonwealth in order to partner with the regional economic development
382 organizations and establish efficient and rapid access for businesses and regional organizations to all
383 state government and quasi-public business services.

384 **SECTION 28.** Section 5 of said chapter 23A, as so appearing, is hereby amended by striking
385 out, in line 9, the words “, in the department of economic development”.

386 **SECTION 29.** Section 6 of said chapter 23A, as so appearing, is hereby amended by striking
387 out, in line 2, the words “of economic development”.

388 **SECTION 30.** The first paragraph of said section 6 of said chapter 23A, as so appearing, is
389 hereby amended by adding the following sentence:- The director shall establish an advisory council that
390 shall assist and advise the director on matters related to the administration and evaluation of the regional
391 business development program created under section 3J.

392 **SECTION 31.** Section 10A of said chapter 23A, as so appearing, is hereby amended by striking
393 out, in line 20, the words, “Said department” and inserting in place thereof the following words:- The
394 Massachusetts office of business development.

395 **SECTION 32.** Said chapter 23A is hereby further amended by striking out sections 13A and
396 13B, as so appearing, and inserting in place thereof the following 2 sections:-

397 Section 13A. For the purposes of sections 13A to 13Q, inclusive, the following words shall have
398 the following meanings unless the context clearly requires otherwise,:

399 “Foreign offices”, foreign offices for international trade within the international trade office.

400 “Partnership”, the Massachusetts marketing partnership created in this section.

401 “Tourism”, the office of travel and tourism.

402 In order to promote common, coordinated and concerted efforts on behalf of the commonwealth,
403 there shall be within the executive office of housing and economic development, but not subject to the
404 supervision or control of the executive office, the Massachusetts marketing partnership which shall
405 coordinate marketing efforts on behalf of the commonwealth and shall oversee the activities of the
406 agencies placed within it.

407 (a) The partnership shall consist of 11 partners who shall be: the secretary of housing and
408 economic development, who shall be the chair; the director of the Massachusetts office of business
409 development or the director’s designee; the executive director of the Massachusetts Convention Center
410 Authority or the executive director’s designee; the executive director of the Massachusetts Port
411 Authority or the executive director’s designee; the executive director of the Massachusetts Alliance for
412 Economic Development, or its successor organization; and 6 individuals appointed by the governor for
413 terms of 5 years, as follows: 2 persons employed by a business that has a principal place of business in
414 the commonwealth and that exports goods to other countries, 1 of whom shall be selected from a list of
415 3 names submitted by the Associated Industries of Massachusetts; 1 person who has significant
416 experience with a public relations or advertising firm doing business in the commonwealth; 1 person

417 who shall be on the faculty of a public or private business school in the commonwealth who is
418 experienced in international business; and 2 persons who shall each represent a regional tourism council
419 in the commonwealth outside of Suffolk county, Middlesex county and Norfolk county. Of the initial
420 partners appointed by the governor, 3 shall serve a term of 2 years and 3 shall serve a term of 5 years.

421 At least 3 of the governor's 6 appointments shall reside outside of Suffolk county, Middlesex
422 county and Norfolk county. Of the 6 gubernatorial appointments, no more than 3 shall be of the same
423 political party. Each partner shall serve without compensation but may be reimbursed for actual and
424 necessary expenses reasonably incurred in the performance of the partner's duties, including
425 reimbursement for reasonable costs of travel as deemed necessary by the partnership. A person
426 appointed to fill a vacancy in the office of a partner shall be appointed in a like manner and shall serve
427 for only the unexpired term of the former partner. A partner shall be eligible for reappointment and may
428 be removed by the governor for cause. The partnership shall annually elect 1 partner to serve as vice-
429 chair.

430 (b) Eight partners shall constitute a quorum and the affirmative vote of a majority of partners
431 present at a duly called meeting, if a quorum is present, shall be necessary for an action to be taken by
432 the partnership. An action required or permitted to be taken at a meeting of the partnership may be taken
433 without a meeting if all of the partners consent, in writing, to the action and the partnership files the
434 written consent with the records of the minutes of the meetings of the partnership. Such consent shall be
435 treated for all purposes as a vote at a meeting. Each partner shall make full disclosure, under subsection
436 (c), of the partner's financial interest, if any, in matters before the partnership by notifying the state
437 ethics commission, in writing, and the partner shall abstain from voting on a matter before the board in
438 which the partner has a financial interest, unless otherwise permitted under chapter 268A.

439 (c) Chapters 268A and 268B shall apply to all ex officio partners or the partners' designees and
440 employees of the agencies within the partnership. Chapters 268A and 268B shall apply to all other
441 partners, except that the agencies within the partnership may purchase from, sell to, borrow from, loan

442 to, contract with or otherwise deal with a person, corporation or other business entity in which any
443 partner is in any way interested or involved; provided, however, that such interest or involvement is
444 disclosed in advance to the partners of the Massachusetts marketing partnership and recorded in the
445 partnership's minutes; and provided, further, that no partner having such an interest or involvement may
446 participate in a decision of the partnership relating to such person, corporation or other business entity.
447 Employment by the commonwealth or service in an agency or political subdivision of the
448 commonwealth shall not be deemed to be such an interest or involvement.

449 (d) The partnership shall bi-annually elect 1 of its partners as treasurer and 1 of its partners as
450 secretary. The secretary of the partnership shall keep a record of its proceedings and shall be custodian of
451 all books, documents and papers filed by the partnership and of its minute book and seal. The secretary
452 of the partnership shall cause copies to be made of all minutes and other records and documents of the
453 partnership and shall certify that such copies are true copies and all persons dealing with the partnership
454 may rely upon such certification.

455 (e) Partners and employees of the agencies within the partnership having access to its cash or
456 negotiable securities shall give bond to the partnership at its expense in such amounts and with such
457 surety as the partnership may prescribe. The persons required to give bond may be included in 1 or more
458 blanket or scheduled bonds.

459 (f) Partners and officers who are not compensated employees of the partnership shall not be
460 liable to the commonwealth, the executive office of housing and economic development or any other
461 person as a result of their activities, whether ministerial or discretionary, as such partners or officers
462 except for willful dishonesty or intentional violations of law. Neither members of the partnership nor a
463 person executing bonds or policies of insurance shall be personally liable on those bonds or policies or
464 be subject to any personal liability or accountability by reason of the issuance of those bonds or policies.
465 The partnership may purchase liability insurance for partners, officers and employees and may
466 indemnify the partners against claims of others.

467 (g) Upon the termination of the existence of the partnership, all right, title and interest in and to
468 all of its assets and all of its obligations, duties, covenants, agreements and obligations shall vest in and
469 be possessed, performed and assumed by the commonwealth.

470 (h) An action of the partnership may take effect immediately and need not be published or
471 posted unless otherwise provided by law. Meetings of the partnership shall be subject to sections 18 to
472 25, inclusive of chapter 30A except that section 18 shall not apply to any meeting of partners in the
473 partnership serving ex officio in the exercise of their duties as officers of the commonwealth so long as
474 no matter relating to the official business of the partnership is discussed and decided at the meeting. The
475 partnership shall be subject to all other sections of said chapter 30A and records pertaining to the
476 administration of the partnership shall be subject to section 42 of chapter 30 and section 10 of chapter
477 66. All moneys of the partnership shall be considered to be public funds for purposes of chapter 12A.

478 (i) The partnership shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

479 Section 13B. There shall be within the partnership the following offices: the office of travel and
480 tourism, the Massachusetts international trade office and the commonwealth marketing office.

481 **SECTION 33.** Said chapter 23A is hereby further amended by striking out section 13C, as
482 amended by section 29 of chapter 25 of the acts of 2009, and inserting in place thereof the following
483 section:-

484 Section 13C. The partnership shall have the power to:

485 (1) adopt and amend by-laws, regulations and procedures for the governance of its
486 affairs and the conduct of its business for the administration and enforcement of this sections
487 13A to 13Q, inclusive; provided, however, that regulations adopted by agencies within the

488 partnership shall be adopted under chapter 30A;

489 (2) adopt an official seal and a functional name;

490 (3) maintain offices at places within the commonwealth as it may determine and to
491 conduct meetings of the partnership in accordance with the by-laws of the partnership;

492 (4) enter into agreements and transactions with federal, state and municipal agencies
493 and other public institutions and private individuals, partnerships, firms, corporations,
494 associations and other entities on behalf of the partnership;

495 (5) sue and be sued in its own name, plead and be impleaded;

496 (6) act as the central entity and coordinating organization for marketing initiatives on
497 behalf of the commonwealth and to work in collaboration with governmental entities, regional
498 economic development organizations, bodies, centers, institutes and facilities to advance the
499 commonwealth's interests and investments in travel and tourism, international trade and
500 economic development;

501 (7) appear in its own behalf before boards, commissions, departments or other agencies
502 of municipal, state or federal government;

503 (8) obtain insurance;

504 (9) apply for and accept subventions, grants, loans, advances and contributions from
505 any source of money, property, labor or other things of value to be held, used and applied for its
506 corporate purposes;

507 (10) review and recommend changes in laws, rules, programs and policies of the
508 commonwealth and its agencies and subdivisions to further the marketing of the commonwealth
509 and economic development within the commonwealth;

510 (11) enter into agreements with public and private entities that deal primarily with
511 economic development, in order to distribute and provide leveraging of funds or services to
512 further economic development in the commonwealth and promote overall economic growth
513 within the commonwealth by fostering collaboration and investments in tourism and
514 international trade initiatives in the commonwealth;

515 (12) provide and pay for such advisory services and technical assistance as may be
516 necessary or desired to carry out the purposes of this chapter;

517 (13) establish and collect such fees and charges as the department without further
518 appropriation shall determine to be reasonable and consistent with this sections 13A to 13Q,
519 inclusive; and to receive and apply revenues from fees and charges to the purposes of the
520 department or allotment by the commonwealth or any political subdivision of the
521 commonwealth;

522 (14) disburse, appropriate, grant, loan or allocate funds for the purposes of investing in
523 economic development initiatives as directed in sections 13A to 13Q, inclusive;

524 (15) provide assistance to local entities, local authorities, public bodies, regional
525 economic development organizations, and private corporations for the purposes of maximizing
526 opportunities for economic development initiatives in the commonwealth;

527 (16) prepare, publish and distribute, with or without charge, as the department may
528 determine, such studies, reports and bulletins and other material as the department deems
529 appropriate;

530 (17) exercise any other powers of a corporation organized under chapter 156B;

531 (18) develop a common Internet portal to be used by state agencies and state authorities
532 to promote the commonwealth's programs providing business assistance and to promote
533 economic development in the commonwealth;

534 (19) take any actions necessary or convenient to the exercise of any power or the
535 discharge of any duty provided for by sections 13A to 13Q, inclusive;

536 (20) establish an advisory council to assist and advise the partnership on matters related
537 to the commonwealth's business marketing efforts;

538 (21) enter into agreements or other transactions with any person including, without
539 limitation, a public entity or other governmental instrumentality or agency in connection with the
540 powers and duties provided to the partnership under sections 13A to 13Q, inclusive; and

541 (22) delegate any of the powers under this section to a director having charge of an
542 agency within the partnership.

543 **SECTION 34.** Said chapter 23A is hereby further amended by striking out sections 13D and
544 13E, as appearing in the 2008 Official Edition, and inserting in place thereof the following 16 sections:-

545 Section 13D. (a) The partnership and the agencies within the partnership shall, for the purposes
546 of compliance with state finance law, operate as a state agency, as defined in section 1 of chapter 29, and
547 shall be subject to the laws applicable to agencies under the control of the governor including, but not

548 limited to, chapters 7, 7A, 10 and 29; provided, however, that the comptroller may identify additional
549 instructions or actions necessary for the partnership to manage fiscal operations in the state accounting
550 system and meet statewide and other governmental accounting and audit standards. Unless otherwise
551 exempted by law or the applicable central service agency, the partnership shall participate in other
552 available commonwealth central services including, but not limited, to the state payroll system under
553 section 31 of chapter 29 and may purchase other goods and services provided by state agencies under the
554 direction of the comptroller. The comptroller may chargeback the partnership for the transition and
555 ongoing costs for participation in the state accounting and payroll systems and may retain and expend
556 such costs without further appropriation for the purposes of this section. The partnership shall be subject
557 to section 5D of chapter 29 and subsection (f) of section 6B of said chapter 29. This section shall not
558 apply to authorities who are serving as partners of the partnership.

559 (b) The office of the attorney general shall appear for the partnership in all suits and other civil
560 proceedings in which the partnership is a party or interested or in which the official acts and doings of
561 the partnership are called into question, to the same extent and in the same manner as provided to the
562 commonwealth and state departments, officers and commissions under section 3 of chapter 12. The
563 partnership shall be considered to be an agency of the commonwealth for purposes of chapter 12.

564 (c) The Massachusetts office of business development may provide staff support for the
565 Massachusetts marketing partnership; provided, however, that the partnership shall contract with said
566 office or with another public authority for the performance by that authority of core administrative
567 functions, as determined by the secretary of housing and economic development which may include, but
568 shall not be limited to, human resources, financial management, information technology, legal,
569 procurement and asset management, to minimize the administrative costs and expenses of the
570 partnership.

571 Section 13E. There shall be within the partnership an office of travel and tourism which shall be
572 under the supervision and control of an executive director. The powers and duties given to the executive
573 director of the office of travel and tourism in this chapter and in any other general or special law shall be
574 exercised and discharged subject to the direction, control and supervision of the partnership.

575 The executive director of the office of travel and tourism shall be appointed by the governor, and
576 serve at the pleasure of the governor. The position of executive director of the office of travel and
577 tourism shall be classified under section 45 of chapter 30 and the executive director of travel and tourism
578 shall devote full time during business hours to the duties of the office of travel and tourism and shall give
579 to the state treasurer a bond for the faithful performance of those duties.

580 The executive director of travel and tourism shall be the executive and administrative head of
581 travel and tourism and shall be responsible for administering and enforcing the laws relative to travel and
582 tourism and to any administrative unit of that office. Powers and duties given to an administrative unit of
583 travel and tourism by a general or special law shall be exercised subject to the direction, control and
584 supervision of the executive director of travel and tourism.

585 Section 13F. The office of travel and tourism shall serve as the principal agency for promoting
586 the recreational, cultural, historic and scenic resources of the commonwealth to increase its desirability
587 as a location for tourism, convention, travel and recreation-related activities by providing informational,
588 marketing and technical assistance to public and private nonprofit entities organized for similar purposes.

589 Section 13G. The executive director of travel and tourism may, subject to appropriation and with
590 the approval of the partnership, appoint and may, with like approval, remove all such employees as may
591 be necessary to carry out the work of tourism. Unless otherwise provided by law, all such appointments
592 and removals shall be made under chapter 31. The executive director may, subject to appropriation and

593 the laws and regulations pertaining to the employment of consultants, employ such consultants as the
594 executive director may deem necessary.

595 Section 13H. There shall be an advisory commission on travel and tourism to the partnership to
596 develop budget recommendations and marketing strategies for the promotion of travel and tourism to the
597 commonwealth. The executive director of travel and tourism shall convene the advisory commission
598 quarterly. The advisory commission shall annually report its recommendations to the partnership not
599 later than November 1. The advisory commission shall annually file its recommendations with the clerks
600 of the senate and house of representatives not later than November 1. The membership of the
601 commission shall annually elect a chairperson.

602 The advisory commission shall have 30 members: 1 representative from each of the following
603 organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging Association, the
604 Massachusetts Camping Ground Association, the New England Bus Association, the Massachusetts
605 cultural council and the Massachusetts historical commission; 1 representative of a professional sports
606 franchise located in the commonwealth; 2 representatives of the Massachusetts Visitor Industry Council;
607 the executive director or the executive director's designee of each of the following regional tourism
608 councils: the Berkshire Hills Visitors Bureau, Southeastern Massachusetts Convention and Visitors
609 Bureau, the Cape Cod Chamber of Commerce, the Franklin County Chamber of Commerce, the Greater
610 Boston Convention and Visitors Bureau, the Worcester County Convention and Visitors Bureau, the
611 Martha's Vineyard Chamber of Commerce, the Greater Merrimack Valley Convention and Visitors
612 Bureau, the Mohawk Trail Association, the North of Boston Convention and Visitors Bureau, the
613 Greater Springfield Convention and Visitors Bureau, the Plymouth County Development Council, Inc.,
614 the Nantucket Island Chamber of Commerce, the MetroWest Tourism and Visitor's Bureau, the Johnny
615 Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitor's Bureau; and the
616 following individuals, who shall not serve as chair: the commissioner of conservation and recreation or
617 the commissioner's designee, the administrator for highways within the Massachusetts Department of

618 Transportation or the administrator's designee, the Massachusetts state coordinator of the United States
619 National Park Service and the house and senate chairs of the joint committee on tourism, arts and
620 cultural development.

621 Members of this commission shall receive no compensation for their services, but each member
622 shall be reimbursed the member's necessary expenses incurred while engaged in the performance of the
623 member's duties. This commission shall annually, not later than November 1, make a report to the
624 executive director and the secretary of housing and economic development, and may make such special
625 reports as the commission or the executive director of tourism may deem desirable.

626 Section 13I. The office of travel and tourism may accept gifts or grants of money or property
627 from any source, which shall be held in trust for the use of tourism by the treasurer of the partnership as
628 custodian.

629 Section 13J. The following offices shall be within the office of travel and tourism: the
630 Massachusetts film office, which shall be the official and lead agency to facilitate motion picture
631 production and development within the commonwealth, and the Massachusetts sports partnership, which
632 shall be the official and lead agency to facilitate and attract major sports events and championships in the
633 commonwealth.

634 Section 13K. (a) There shall be within the partnership a Massachusetts international trade office,
635 which shall be under the supervision and control of an executive director. The executive director shall be
636 appointed by the governor and serve at the pleasure of the governor. The executive director shall devote
637 full time during business hours to the duties of the Massachusetts international trade office. The
638 executive director of the international trade office shall be the executive and administrative head of the
639 office and shall be responsible for administering and enforcing the laws relative to the office and to any

640 administrative unit of the office. The executive director shall also serve as the Massachusetts
641 international trade representative.

642 (b) The Massachusetts international trade representative shall: (1) serve as the commonwealth's
643 official point of contact with the federal government on matters related to international trade; (2) work
644 with the executive office of housing and economic development and other appropriate state agencies to
645 analyze proposed and enacted international trade agreements and provide an assessment of the impact of
646 those agreements on the commonwealth's economy; (3) serve as the designated recipient of federal
647 requests for the commonwealth to agree to be bound by investment, procurement, services or any other
648 international trade agreements, including those which may infringe upon state law or regulatory authority
649 reserved to the commonwealth; (4) serve as a liaison to the general court on matters of international trade
650 policy oversight including, but not limited to, reporting to members of the general court on a regular
651 basis on the status of ongoing international trade negotiations, international trade litigation and dispute
652 settlement proceedings with implications for existing state laws, state regulatory authority and
653 international trade policy on the commonwealth's economy.

654 (c) The international trade representative shall, within 30 days of receipt, forward any requests or
655 communications received from the United States Trade Representative relative to any issue of
656 international trade, including requests seeking the commonwealth's consent to be bound by international
657 trade agreements, to the clerks of the house of representatives and the senate, who shall promptly refer
658 the communications or requests to the joint committee on economic development and emerging
659 technologies. The joint committee shall, within 30 days of receipt, conduct a public hearing on any
660 request seeking the commonwealth's consent to be bound by an international trade agreement. The joint
661 committee may issue a report within 120 days of the public hearing including a resolution to the general
662 court relative to the recommendations of the committee on whether the commonwealth should consent to
663 the international trade agreement in question and memorializing the commonwealth's international trade

664 representative and the governor to take appropriate measures within their power to advise the United
665 States Trade Representative of the recommendations of the general court.

666 Section 13L. (a) There shall be within the international trade office 1 or more foreign offices for
667 international trade. The foreign offices may be located in any country that the executive director of the
668 international trade office determines to be best suited as a location for the furthering of foreign trade
669 opportunities for the businesses of the commonwealth. The foreign offices shall encourage and further
670 trade between foreign businesses and businesses in the commonwealth. The foreign offices shall also
671 promote investment opportunities in the commonwealth for foreign businesses in order to encourage the
672 location and establishment of such businesses within the commonwealth. For the purposes of furthering
673 foreign trade and investment, the foreign offices, subject to appropriation and approval by the executive
674 director of the trade international office, may contract for such advertising and other communication
675 services as may be necessary. The foreign offices shall maintain an updated list of businesses in the
676 commonwealth and foreign businesses which are or might become active in the import or export of their
677 products and services. The executive director shall consult with the Massachusetts office of business
678 development and the regional economic development organizations designated under section 3K in order
679 to ensure that the businesses and assets of all regions of the commonwealth are included in such lists.
680 The foreign office may also provide additional information and assistance to businesses in the
681 commonwealth that desire to export their goods and services.

682 The foreign offices shall maintain and give suitable publicity to an updated list of available sites
683 for the location of foreign based businesses in the commonwealth. The foreign offices may make
684 available technical assistance to foreign businesses interested in the establishment of plants or facilities
685 in the commonwealth.

686 (b) The foreign offices shall, on a regular basis, make all foreign trade information available to
687 the executive director of the international trade office, who shall publish and furnish such information to

688 regional economic development organizations designated under section 3K and to businesses and
689 corporations in the commonwealth which might be interested in, or benefit from the utilization of such
690 information. The executive director of the international trade office may charge a fee not to exceed the
691 actual printing costs for such information, except that no fee shall be charged to regional economic
692 development organizations designated under section 3K.

693 Section 13M. There shall be a director of each foreign office appointed by the executive director
694 of the international trade office, who shall be a person with at least 2 years of experience in international
695 trade, having had administrative or business experience in the country where the office is located, who
696 shall be fluent in at least 2 languages and who may be a foreign national. The director shall not be
697 subject to chapter 31 or section 9A of chapter 30.

698 Section 13N. The executive director of the international trade office may, subject to
699 appropriation, enter into leases for office space as may be necessary and to purchase or lease equipment
700 as may be needed for the operation of foreign offices.

701 Section 13O. The executive director of the international trade office may accept funds in the
702 name of the international trade office and the foreign offices from private and public groups, agencies
703 and persons, which shall be held in trust for use by the treasurer of the partnership as custodian.

704 Section 13P. The executive director of the international trade office and the director of any
705 foreign office shall annually file a financial report with the clerks of the house of representatives and the
706 senate and the joint legislative committee on economic development and emerging technologies on the
707 operation and activities of the office. The report shall include a complete evaluation of the results of the
708 activities of the foreign offices and its effects on the business economy of the commonwealth, including
709 the areas of the export of goods and services and in the location of foreign businesses in the
710 commonwealth.

711 Section 13Q. The international trade office shall contract with the Massachusetts export center to
712 provide technical assistance to companies operating in the commonwealth that export products to other
713 countries.

714 Section 13R. The executive director of the international trade office may establish an advisory
715 council to assist and advise the director on matters related to the administration and evaluation of the
716 international trade programs provided through the international trade office.

717 Section 13S. There shall be a commission, within the international trade office, which shall
718 evaluate the continuing impacts on state laws and regulations of international trade policy and
719 international trade agreements, examine proposed international trade agreements, maintain active
720 communications with any individual or entity, as the commission deems appropriate, regarding ongoing
721 developments in international trade agreements and policy; and examine any aspects of international
722 trade, international economic integration and international trade agreements that the members of the
723 commission deem appropriate. For the purposes of this section, “international trade agreement” shall
724 include any international trade or investment agreement or treaty including, but not limited to, the North
725 American Free Trade Agreement, the Central American Free Trade Agreement and agreements
726 concluded by the World Trade Organization.

727 The commission shall engage in at least 1 public hearing annually and shall report on the
728 economic and sovereignty impacts of international trade agreements on the commonwealth. The report
729 may include recommendations of support or opposition of revisions in United States trade policy or
730 commitments including, but not limited to, proposed international trade agreements. The annual report
731 shall be transmitted to the clerks of the house of representatives and the senate, the governor, the
732 attorney general, the United States trade representative and each member of the commonwealth’s
733 congressional delegation.

734 The commission shall consist of 3 members of the senate, 1 of whom shall be appointed by the
735 minority leader; 3 members of the house of representatives, 1 of whom shall be appointed by the
736 minority leader; the governor or the governor’s designee; the attorney general or the attorney general’s
737 designee; the state treasurer or the treasurer’s designee; a representative from the Massachusetts
738 international trade office; and 9 persons appointed by the governor, 1 of whom shall be a representative
739 of organized labor, 1 of whom shall represent small business, 1 of whom shall be a representative from a
740 human rights organization, 1 of whom shall represent farmers, 1 of whom shall be a representative from
741 an environmental group, 1 of whom shall be a representative of the Massachusetts Municipal
742 Association, 1 of whom shall be engaged in the business of exporting goods internationally, 1 of whom
743 shall be a faculty member of a private law school in the commonwealth, with expertise in issues of
744 constitutional federalism and 1 of whom shall be a faculty member of the University of Massachusetts
745 with experience in economics or labor studies.

746 **SECTION 35.** Section 14 of said chapter 23A, as so appearing, is hereby amended by inserting
747 after the word “Bureau”, in line 11, the following words:- , the MetroWest Tourism and Visitors Bureau,
748 the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitors Bureau.

749 **SECTION 36.** Said section 14 of said chapter 23A, as so appearing, is hereby amended by
750 striking out, in lines 17 and 18, the words “director of economic development” and inserting in place
751 thereof the following words:- executive director of tourism.

752 **SECTION 37.** Said section 14 of said chapter 23A, as so appearing, is hereby further amended
753 by striking out, in lines 55 and 56, the words “,subject to approval by the director of economic
754 development” and inserting in place thereof the following words:- of tourism.

755 **SECTION 38.** Sections 15 to 28, inclusive, of chapter 23A of the General Laws are hereby
756 repealed.

757 **SECTION 39.** Sections 46 to 55, inclusive, of said chapter 23A are hereby repealed.

758 **SECTION 40.** Said Chapter 23A is hereby further amended by striking out section 56, as
759 appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

760 Section 56. (a) The secretary of housing and economic development shall coordinate the quasi-
761 public entities and public purpose agencies of the commonwealth as to their economic development
762 projects, programs and plans.

763 (b) The secretary shall aggregate the data submitted under subsection (i) of section 16G of
764 chapter 6A and shall, not later than December 31, submit an annual report to the secretary of
765 administration and finance, the house and senate committees on ways and means, the joint committee on
766 economic development and emerging technologies, the joint committee on labor and workforce
767 development, the joint committee on small business and community development and the joint
768 committee on higher education. The report shall include an analysis of all public lending activities to
769 businesses with an assessment of the economic impact of those activities and an analysis evaluating
770 public lending to small businesses as defined in section 57.

771 (c) In order to fully utilize all appropriate measures to provide risk capital to small businesses in
772 the commonwealth, the Massachusetts Growth Capital Corporation, the Massachusetts Development
773 Finance Agency and the Massachusetts Technology Development Corporation may establish 1 or more
774 small business investment corporations or special small business investment corporations as provided by
775 the federal Small Businesses Equity Enhancement Act of 1992.

776 (d) The books and records of the quasi-public entities and public purpose agencies of the
777 commonwealth under this section shall be subject to section 12 of chapter 11 and an annual audit
778 conducted by an independent auditor. The results of both audits shall be published in conjunction with
779 the publication of audited financial statements.

780 (e) The secretary of housing and economic development shall from time to time convene the
781 Massachusetts Life Sciences Center established in chapter 23I, the Massachusetts clean energy
782 technology center established in chapter 23J, the Massachusetts Technology Development Corporation
783 established in chapter 40G, the Massachusetts Technology Park Corporation established in chapter 40J,
784 and the Massachusetts Technology Transfer Center established in chapter 75 , for the purpose of
785 ensuring that: (1) the agencies' projects, programs and plans are coordinated and consistent with this
786 section; (2) the agencies are sharing administrative functions for efficiencies and cost saving measures;
787 (3) the agencies are sharing information that is beneficial to the growth and expansion of technology
788 related companies in the commonwealth; and (4) the agencies are sharing best practices related to
789 assisting technology related companies with debt and equity products and technical assistance.

790 **SECTION 41.** Subsection (a) of section 57 of said chapter 23A, as so appearing, is hereby
791 amended by striking out the definition of "Small business" and inserting in place thereof the following
792 definition:-

793 "Small business", a business entity, including its affiliates, that: (i) is independently owned and
794 operated; (ii) has a principal place of business in the commonwealth; and (iii) would be defined as a
795 "small business" under applicable federal law, as established in the United States Code and promulgated
796 from time to time by the United States Small Business Administration.

797 **SECTION 42.** Said section 57 of said chapter 23A, as so appearing, is hereby further amended
798 by striking out subsection (i) and inserting in place thereof the following 2 subsections:-

799 (i) No loan or loans in an aggregate principal amount in excess of \$500,000 shall be provided to
800 a borrower under the program and no small business borrower under the program shall be provided a
801 loan under the program for passive real estate purposes.

802 (j) Any financial institution desiring to become a participating financial institution shall execute
803 an agreement in such form as the agency or its agent may prescribe, which agreement shall contain the
804 terms and provisions set forth in subsections (a) to (i), inclusive and such other terms and provisions as
805 the agency or its agent may deem necessary or appropriate.

806 **SECTION 43.** Said chapter 23A is hereby further amended by striking out section 62, as so
807 appearing, and inserting in place thereof the following section:-

808 Section 62. There shall be a 10 person interagency permitting board within the Massachusetts
809 office of business development. The members of the board shall be comprised of the state permit
810 ombudsman who will serve as the chair of the interagency permitting board, the secretary of housing and
811 economic development, the secretary of transportation, the secretary of energy and environmental
812 affairs, the secretary of public safety and security, the director of the department of housing and
813 community development, the director of business development, the director of the department of
814 workforce development, the director of the office of consumer affairs and business regulation, and the
815 executive director of the Massachusetts Development Finance Agency; or their designees. Six members
816 shall be a quorum for the transaction of business. The chair shall communicate with municipal officials
817 responsible for local review procedures to determine the municipal perspective on the proposed project,
818 and to facilitate communication between the municipality and state agencies. The interagency permitting
819 board shall consult with each regional office of the Massachusetts office of business development as well
820 as each regional planning agency and regional economic development organizations with which the
821 Massachusetts office of business development has contracted under this chapter in order to better serve
822 local businesses. At the direction of the chair, the board shall meet no fewer than 8 times a year, and
823 shall monitor the development of priority development sites under chapter 43D and investigate ways in
824 which to expedite priority development site projects. The board shall evaluate state agency permit
825 procedures and recommend changes for improved efficiency. The board shall administer the technical
826 assistance grants program established in subsection (b) of section 3 of chapter 43D. The secretary of

827 housing and economic development shall work with the chair of the interagency permitting board and
828 senior staff members to develop a recommended format for an application form and procedure which
829 shall be used by all executive offices when possible.

830 **SECTION 44.** Sections 8 to 15, inclusive, of chapter 23D of the General Laws are hereby
831 repealed.

832 **SECTION 45.** Chapter 23D of the General Laws is hereby amended by striking out section 16,
833 as appearing in the 2008 Official Edition, and inserting in place thereof the following section:

834 Section 16. There shall be established within the Massachusetts Growth Capital Corporation a
835 separate fund to be known as the Employee-Ownership Revolving Loan Fund, the proceeds of which
836 shall be used to provide low interest long term loans to individuals for the purchase of such individual's
837 ownership interest in an employee-owned business. The fund shall consist of all monies designated for
838 that fund by the board of directors of the Massachusetts Growth Capital Corporation in consultation with
839 the director of the industrial services program.

840 Said board shall administer the employee-ownership revolving loan fund program. The
841 application process and the terms and conditions of approving such loans shall be determined by the
842 board in consultation with the director. Said fund shall be subject to the reporting and auditing
843 requirements of section 56 of chapter 23A.

844 **SECTION 46.** Section 20 of said chapter 23D, as so appearing, is hereby amended by striking
845 out, in lines 10 and 11, the words "trustees of the economic stabilization trust" and inserting in place
846 thereof the following words:- directors of the Massachusetts Growth Capital Corporation.

847 **SECTION 47.** Chapter 23F of the General Laws is hereby repealed.

848 **SECTION 48.** Section 1 of chapter 23G of the General Laws, as appearing in the 2008 Official
849 Edition, is hereby amended by inserting after the word "bonds", in line 38, the following words:- ;

850 provided that, notwithstanding anything in this chapter to the contrary, "cost of the project" and "costs"
851 may also include any capital or operating expenditure which may legally be made by any person to
852 which the agency is authorized to provide financing, whether through the issuance of bonds by the
853 agency or otherwise, or any other type of financial assistance, or with respect to any property, whether
854 tangible or intangible, which may be developed or redeveloped by the agency, and may also include any
855 capital or operating expenditure which may legally be made with respect to any property, whether
856 tangible or intangible, for which the agency is authorized to provide financing, whether through the
857 issuance of bonds by the agency or otherwise, or any other type of financial assistance, or which may be
858 developed or redeveloped by the agency.

859 **SECTION 49.** Said section 1 of said chapter 23G, as so appearing, is hereby further amended by
860 inserting after the definition of "Governing body" the following definition:-

861 "Hospital", a nonprofit hospital within the commonwealth licensed by the department of public
862 health; or a nonprofit health maintenance organization within the commonwealth licensed by the
863 commissioner of insurance; or an affiliated nonprofit person, which is organized and operated for the
864 benefit of, to perform any of the functions of, or to carry out any of the purposes of a licensed nonprofit
865 hospital or health maintenance organization, including operation of a nursing home, comprehensive
866 gerontology facility or congregate care facility or any other nonprofit charitable person in the
867 commonwealth not otherwise eligible to participate under this chapter; provided, however, that such
868 other nonprofit charitable person may only undertake the financing and construction or acquisition of a
869 project or undertake the financing and construction or acquisition of a project or undertake the refunding
870 or refinancing of obligations or of a mortgage or of advances to the extent that such projects, obligations,
871 mortgages, or advances consist of or result from the purchase of energy or from energy conservation or
872 related projects of such other nonprofit charitable person; and provided further, that such other nonprofit
873 charitable person participates in or is a member of a group power purchasing program organized and
874 administered by or on behalf of the agency.

875 **SECTION 50.** Said section 1 of said chapter 23G, as so appearing, is hereby further amended by
876 striking out the definition of “Institution” and inserting in place thereof the following definition:-

877 “Institution”, a hospital or a nonprofit person organized to operate a facility or facilities that
878 provide cultural or educational services; provided, however, that nothing in this definition shall be
879 construed to limit the power or authority of the agency to provide financing to a person to which the
880 agency is otherwise authorized to provide financing.

881 **SECTION 50A.** Said section 1 of said chapter 23G, as so appearing, is hereby further amended
882 by inserting after the definition of “Massachusetts export finance program” the following definition:-

883 “Massachusetts Health and Educational Facilities Authority”, or “HEFA”. the authority
884 established under chapter 614 of the acts of 1968.

885 **SECTION 51.** Said section 1 of said chapter 23G, as so appearing, is hereby further amended by
886 inserting after the word “financing”, in line 188, the following words:- ; provided, however, that
887 notwithstanding anything in this chapter to the contrary, “project” may also include any capital or
888 operating expenditure which may legally be made by any person to which the agency is authorized to
889 provide financing, whether through the issuance of bonds by the agency or otherwise, or any other type
890 of financial assistance, or with respect to any property, whether tangible or intangible, which may be
891 developed or redeveloped by the agency, and the property, whether tangible or intangible, produced or
892 acquired by such expenditure, and may also include any property, whether tangible or intangible, which
893 may legally be the subject of financing by the agency, whether through the issuance of bonds by the
894 agency or otherwise, or of any other type of assistance provided by the Agency, or which may be
895 developed or redeveloped by the agency.

896 **SECTION 52.** Subsection (b) of section 2 of said chapter 23G, as so appearing, is hereby
897 amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- The
898 agency shall be governed and its corporate powers exercised by a board of directors consisting of the

899 secretary of administration and finance and the secretary of housing and economic development, or their
900 respective designees, and 9 members to be appointed by the governor, 1 of whom shall be experienced in
901 real estate development, 1 of whom shall be experienced in commercial or industrial credit, 1 of whom
902 shall be experienced in mortgage lending, 1 of whom shall be experienced in banking or investment
903 banking, 1 of whom shall be experienced in planning and the redevelopment of environmentally
904 contaminated lands, 1 of whom shall be experienced in health care facility financing, and 1 of whom
905 shall be a representative of organized labor. The secretary of housing and economic development shall
906 serve as chairperson of the board.

907 **SECTION 53.** Clause (16) of the first paragraph of section 3 of said chapter 23G, as so
908 appearing, is hereby amended by adding the following words:- ; provided, however, that the agency shall
909 publish and disseminate through its website each fiscal year a schedule of fees or a methodology for
910 determining fees to be charged to institutions under this chapter, which shall result in similar charges for
911 similarly-situated projects, regardless of the size of the participating institution. Before promulgating
912 such schedule, the agency shall hold at least 1 public hearing under section 2 of chapter 30A.

913 **SECTION 54.** Said first paragraph of said section 3 of said chapter 23G, as so appearing, is
914 hereby further amended by adding the following clause:-

915 (34) to make loans, including working capital and contract based loans, provide guarantees, loan
916 insurance or reinsurance or otherwise provide financing or credit enhancing devices for the operation of
917 companies which have a principal place of business in the commonwealth, including but not limited to
918 loans to lending institutions under terms and conditions requiring the proceeds of such loans to be used
919 by such lending institutions for the making of loans for the operation of companies.

920 **SECTION 55.** Subsection (k) of section 8 of said chapter 23G, as so appearing, is hereby
921 amended by adding the following sentence:- Notwithstanding any provision of this chapter to the
922 contrary, any indebtedness of the Massachusetts Health and Educational Facilities Authority may be

923 refunded under this subsection (k) if said indebtedness was subject to being refunded under chapter 614
924 of the acts of 1968.

925 **SECTION 56.** Said chapter 23G is hereby further amended by striking out sections 27 and 28,
926 as so appearing, and inserting in place thereof the following 2 sections:-

927 Section 27. (a) There shall be within the agency an Emerging Technology Fund, to which shall
928 be credited appropriations, bond proceeds or other monies authorized by the general court and
929 specifically designated to be credited to the fund, such additional funds as are subject to the direction and
930 control of the agency, pension funds, federal grants or loans or private investment capital which may
931 properly be applied in furtherance of the objectives of the fund, proceeds from the sale of qualified
932 investments secured or held by the fund, fees and charges imposed relative to the making of qualified
933 investments, as defined and approved under rules approved by the advisory committee created in section
934 28 for the fund, secured or held by the fund and other monies which may be available to the agency or
935 the advisory committee for the purposes of the fund from another source or sources. The agency shall
936 hold the fund in an account or accounts separate from other funds or accounts and shall manage the fund
937 on behalf of the advisory committee, under rules and policies established by the advisory committee.

938 (b) The agency, on behalf of the advisory committee, shall invest and reinvest the fund and the
939 income of the fund as follows:

940 (1) in the making of qualified investments, under rules approved by the advisory
941 committee;

942 (2) in defraying the ordinary and necessary expenses of administration and operation
943 associated with the fund;

944 (3) in the investment of funds not required for immediate disbursement in the purchase
945 of such securities as may be lawful investments for fiduciaries in the commonwealth;

946 (4) for the payment of binding obligations associated with such qualified investments
947 which are secured by the fund as the obligations become payable; and

948 (5) for the payment of principal or interest on qualified investments secured by the fund
949 or the payment of a redemption premium required to be paid when such qualified investments
950 are redeemed prior to maturity; provided, however, that monies in the fund shall not be
951 withdrawn at any time in such an amount as would reduce the amount of the fund to less than the
952 minimum requirement established jointly by the agency and advisory committee, except for the
953 purpose of paying binding obligations associated with qualified investments which are secured
954 by the fund as the obligations become payable.

955 (c) The fund shall be held and applied by the agency, on behalf of the advisory committee, to
956 make qualified investments designed to advance the following public purposes:

957 (1) to stimulate increased financing for new, renovated or improved manufacturing,
958 research and development and related facilities and financing for the operations of emerging
959 technology companies in the commonwealth by leveraging private financing for highly,
960 productive state-of-the-art facilities or for the operations of emerging technology companies,
961 which will lead to increased and more rewarding employment opportunities in the
962 commonwealth by providing financing related to such facilities including, without limitation,
963 financing of the construction or expansion of such facilities, including specialized real estate
964 improvements and specialized equipment for those facilities; and financing for the operations of
965 emerging technology companies; and

966 (2) to make matching grants to universities, colleges, public instrumentalities,
967 companies and other entities to induce the federal government, industry and other grant-funding
968 sources to fund advanced research and development activities in new and emerging technologies
969 and new application of existing technologies in the commonwealth, so as to serve to increase and

970 strengthen the commercial and industrial base of the commonwealth and the economic
971 development and employment opportunities related to the commercial and industrial base;

972 (3) to provide bridge financing to universities, colleges, public instrumentalities,
973 companies and other entities in anticipation of the receipt of grants of the type described in
974 clause (2) awarded or to be awarded by the federal government, industry or other sources;

975 (4) to provide low or no interest equipment loans targeted to companies within the
976 defense technology and homeland security sector particularly those that are seeking to become
977 more competitive against out-of-state companies;

978 (5) to make grants to the Massachusetts Technology Transfer Center, established by
979 section 45 of chapter 75, to fund activities that facilitate the transfer of technology from the
980 commonwealth's research institutions to the commonwealth's emerging technology industries,
981 for productive use by such industries and to make targeted investments in proof of concept
982 funding for emerging technologies; and

983 (6) to provide matching grants in the field of marine science technology for companies
984 in the commonwealth that receive small business innovation research or small business
985 technology transfer grants from the small business administration. The matching award amount
986 shall be the lesser of \$20,000 or 15 per cent of the small business innovation research or small
987 business technology transfer grant. There shall be a maximum of \$60,000 available per
988 company, including affiliates, per calendar year allocated on a competitive basis, contingent
989 upon the availability of funds. The matching funds shall be used for product development and
990 commercialization.

991 The agency shall make no such qualified investment under clause (1) of subsection (b) unless the
992 advisory committee finds that, to the extent possible, said qualified investment is such that a definite
993 benefit to the economy of the commonwealth may reasonably be expected as a result. In addition, the

994 agency shall make no such qualified investment under said clause (1) of said subsection (b) unless such
995 qualified investment complies with rules approved by the advisory committee.

996 Said rules shall define which industries within the commonwealth shall be considered emerging
997 technology industries for purposes of this section; provided, however, that “emerging technology
998 industries” shall include industries employing new or state-of-the-art technology in biotechnology,
999 marine science technology, pharmaceuticals, clean and renewable energy technology; vehicles powered
1000 by clean and renewable energy, defense and homeland security-related technologies, advanced materials,
1001 electronics, nanotechnology, environmental, medical device, information technology, plastics and
1002 polymers, telecommunications industries involved in the research and development of state-of-the-art
1003 medication delivery devices or any other technological field or industry which the advisory committee
1004 has classified or shall classify as an emerging technology. Said rules shall also set the terms and
1005 conditions for investments which are to constitute qualified investments, which may include, without
1006 limitation, loans, working capital and contract based loans, guarantees, loan insurance or reinsurance,
1007 equity investments, grants made only under clauses (2) and (5) of subsection (c), or other financing or
1008 credit enhancing devices, as made by the agency directly or on its own behalf or in conjunction with
1009 other public instrumentalities, or private institutions, or the federal government; provided, however, that
1010 said rules shall provide that each such qualified investment made under clause (1) of said subsection (c)
1011 shall involve a transaction with the participation of at least 2 at-risk private parties.

1012 Said rules shall, in addition, set forth the terms, procedures, standards and conditions which the
1013 agency shall employ to identify qualified applications, process applications, make investment
1014 determinations, safeguard the fund, advance the objective of increasing employment opportunities,
1015 oversee the progress of qualified investments and secure the participation of other public
1016 instrumentalities, private institutions or the federal government in such qualified investments; provided,
1017 however, that said rules shall provide that each recipient of a qualified investment shall be required to
1018 pay a fee as a condition of such receipt, which fee may take the form of points, an interest rate premium

1019 or a contribution of warrants or other form of equity or consideration to the fund as prescribed by the
1020 advisory committee; and provided, further, that said rules shall provide for negotiated agreements
1021 between the agency and each recipient of a qualified investment regarding the terms and conditions by
1022 which the fund's support of a recipient could be reduced or withdrawn.

1023 (d) The agency may solicit investments by private institutions or investors in the activities of the
1024 fund and may reach agreements with such private institutions or investors regarding the terms of such
1025 investments including, without limitation, the rights of such investors to participate in the income or
1026 appropriation of the fund. To help secure investments by private institutions or investors in the activities
1027 of the fund, the advisory committee may develop a proposal relative to the creation of a separate
1028 investment entity which would allow for the commingling of the resources of the fund with the
1029 maximum participation by such private institutions or investors in a manner which is consistent with the
1030 public purpose of the fund and under terms and conditions calculated to protect and preserve the assets
1031 of the fund; provided, however, that if the creation or operation of such a separate entity as proposed by
1032 the advisory committee would require additional or clarifying amendments to this chapter, said proposal
1033 shall include proposed statutory language.

1034 (e) Copies of the approved rules and modifications to the rules shall be submitted to the chairs of
1035 the house and senate committees on ways and means and the joint committee on economic development
1036 and emerging technologies and the clerks of the house of representatives and the senate.

1037 (f) Qualified investment transactions undertaken by the agency on behalf of the advisory
1038 committee under this section shall not, except as specified in this section, be subject to chapter 175, and
1039 shall be payable solely from the fund and shall not constitute a debt or pledge of the faith and credit of
1040 the commonwealth, the agency or any subdivision of the commonwealth.

1041 (g) The agency, on behalf of the advisory committee, shall not make an expenditure from or
1042 commitment of the assets of the fund, including, without limitation, the making of qualified investments

1043 secured by the fund, if making such a qualified investment would reduce the amount of the fund below
1044 the minimum requirement established by law, unless the agency, at the time of making of such qualified
1045 investment, deposits in the fund from the proceeds of that qualified investment or from any fees and
1046 charges imposed relative to the making of qualified investments, or otherwise, an amount which,
1047 together with the amount in the fund, shall not be less than the minimum requirement; provided,
1048 however, that at no time shall the minimum requirement of the fund be less than the maximum amount
1049 of principal and interest becoming due in the current and succeeding fiscal year of the agency on all
1050 outstanding bonds and other obligations which are secured by the fund or such greater amount as may be
1051 set forth in the rules governing the fund.

1052 Section 28. (a) There shall be an advisory committee to the Emergency Technology Fund
1053 established in section 27 which shall consist of the director of the Massachusetts office of business
1054 development, the director of the John Adams Innovation Institute, the president of the Massachusetts
1055 Technology Development Corporation, 3 persons to be appointed by the governor, 1 of whom shall be
1056 a representative of an emerging technology industry, 1 of whom shall have knowledge of financing of
1057 emerging technology companies and 1 of whom shall have knowledge of technology transfer and
1058 commercialization activities at research institutions, and 3 persons to be appointed by the board of the
1059 agency, 1 of whom shall be a representative of an emerging technology industry, 1 of whom shall have
1060 knowledge of financing of emerging technology companies and 1 of whom shall be a member of the
1061 agency's board of directors; provided, however, that the director of the John Adams Innovation Institute
1062 and the president of the Massachusetts Technology Development Corporation may designate another
1063 person to act in such member's place for a particular purpose, including the right to attend and vote at a
1064 meeting of the advisory committee. The executive director of the Massachusetts Technology Transfer
1065 Center or the executive director's designee shall serve as an ex-officio and nonvoting member of the
1066 advisory committee.

1067 Each appointed member of the advisory committee shall serve for a term of 3 years or until such
1068 member's successor is appointed; provided, however, that 1 of the governor's initial appointees and 1 of
1069 the board of the agency's initial appointees shall serve for a term of 1 year, 1 of the governor's initial
1070 appointees and 1 of the board of the agency's initial appointees shall serve for a term of 2 years, and 1 of
1071 the governor's initial appointees and 1 of the board of the agency's initial appointees shall serve for a
1072 term of 3 years. A person appointed to fill a vacancy on the advisory committee shall be appointed in a
1073 like manner and shall be eligible for reappointment. A member of the advisory committee appointed by
1074 the governor may be removed by the governor for cause. A member of the advisory committee appointed
1075 by the board of the agency may be removed by the board of the agency for cause.

1076 (b) The members shall annually elect a chairman and vice chairman and shall adopt by-laws
1077 governing the affairs of the advisory committee. Five members of the advisory committee shall
1078 constitute a quorum and the affirmative vote of a majority of the members present and eligible to vote at
1079 a meeting shall be necessary for an action to be taken by the advisory committee; provided, however,
1080 that no vacancy in the membership of the advisory committee shall impair the right of a quorum to
1081 exercise the powers of the advisory committee.

1082 (c) The members shall serve without compensation, but each member shall be entitled to
1083 reimbursement for actual and necessary expenses incurred in the performance of official duties.

1084 (d) The advisory committee may meet as often as the members shall decide; provided, however,
1085 that it shall meet at least once in each calendar quarter and its approval shall be necessary for an
1086 expenditure from, or commitment of, the assets of the fund or entry into contracts of the type specified in
1087 subsection (g).

1088 (e) The advisory committee may, by majority vote, elect, in its discretion, to delegate some or all
1089 of the committee's approval rights to the board or the staff of the agency; provided, that, any such
1090 delegation may be revoked at any time by majority vote of the advisory committee.

1091 (f) The agency shall manage the qualified investments made from the fund on behalf of the
1092 advisory committee including, without limitation, the closing, servicing, monitoring, underwriting and
1093 where appropriate, the enforcement of rights with respect to such management and shall provide such
1094 staff and supporting assistance as deemed appropriate by the board of directors of the agency to enable
1095 the advisory committee to discharge its duties in a manner consistent with its public purpose. Subsection
1096 (d), subsections (f) to (i), inclusive and subsection (l) of section 2 of this chapter shall also apply to the
1097 members and affairs of the advisory committee.

1098 (g) The advisory committee and the agency may award 1 or more contracts with regard to the
1099 management of the fund, which may provide performance-based incentives, with regard to such
1100 management.

1101 **SECTION 57.** Said chapter 23G is hereby further amended by adding the following section:-

1102 Section 44. The agency shall be subject to section 16G of chapter 6A and section 56 of chapter
1103 23A.

1104

1105 **SECTION 58.** Section 4 of chapter 23I of the General Laws, as appearing in the 2008 Official
1106 Edition, is hereby amended by inserting after the word “document”, in line 35, the following words:- ;
1107 provided, however, that the center shall contract with another public authority for the performance by
1108 that authority of core administrative functions, as determined by the secretary of housing and economic
1109 development which may include, but shall not be limited to, human resources, financial management,
1110 information technology, legal, procurement and asset management, to minimize the administrative costs
1111 and expenses of the center.

1112 **SECTION 59.** Section 6 of said chapter 23I, as so appearing, is hereby amended by inserting
1113 after the figure “75”, in line 82, the following words:- to fund activities that facilitate the transfer of
1114 technology from the commonwealth’s research institutions to the commonwealth’s life science

1115 industries, for productive use by such industries and to make targeted investments in proof of concept
1116 funding for emerging technologies.

1117 **SECTION 60.** Section 12 of said chapter 23I, as so appearing, is hereby amended by striking
1118 out, in line 9, the words “his designee,” and inserting in place thereof the following words:- the
1119 secretary’s designee, the executive director of the Massachusetts Technology Transfer Center and.

1120 **SECTION 61.** Said chapter 23I is hereby further amended by adding the following section:

1121 Section 18. The center shall be subject to section 16G of chapter 6A and section 56 of chapter
1122 23A.

1123

1124 **SECTION 62.** Chapter 23J of the General Laws is hereby amended by adding the following
1125 section:-

1126 Section 9. The center shall be subject to section 16G of chapter 6A and section 56 of chapter
1127 23A.

1128

1129 **SECTION 63.** Section 11F of chapter 25A of the General Laws, as appearing in the 2008
1130 Official Edition, is hereby amended by striking out, in line 141, the figure “2” and inserting in place
1131 thereof the following figure:- 6.

1132 **SECTION 64.** Section 1 of chapter 29 of the General Laws is hereby amended by striking out
1133 the definition of “State authority”, as amended by section 31 of chapter 25 of the acts of 2009, and
1134 inserting in place thereof the following definition:-

1135 “State authority” a body politic and corporate constituted as a public instrumentality of the
1136 commonwealth and established by an act of the General Court to serve an essential governmental
1137 function; provided, however, that “state authority” shall not include: (1) a state agency; (2) a city or

1138 town; (3) a body controlled by a city or town; or (4) a separate body politic where the governing body is
1139 elected, in whole or in part, by the general public or by representatives of member cities or towns.

1140 **SECTION 65.** Section 1 of chapter 30A of the General Laws, as so appearing, is hereby
1141 amended by inserting after paragraph (4) the following paragraph:-

1142 (4A) “Proposed regulation”, a proposal by an agency to adopt, amend or repeal an existing
1143 regulation.

1144 **SECTION 66.** Said section 1 of said chapter 30A of the General Laws, as appearing in the 2008
1145 Official Edition, is hereby further amended by inserting after paragraph (5) the following paragraph:-

1146 (5A) “Small business”, a business entity or agriculture operation, including its affiliates, that: (i)
1147 is independently owned and operated; (ii) has a principal place of business in the commonwealth; and
1148 (iii) would be defined as a “small business” under applicable federal law, as established in the United
1149 States Code and promulgated from time to time by the United States Small Business Administration.

1150 **SECTION 67.** Section 2 of said chapter 30A, as so appearing, is hereby amended by inserting
1151 after the third paragraph the following 2 paragraphs:-

1152 The notice shall also include a small business impact statement considering the impact of the
1153 proposed regulation on small business with the state secretary. Notwithstanding the provisions of section
1154 6, the state secretary shall include the statement of small business consideration on the electronic website
1155 of the state secretary; provided, however, that the full text of the small business impact statement may be
1156 inspected and copied in the office of the state secretary during business hours.

1157 That small business impact statement shall include, but not be limited to, the following:

1158 (1) an estimate of the number of small businesses subject to the proposed regulation;

1159 (2) projected reporting, recordkeeping and other administrative costs required for
1160 compliance with the proposed regulation;

1161 (3) the appropriateness of performance standards versus design standards;

1162 (4) an identification of regulations of the promulgating agency, or of another agency or
1163 department of the commonwealth, which may duplicate or conflict with the proposed regulation;
1164 and

1165 (5) an analysis of whether the proposed regulation is likely to deter or encourage the
1166 formation of new businesses in the commonwealth;

1167 **SECTION 68.** Section 3 of said chapter 30A, as so appearing, is hereby amended by inserting
1168 after the third paragraph the following 2 paragraphs:-

1169 The notice shall also include a small business impact statement considering the impact of the
1170 proposed action on small businesses with the state secretary. Notwithstanding the provisions of section
1171 6, the state secretary shall include the small business impact statement on the electronic website of the
1172 state secretary; provided, however, that the full text of the small business impact statement may be
1173 inspected and copied in the office of the state secretary during business hours.

1174 That small business impact statement shall include, but not be limited to, the following:

1175 (1) an estimate of the number of small businesses subject to the proposed regulation;

1176 (2) projected reporting, recordkeeping and other administrative costs required for
1177 compliance with the proposed regulation;

1178 (3) the appropriateness of performance standards versus design standards;

1179 (4) an identification of regulations of the promulgating agency, or of another agency or
1180 department of the commonwealth, which may duplicate or conflict with the proposed regulation;
1181 and

1182 (5) an analysis of whether the proposed regulation is likely to deter or encourage the
1183 formation of new businesses in the commonwealth;

1184 **SECTION 69.** The second paragraph of section 5 of said chapter 30A, as so appearing, is
1185 hereby amended by striking out the third sentence and inserting in place thereof the following sentence:-
1186 The requirements to file small business impact statements under this section and sections 2, 3 and 5A
1187 shall be enforceable by a civil action for mandamus relief, but the sufficiency of the statement filed shall
1188 not be grounds for invalidating or staying the effect of the regulation.

1189 **SECTION 70.** Said section 5 of said chapter 30A, as so appearing, is hereby further amended by
1190 inserting after the second paragraph the following paragraph:-

1191 Prior to the adoption of a proposed regulation, an agency shall file an amended small business
1192 impact statement, which considers, without limitation, whether any of the following methods of reducing
1193 the impact of the proposed regulation on small businesses would hinder achievement of the purpose of
1194 the proposed regulation:

1195 (1) establishing less stringent compliance or reporting requirements for small businesses;

1196 (2) establishing less stringent schedules or deadlines for compliance or reporting
1197 requirements for small businesses;

1198 (3) consolidating or simplifying compliance or reporting requirements for small
1199 businesses;

1200 (4) establishing performance standards for small businesses to replace design or
1201 operational standards required in the proposed regulation;

1202 (5) an analysis of whether the proposed regulation is likely to deter or encourage the
1203 formation of new businesses in the commonwealth; and

1204 (6) minimizing adverse impact on small businesses by using alternative regulatory
1205 methods.

1206 **SECTION 71.** Said chapter 30A is hereby amended by inserting after section 5, as so appearing,
1207 the following section:-

1208 Section 5A. Rules and regulations shall be reviewed at least once every 12 years after their
1209 publication as the final rules or regulations to ensure that those rules and regulations minimize economic
1210 impact on small businesses in a manner consistent with the stated objectives of applicable statutes.

1211 In reviewing a rule or regulation to minimize economic impact of the rule or regulation on small
1212 businesses, the agency shall file a small business impact statement which considers the following factors:

1213 (1) the continuing need for the rule or regulation;

1214 (2) the nature of complaints or comments received concerning the rule or regulation
1215 from the public;

1216 (3) the complexity of the rule or regulation;

1217 (4) the extent to which the rule or regulation overlaps, duplicates or conflicts with other
1218 federal, state and local governmental rules and regulations;

1219 (5) the length of time since the rule or regulation has been enacted, changed, amended or
1220 modified; and

1221 (6) the degree to which technology, economic conditions or other factors have changed
1222 in the subject areas affected by the rule or regulation.

1223 **SECTION 72.** Chapter 30B of the General Laws is hereby amended by adding the following
1224 section:-

1225 Section 22. (a) Notwithstanding any general or special law to the contrary and to the extent
1226 permitted by federal law, a governmental body may, by a majority vote, establish a preference for the
1227 procurement of products or services by businesses, as defined in section 3A of chapter 23A, with their
1228 principal place of business in the commonwealth.

1229 (b) If a governmental body establishes such a preference, the procurement officer responsible for
1230 procuring products and services on behalf of the governmental body shall effectuate such preference for
1231 the procurement in: (i) advertising for bids, contracts or otherwise and making reasonable efforts to
1232 facilitate the purchase of such products or services; and (ii) purchasing products or services by
1233 businesses, as defined in said section 3A of said chapter 23A, with their principal place of business in the
1234 commonwealth, unless the price of such goods or services exceed, by more than 10 per cent, the price of
1235 such goods or services produced by businesses with their principal place of business outside of the
1236 commonwealth.

1237 **SECTION 73.** Section 23 of chapter 32 of the General Laws is hereby amended by inserting
1238 after the word “however”, in line 361, as appearing in the 2008 Official Edition, the following words:-,
1239 that consistent with sound investment policy and in accordance with the procedures and processes
1240 employed to oversee the allocation of traditional investment of funds, the director shall whenever
1241 reasonably possible ensure that funds are invested in banks or financial institutions which directly or
1242 through any subsidiary may make loans to small businesses, as defined in clause (a) of subdivision (7),
1243 and that when electing to make such investments the board shall review the guidelines for investing in
1244 small businesses contained in said subdivision (7) and monies shall be invested as much as reasonably
1245 possible in such banks, financial institutions or companies which provide capital to small businesses
1246 under those guidelines so long as such use is consistent with sound investment policy; provided further.

1247 **SECTION 74.** Said section 23 of said chapter 32, as so appearing, is hereby further amended by
1248 adding the following subdivision:-

1249 (7) The guidelines for investing in small businesses with a principal place of business in the
1250 commonwealth shall be:

1251 (a) For the purposes of this section small business shall be a business entity, including its
1252 affiliates, that: (i) is independently owned and operated; (ii) has a principal place of
1253 business in the commonwealth; and (iii) would be defined as a 'small business' under
1254 applicable federal law, as established in the United States Code and promulgated from
1255 time to time by the United States Small Business Administration.

1256 (b) Investments shall be made by banks or financial institutions with demonstrated
1257 experience making capital available to small businesses with good management, which
1258 are fast growing and identify the potential to use increased capital to create jobs and
1259 which are experiencing difficulty in accessing capital.

1260 (c) Capital shall be provided to small businesses in a variety of financial instruments,
1261 including but not limited to: working capital and expansion loans to businesses, both
1262 secured and non-secured; provide lines of credit; capital expenditure loans; term loans;
1263 project finance loans; grants; loan guarantees; and mezzanine and structured finance
1264 loans.

1265 (d) Capital shall not be provided unless financial and managerial advisory services are also
1266 provided to the business that is served.

1267 **SECTION 75.** Section 59 of chapter 40 of the General Laws, as so appearing, is hereby
1268 amended by striking out clause (iii) and inserting in place thereof the following clause:-

1269 (iii) authorizes tax increment exemptions from property taxes, under clause Fifty-first of section
1270 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is
1271 located in the TIF zone and for which an agreement has been executed with the owner of the real
1272 property under clause (v); provided, however, that the TIF plan shall specify the level of the exemptions

1273 expressed as exemption percentages, not to exceed 100 per cent to be used in calculating the exemptions
1274 for the parcel, and for personal property situated on that parcel, as provided under said clause Fifty-first
1275 of said section 5 of said chapter 59; provided, further, that the exemption for each parcel of real property
1276 shall be calculated using an adjustment factor for each fiscal year of the specified term equal to the
1277 product of the inflation factors for each fiscal year since the parcel first became eligible for an exemption
1278 under this clause; provided, further that the inflation factor for each fiscal year shall be a ratio;

1279 (a) the numerator of which shall be the total assessed value of all parcels of commercial and
1280 industrial real estate that are assessed at full and fair cash value for the current fiscal
1281 year minus the new growth adjustment for the current fiscal year attributable to the
1282 commercial and industrial real estate as determined by the commissioner of revenue
1283 under subsection (f) of section 21C of chapter 59; and

1284 (b) the denominator of which shall be the total assessed value for the preceding fiscal year of all
1285 the parcels included in the numerator; provided, however, that the ratio shall not be less
1286 than 1;.

1287 **SECTION 76.** Said section 59 of said chapter 40, as so appearing, is hereby further amended by
1288 adding the following clause:-

1289 (viii) requires of an owner of a parcel pursuant to clause (v) to submit to the city or town clerk
1290 and the economic assistance coordinating council a report detailing the status of the construction laid
1291 out in the plan; the current value of the property; and the number of jobs created to date as a result of
1292 the plan; provided, however, that a report shall be filed every 5 years for the term of the tax increment
1293 exemption allowed under clause Fifty-first of section 5 of chapter 59; and provided further, that a final
1294 report shall be filed in the final year of the exemption.

1295 **SECTION 77.** Clause (iii) of subsection (a) of section 60 of said chapter 40, as so appearing, is
1296 hereby amended by striking out the introductory paragraph and inserting in place thereof the following
1297 introductory paragraph:-

1298 authorize tax increment exemptions from property taxes, under clause Fifty-first of section 5 of
1299 chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in
1300 the UCH-TIF zone and for which an agreement has been executed under clause (v); provided, however,
1301 that the UCH-TIF plan shall specify the level of exemptions expressed as exemption percentages, not to
1302 exceed 100 per cent to be used in calculating the exemptions for the parcel, and for personal property
1303 situated on that parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59;
1304 provided, further, that the exemption for each parcel of real property shall be calculated using an
1305 adjustment factor for each fiscal year of the specified term equal to the product of the inflation factors for
1306 each fiscal year since the parcel first became eligible for such exemption under this clause; provided,
1307 further, that the inflation factor for each fiscal year shall be a ratio:.

1308 **SECTION 78.** Clause (iii) of subsection (a) of section 60A of said chapter 40, as so appearing,
1309 is hereby amended by striking out the introductory paragraph and inserting in place thereof the following
1310 introductory paragraph: -

1311 authorize tax increment exemptions from property taxes, under clause Fifty-first of section 5 of chapter
1312 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in the
1313 MWT-TIF zone and for which an agreement has been executed with the owner of the parcel under clause
1314 (iv); provided, however, that the MWT-TIF plan shall specify the level of exemptions expressed as
1315 exemption percentages, not to exceed 100 per cent, to be used in calculating the exemptions for the
1316 parcel, and for personal property situated on that parcel, as provided under said clause Fifty-first of said
1317 section 5 of said chapter 59; provided, further, that the exemption for each parcel of real property shall
1318 be calculated using an adjustment factor for each fiscal year of the specified term equal to the product of

1319 the inflation factors for each fiscal year since the parcel first became eligible for such exemption
1320 pursuant to this clause; provided, further, that the inflation factor for each fiscal year shall be a ratio:

1321 **SECTION 79.** Section 3 of chapter 40A of the General Laws is hereby amended by inserting
1322 after the word “more”, in line 25, as so appearing, the following words:- or to parcels 2 acres or more if
1323 the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or
1324 viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars.

1325 **SECTION 80.** Section 24 of chapter 40B of the General Laws is hereby amended by striking
1326 out, in line 17, as so appearing, the words “director of” and inserting in place thereof the following
1327 words: secretary of housing and.

1328 **SECTION 81.** Chapter 40E of the General Laws is hereby repealed.

1329 **SECTION 82.** Section 2 of chapter 40G of the General Laws, as appearing in the 2008 Official
1330 Edition, is hereby amended by striking out, in lines 19 and 20, the words “eleven directors: the director
1331 of economic development, the secretary of administration, one” and inserting in place thereof the
1332 following words:- 11 directors: the secretary of housing and economic development, who shall serve as
1333 chair, the secretary of administration and finance, 1.

1334 **SECTION 83.** The fifth paragraph of said section 2 of said chapter 40G, as so appearing, is
1335 hereby amended by striking out the fourth sentence.

1336 **SECTION 84.** Section 3 of said chapter 40G, as so appearing, is hereby amended by inserting
1337 after the word “business”, in line 8, the following words:- ; provided, however, that the MTDC shall
1338 contract with another public authority for the performance by that authority of core administrative
1339 functions, as determined by the secretary of housing and economic development, which may include, but
1340 shall not be limited to, human resources, financial management, information technology, legal,
1341 procurement and asset management, to minimize the administrative costs and expenses of the MTDC.

1342 **SECTION 85.** Chapter 40G of the General Laws is hereby further amended by adding the
1343 following section:-

1344 Section 11. The MTDC shall be subject to section 16G of chapter 6A and section 56 of chapter
1345 23A.

1346 **SECTION 86.** Section 2 of chapter 40H of the General Laws, as appearing in the 2008 Official
1347 Edition, is hereby amended by striking out the definition of “CDC” and inserting in place thereof the
1348 following definition:-

1349 “CDC” or “Community Development Corporation”, a non-profit corporation organized under
1350 chapter 180, and exempt from taxation under section 501(c) of the Internal Revenue Code and which:

1351 (a) focuses a substantial majority of the corporation’s efforts on serving 1 or more specific
1352 neighborhoods or municipalities, a region of the commonwealth or a constituency that is economically
1353 disadvantaged;

1354 (b) has as the corporation’s purpose to engage local residents and businesses to work
1355 together to undertake community development programs, projects and activities which develop and
1356 improve urban, rural and suburban communities in sustainable ways that create and expand economic
1357 opportunities for low and moderate income people;

1358 (c) demonstrates to the department of housing and community development that the
1359 corporation’s constituency, including low and moderate income people, is meaningfully represented on
1360 the board of directors of the corporation; provided, however, that in making this determination, the
1361 department shall consider the following criteria: (1) the percentage, if any, of the board that is elected by
1362 the general membership; (2) the percentage of the board members that are residents of the service area;
1363 (3) the percentage of board members that are people of low or moderate income; (4) the racial and ethnic
1364 composition of the board in comparison to the racial and ethnic composition of the community being
1365 served; (5) other mechanisms, including committees, membership meetings, that the organization uses to

1366 ensure that their constituency has a meaningful role in the governance and direction of the organization;
1367 and (6) other criteria as determined by the department.

1368 **SECTION 87.** The definition of “Eligible organization” in section 2 of said chapter 40H, as so
1369 appearing, is hereby amended by striking out the second sentence.

1370 **SECTION 88.** Said section 2 of said chapter 40H, as so appearing, is hereby amended by
1371 striking out the definition of “Target area” and inserting in place thereof the following definition:-

1372 “Target area”, a contiguous geographic area in which the project is located and is: (1) an
1373 economic target area designated under section 3D of chapter 23A; (2) the service area of community
1374 development corporation; or (3) a zip code whose current unemployment rate exceeds the state
1375 unemployment rate by at least 25 per cent or whose mean household income is at or below 80 per cent of
1376 the state mean household income as of the most recent decennial census.

1377 **SECTION 89.** Chapter 40H of the General Laws is hereby amended by inserting after section 2
1378 the following section:-

1379 Section 2A (a) The director of housing and community development shall establish and maintain
1380 a list of organizations that have been certified as CDCs consistent with this chapter and develop a
1381 process for certifying those organizations; provided, however, that the organizations shall be recertified
1382 at least once every 4 years. The process shall include an analysis of the organization’s governance and a
1383 determination of whether the organization’s constituency, including low and moderate income persons,
1384 is meaningfully represented on the board of directors of the organization. In making such determination,
1385 the director shall consider the following criteria: (i) the percentage, if any, of the board that is elected by
1386 the general membership; (ii) the percentage of the board members who are residents of the service area;
1387 (iii) the percentage of board members that are persons of low or moderate income; (iv) the racial and
1388 ethnic composition of the board in comparison to the racial and ethnic composition of the community

1389 that the organization serves; (v) other mechanisms, including committees, membership meetings and
1390 others that the organization uses to ensure that the organization's constituency has a meaningful role in
1391 the governance and direction of the organization; and (vi) other criteria as determined by the director of
1392 housing and community development.

1393 (b) The director of housing and community development shall file an annual report on December
1394 15 with the speaker of the house of representatives, the president of the senate, the chairs of the house
1395 and senate committees on ways and means, the chairs of the joint committee on housing, and the chairs
1396 of the joint committee on community development and small business providing:

- 1397 (i) a list of certified CDCs in the commonwealth; and
1398 (ii) a summary of programs, initiatives or partnerships operated by the executive office of
1399 housing and economic development, its agencies and quasi-public agencies organized
1400 under the executive office, that are designed to build the capacity of CDCs, provide
1401 training or technical assistance to CDC employees or board members, provide funding
1402 to support CDCs and their programs, projects and initiatives and otherwise help CDCs to
1403 engage local residents and businesses to work together to undertake programs, projects
1404 and activities which develop and improve urban, rural and suburban communities by
1405 creating and expanding economic opportunities for low and moderate income persons
1406 together with recommendations for action to enhance the ability of CDCs to advance
1407 those activities.

1408 **SECTION 90.** Section 3 of said chapter 40H, as appearing in the 2008 Official Edition, is
1409 hereby amended by striking out, in line 13, the words "nine directors, four" and inserting in place thereof
1410 the following words:- 9 directors, 1 of whom shall be the secretary of the housing and economic
1411 development, who shall serve as chair, 3.

1412 **SECTION 91.** Subsection (b) of said section 3 of said chapter 40H, as so appearing, is hereby
1413 amended by striking out the sixth sentence.

1414 **SECTION 92.** Said chapter 40H is hereby amended by adding the following section:-

1415 Section 9. CEDAC shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

1416 **SECTION 93.** The third paragraph of section 3 of chapter 40J of the General Laws, as
1417 appearing in section 15 of chapter 158 of the acts of 2009, is hereby amended by striking out the first
1418 sentence and inserting in place thereof the following 2 sentences:- The secretary of housing and
1419 economic development or the secretary’s designee shall serve as chairperson. The board shall annually
1420 elect from among its members a vice-chairperson and may designate a treasurer and a secretary, who
1421 need not be members of the board.

1422 **SECTION 94.** Section 6A of said chapter 40J is hereby amended by striking out, in line 16, as
1423 so appearing, the words “undersecretary of business” and inserting in place thereof the following words:-
1424 secretary of housing and economic.

1425 **SECTION 95.** Section 6B of said chapter 40J, as so appearing, is hereby amended by striking
1426 out, in line 32, the words “or his designee” and inserting in place thereof the following words:- , who
1427 shall serve as chair.

1428 **SECTION 96.** Subsection (c) of said section 6B of said chapter 40J, as so appearing, is hereby
1429 further amended by striking out the second sentence.

1430 **SECTION 97.** The second paragraph of subsection (b) of section 6D of said chapter 40J, as so
1431 appearing, is hereby amended by striking out the first sentence and inserting in place thereof the
1432 following sentence:- The council shall consist of 9 members; 1 of whom shall be the secretary of health
1433 and human services, who shall serve as the chair; 1 of whom shall be the secretary of administration and
1434 finance, or the secretary’s designee; 1 of whom shall be the executive director of the health care quality
1435 and cost council; 1 of whom shall be the director of the office of Medicaid; 1 of whom shall be the
1436 secretary of housing and economic development or the secretary’s designee; 4 of whom shall be
1437 appointed by the governor, of whom at least 1 shall be an expert in health information technology, 1

1438 shall be an expert in law and health policy and 1 shall be an expert in health information privacy and
1439 security.

1440 **SECTION 98.** Said chapter 40J is hereby further amended by adding the following section:-

1441 Section 13. The corporation shall be subject to section 16G of chapter 6A and section 56 of
1442 chapter 23A.

1443 **SECTION 99.** Section 1 of chapter 40Q of the General Laws, as appearing in the 2008 Official
1444 Edition, is hereby amended by striking out the definition of “Base date” and inserting in place thereof the
1445 following 2 definitions:-

1446 “Adjustment factor”, for each fiscal year of the term of a given development program, the
1447 product of the inflation factors for each fiscal year subsequent to the first fiscal year immediately
1448 following the base date.

1449 “Base date”, the last assessment date of the real property tax immediately preceding the creation
1450 of the district.

1451 **SECTION 100.** The definition of “Development program” in said section 1 of said chapter
1452 40Q, as so appearing, is hereby amended by striking out clause (8) and inserting in place thereof the
1453 following clause:-

1454 (8) the duration of the program which shall not exceed the longer of: (i) 30 years from the date
1455 of designation of the district; or (ii) 30 years from project stabilization, as defined in the development
1456 program.

1457 **SECTION 101.** Said section 1 of said chapter 40Q, as so appearing, is hereby further amended
1458 by striking out the definition of “Inflation factor” and inserting in place thereof the following definition:-

1459

1460 "Inflation factor", a ratio: (1) the numerator of which shall be the total assessed value of all
1461 parcels of residential, commercial and industrial real estate that are assessed at full and fair cash value
1462 for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable
1463 to the residential, commercial and industrial real estate as determined by the commissioner of revenue
1464 under paragraph (f) of section 21C of chapter 59; and (2) the denominator of which shall be the total
1465 assessed value for the preceding fiscal year of all the parcels included in the numerator; provided,
1466 however, the ratio shall not be less than 1; provided, further, that if the proposed Invested Revenue
1467 District does not include residential property, the assessed value attributable to residential property shall
1468 not be included in either the numerator or the denominator in calculating the inflation factor.

1469 **SECTION 102.** Said section 1 of said chapter 40Q, as so appearing, is hereby further amended
1470 by striking out, in line 59, the word "and".

1471 **SECTION 103.** Said section 1 of said chapter 40Q, as so appearing, is hereby further amended
1472 by inserting after the word "located", in line 61, the following clause: - ; and (8) if applicable, a statement
1473 of the city or town electing that the original assessed value not be increased by the adjustment factor.

1474 **SECTION 104.** Said section 1 of said chapter 40Q, as so appearing, is hereby further amended
1475 by striking out the definition of "Original assessed value" and inserting in place thereof the following
1476 definition:-

1477 "Original assessed value", the aggregate assessed value of the invested revenue district as of the
1478 base date; provided, however, that if the city or town has not included an election statement in its
1479 investment district development program, the original assessed value in any year shall be equal to the
1480 original assessed value as of the base date multiplied by the adjustment factor for that fiscal year.

1481 **SECTION 105.** The General Laws are hereby amended by inserting after chapter 40U the
1482 following 2 chapters:-

1483

CHAPTER 40V.

1484

HOUSING DEVELOPMENT INCENTIVE PROGRAM.

1485

Section 1. As used in this chapter, the following words shall, unless the context clearly requires

1486

otherwise, have the following meanings:-

1487

“Certified housing development project”, a housing development project that has been approved

1488

by the department for participation in the housing development incentive program.

1489

”Department”, the department of housing and community development as established by chapter

1490

23B.

1491

“Gateway municipality”, gateway municipality as defined in section 3A of chapter 23A.

1492

“Housing development incentive program” or “HDIP”, a program designed to promote increased

1493

residential growth, expanded diversity of housing supply, neighborhood stabilization, and economic

1494

development within housing development zones in gateway municipalities.

1495

“Housing development project”, a multi-unit residential rehabilitation project that is located in a

1496

gateway municipality and once rehabilitated, shall contain at least 80 per cent market rate units.

1497

“Housing development zone” or “HD zone”, a zone designated by a gateway municipality which

1498

shall be characterized by a need for multi-unit market rate residential properties.

1499

“Market rate residential unit”, a residential unit priced for households above 110 per cent of the

1500

area’s household median income.

1501

“Qualified substantial rehabilitation expenditure”, the cost of substantial rehabilitation meeting

1502

the following criteria: (i) an initial certification by the department that the structure meets the definition

1503 of certified housing development project; (ii) a second certification by the department, to be issued prior
1504 to construction, certifying that if completed as proposed, the rehabilitation work meets the standards
1505 required for a certified rehabilitation; and (iii) a final certification by the department, issued when the
1506 property is leased or sold by the taxpayer.

1507 “Sponsors”, sponsors, as defined in section 25 of chapter 23B.

1508 “Substantial rehabilitation” and ”substantially rehabilitated”, the needed major redevelopment,
1509 repair and renovation of a property, excluding the purchase of the property, as determined by the
1510 department of housing and community development.

1511 Section 2. The department may from time to time designate 1 or more areas of a gateway
1512 municipality as an HD Zone and take any and all actions necessary or appropriate to such a designation,
1513 upon receipt of a municipal application requesting such designation and representing in its application
1514 that the municipality, based on its own independent investigation, has determined that the area proposed
1515 for designation has a need for multi-unit residential properties. The application shall include a plan
1516 which shall include a detailed description of the construction, reconstruction, rehabilitation and related
1517 activities, public and private, contemplated for such zone as of the date of the adoption of the zone plan.

1518 Section 3. Under section 5M of chapter 59, the department may approve a municipality’s
1519 application for a tax exemption for a housing development project located within an approved housing
1520 development zone.

1521 Section 4. (a) A project may be eligible to be a certified housing development project under this
1522 chapter; provided, however, that the proposed project:

1523 (i) contains 2 or more residential units; provided, however, the project may be a mixed-use
1524 development that includes commercial uses in addition to residential units;

- 1525 (ii) contains not more than 50 market rate residential units;
- 1526 (iii) is located in a designated or proposed HD zone;
- 1527 (iv) contains at least 80 per cent market rate units upon completion of the rehabilitation, to
- 1528 be sold or leased;
- 1529 (v) has received from the municipality a property tax exemption under section 5M of
- 1530 chapter 59; and
- 1531 (vi) is a substantial rehabilitation of an existing property.

1532 (b) The department may from time to time approve 1 or more housing development projects,
1533 located in HD zones designated as certified projects under section 2 and take any and all actions
1534 necessary or appropriate to such a designation, upon compliance with the following:

1535 (i) receipt of a project proposal for such a designation requesting such designation from the
1536 municipality, submitted in a timely manner, in such form and with such information as
1537 the department prescribes, supported by independently verifiable information and signed
1538 under the penalties of perjury by a person authorized to bind the sponsors;

1539 (ii) receipt of an executed agreement by the municipality which contains a tax exemption
1540 under section 5M of chapter 59 and this section so long as the municipality has
1541 determined and incorporated in a formal written determination, based on the information
1542 submitted with the project proposal and such additional investigation as the municipality
1543 shall make, that the project as described in the proposal and all documentation submitted
1544 with the proposal:

1545 (A) is consistent with and can reasonably be expected to benefit significantly from
1546 the gateway municipality's plans relative to the project property tax exemption;

1547 (B) together with all other projects previously certified and located in the same
1548 project HDIP zone, shall not overburden the municipality's supporting resources; and

1549 (C) together with the municipal resources committed to the project, shall, if
1550 certified, have a reasonable chance of increasing residential growth, diversity of housing
1551 supply, supporting economic development and promoting neighborhood stabilization in
1552 1 of the municipality's housing development zones of the municipality as advanced in
1553 the proposal; and

1554 (iii) receipt with such written approval by the municipality of a request for a designation of
1555 the project as a certified project for a specified number of years, which shall be not less
1556 than 5 years and not more than 20 years.

1557 (c) The department shall evaluate and either grant or deny any project proposal not later than 90
1558 days from the date of its receipt of a complete project proposal and failure to do so by the department
1559 shall result in approval of such project for a term of 20 years. Approval of a project due to the
1560 department's failure to act within 90 days shall not constitute approval by the department of any tax
1561 incentives provided under chapter 62 or 63.

1562 (d) The department may impose a fee for the processing of applications for the certification of
1563 any project under this section.

1564 (e) The department shall review such certified project at least once every 2 years. A certified
1565 project shall retain its certification for the period specified by the department in its certification decision
1566 unless such certification is revoked prior to the expiration of the specified period. The certification of a
1567 project may be revoked only by the department and only upon: (i) the petition of the municipality that
1568 approved the project proposal, if the petition satisfies the authorization requirements for a municipal
1569 application or the petition of the director of the department; and (ii) the independent investigation and

1570 determination of the department that representations made by the sponsors in its project proposal are
1571 materially at variance with the conduct of the sponsors subsequent to the certification and such variance
1572 is found to frustrate the public purposes that such certification was intended to advance. Upon such a
1573 revocation, the commonwealth and the municipality, may bring a cause of action against the sponsors for
1574 the value of any economic benefit received by the sponsors prior to or subsequent to such revocation.

1575 Under this section, revocation shall take effect on the first day of the tax year in which the
1576 department determines that a material variance commenced. The commissioner of revenue may, as of the
1577 effective date of the revocation, disallow any credits, exemptions or other tax benefits allowed by the
1578 original certification under this section. The commissioner shall issue regulations to recapture the value
1579 of any credits, exemptions or other tax benefits allowed by the certification under this section.

1580 Annually, on or before the first Wednesday in December, the department shall file a report
1581 detailing its findings of the review of all certified projects that it evaluated in the prior fiscal year to the
1582 commissioner of revenue, to the joint committee on revenue and the joint committee on housing and
1583 community development.

1584 Section 5. The department may award to a sponsor of a certified project tax credits available
1585 under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 not to exceed 10 per cent
1586 of the cost of qualified substantial rehabilitation expenditures of the market rate units in the project. The
1587 amount and duration of the credit awarded shall be based on the following factors:

- 1588 (i) the need for residential development and diversity of housing supply in the gateway
1589 municipality;
- 1590 (ii) the extent to which the project will encourage residential development, expansion of
1591 diversity of housing supply, support neighborhood stabilization, and promote economic
1592 development in the zone; and

1593 (iii) the percentage of market rate units contained in the project.

1594 (b) The department may, limit any incentive or credit available to a project under subsection (q)
1595 of section 6 of chapter 62 and section 38BB of chapter 63 to a dollar amount or in any other manner
1596 deemed appropriate by the department.

1597 **CHAPTER 40W.**

1598 **MASSACHUSETTS GROWTH CAPITAL CORPORATION**

1599 Section 1. For the purposes of this chapter the following words and terms shall, except where the
1600 context clearly indicates otherwise, have the following meanings:

1601 “Capital participation instruments”, purchase of stock, both common and preferred, convertible
1602 securities, warrants, subscriptions, options to acquire, capital loans, and working capital or inventory
1603 loans, royalties, and other lawful derivations of the foregoing.

1604 “Community development corporation” or “CDC”, a certified community development
1605 corporation, as defined in section 2 of chapter 40H.

1606 “Corporation” or “GCC”, the Massachusetts Growth Capital Corporation established in section
1607 2.

1608 “Equity investment”, any of the following types of investment activity: (a) a purchase of stock;
1609 (b) a purchase of a partnership interest; (c) a purchase of a limited liability company membership
1610 interest; or (d) a loan made on such terms that it has sufficient characteristics of equity.

1611 “Financial products”, loans, equity investments and other similar financing activities including,
1612 but not limited to, the purchase of loans originated by a certified community development financial
1613 institution, the provision of loan guarantees, or the provision of surety bond guarantees.

1614 “Project”, (a) the act of making available financial products to small businesses and nonprofit
1615 corporations; (b) manufacturing, wholesale, retail, service, or other business activity; (c) economic
1616 development activity involving the financing of commercial, industrial or other real estate activity; or (d)
1617 other activity from which a community will derive economic benefit.

1618 “Small business”, a business entity, including its affiliates, that (a) is independently owned and
1619 operated; (b) has a principal place of business in the commonwealth; and (c) would be defined as a
1620 ‘small business’ under applicable federal law, as established in the United States Code and promulgated
1621 from time to time by the United States Small Business Administration.

1622 Section 2. (a) There is hereby established a body politic and corporate to be known as the
1623 Massachusetts Growth Capital Corporation. The GCC is hereby constituted a public instrumentality and
1624 the exercise by the GCC of the powers conferred by this chapter shall be deemed to be the performance
1625 of an essential governmental function.

1626 The GCC shall be placed within the executive office of housing and economic development but
1627 shall not be subject to the supervision and control of an executive office, department, division,
1628 commission, board, bureau or agency except to the extent and in the manner provided by law.

1629 (b) The corporation shall be governed and its corporate powers exercised by a board of directors,
1630 which shall consist of 12 directors; 1 of whom shall be the secretary of housing and economic
1631 development, who shall serve as chair; 1 of whom shall be the secretary of administration and finance, or
1632 the secretary’s designee; and 10 of whom shall be appointed by the governor. Of the 10 directors
1633 appointed by the governor; 3 shall be persons who together shall be experienced in small business
1634 financing, other financial instruments, turnarounds of troubled businesses and the organization and
1635 operation of employee owned businesses; provided, however, that each such director shall be
1636 experienced and knowledgeable in at least 1 such area; 1 shall be a representative of an organization of

1637 small businesses or manufacturing companies in the commonwealth; 1 shall be a representative of a
1638 community bank in the commonwealth and nominated by the Massachusetts Bankers Association; 1
1639 shall be experienced in community economic development and employed by a CDC or a representative
1640 of the Massachusetts Association of Community Development Corporations; 1 shall be a current or
1641 retired certified public accountant or chief financial officer; 1 shall be a practicing or retired attorney
1642 with a business financing experience; 1 shall be a small business owner; and 1 shall be a representative
1643 of organized labor. Each member appointed by the governor shall serve a term of 5 years, except that in
1644 making the governor's initial appointments the governor shall appoint 2 members to serve for a term of 1
1645 year, 2 members to serve for a term of 2 years, 2 members to serve for a term of 3 years, 2 members to
1646 serve for a term of 4 years and 2 members to serve for a term of 5 years.

1647 (c) A person appointed to fill a vacancy in the office of a director shall be appointed in a like
1648 manner and shall serve for only the unexpired term. A director shall be eligible for reappointment. A
1649 director may only be removed from the director's appointment by the governor for good cause. The
1650 directors shall annually elect 1 director as vice-chair and designate a secretary-treasurer who need not be
1651 a director. The secretary-treasurer shall keep a record of the proceedings of the corporation and shall be
1652 the custodian of all books, documents and papers filed with the corporation, the minute books of the
1653 corporation and of its official seal.

1654 (d) Six of the directors of the corporation shall constitute a quorum and 6 affirmative votes shall
1655 be necessary for the transaction of business or the exercise of a power or function of the corporation.
1656 Each director shall be entitled to reimbursement for the director's actual and necessary expenses incurred
1657 in the performance of the director's official duties.

1658 (e) The corporation, its directors, officers and employees shall be subject to sections 1 to 4,
1659 inclusive, of chapter 268A except that the corporation may purchase from, sell to, borrow from, loan to,
1660 contract with or otherwise deal with a person in which a director of the corporation is interested or

1661 involved; provided, however, that such interest or involvement is disclosed in advance to the directors
1662 and recorded in the minutes of the corporation; provided, further, that no director having such an interest
1663 or involvement may participate in a decision of the directors relating to such person. Employment by the
1664 commonwealth or service in an agency of the commonwealth shall not be deemed to be such an interest
1665 or involvement.

1666 (f) The directors shall appoint the president of the corporation and shall establish the president's
1667 salary. The president shall be the chief administrative and operational officer of the corporation and shall
1668 direct and supervise administrative affairs and the general management of the corporation. The president
1669 may employ such other employees as shall be designated by the directors, shall attend meetings of the
1670 directors, shall cause copies to be made of all minutes and other records and documents of the
1671 corporation and shall certify that such copies are true copies and all persons dealing with the corporation
1672 may rely upon such certification.

1673 (g) All officers and employees of the corporation having access to its cash and negotiable
1674 securities shall give bond to the corporation at its expense in such amounts and with such surety as the
1675 directors may prescribe. The persons required to give bond may be included in 1 or more blanket or
1676 scheduled bonds.

1677 (h) Directors shall not be liable to the commonwealth, to the agency or to any other person as a
1678 result of the director's activities, whether ministerial or discretionary, as such directors, except for willful
1679 dishonesty or intentional violations of the law. The corporation may purchase liability insurance for
1680 directors, officers, and employees and may indemnify said persons against claims of others.

1681 (i) Documentary materials, data or conversations made or received by a director or employee of
1682 the corporation and consisting of, or to the extent that such materials, data or conversations consist of,
1683 trade secrets or commercial or financial information regarding the operation of a business conducted by

1684 an applicant for assistance which the corporation is empowered to render or regarding the competitive
1685 position of such applicant in a particular field of endeavor, shall not be public records of the corporation
1686 and shall not be subject to section 10 of chapter 66. A discussion or consideration of such trade secrets or
1687 commercial or financial information may be held by the directors in executive session closed to the
1688 public notwithstanding chapter 30A, but the purpose of such an executive session shall be set forth in the
1689 official minutes of the corporation and no business which is directly related to such purpose shall be
1690 transacted nor shall a vote be taken in such an executive session.

1691 Section 3. The GCC shall have the power to:

1692 (a) adopt by-laws for the regulation of its affairs and the conduct of its business;

1693 (b) adopt an official seal;

1694 (c) sue and be sued in its own name;

1695 (d) make and execute contracts and all other instruments necessary or convenient for the
1696 exercise of its power and functions;

1697 (e) acquire, hold and dispose of personal property for its corporate purposes;

1698 (f) enter into agreements or other transactions with federal and state agencies;

1699 (g) acquire real property, or an interest in real property, by purchase or foreclosure, if
1700 such acquisition is necessary or appropriate to protect or secure an investment or loan in which
1701 the agency has an interest; to sell, transfer and convey such property to a buyer and in the event
1702 such sale, transfer or conveyance cannot be effected with reasonable promptness or at a
1703 reasonable price, to lease such property to a tenant;

1704 (h) invest funds held in reserves or sinking funds, or funds not required for immediate
1705 disbursement, in such investments as may be lawful for fiduciaries in the commonwealth;

1706 (i) borrow money by the issuance of debt obligations whether tax exempt or taxable and
1707 secure such obligations by the pledge of its revenues or of the revenues, mortgages and notes of
1708 others; provided, however, that the corporation shall not issue debt obligations if the principal
1709 amount of those debt obligations, when added to the principal amount of existing debt
1710 obligations issued by the corporation, excluding debt obligations previously refunded or to be
1711 refunded by the corporation, would exceed 30 million dollars;

1712 (j) employ and fix the compensation of a president, who shall be the chief executive
1713 officer of the corporation and such other agents, employees, professional and business advisers
1714 as may be necessary in the judgment of the directors; provided, however, that the president,
1715 professional advisers and business advisers shall not be subject to chapter 31 or section 9A of
1716 chapter 30;

1717 (k) appear in its own behalf before boards, commissions, departments or other agencies
1718 of municipal, state or federal government;

1719 (l) procure insurance against any loss in connection with its property in such amounts,
1720 and from such insurers, as may be necessary or desirable;

1721 (m) consent, subject to any contract with noteholders or bondholders, whenever it deems
1722 it necessary or desirable in the fulfillment of the purposes of this chapter, to the modification,
1723 with respect to rate of interest, time of payment of an installment of principal or interest, or other
1724 terms, of a mortgage, mortgage loan, mortgage loan commitment, contract or other agreement to
1725 which the GCC is a party;

1726 (n) do any and all things necessary or convenient to carry out its purposes and exercise
1727 the powers expressly given and granted in this chapter;

1728 (o) receive and accept from federal and state agencies and public or private entities
1729 grants, loans or advances for or in aid of the purposes of this chapter and to receive and accept
1730 contributions from a source of either money, property, labor or other things of value, to be held,
1731 used and applied for the purposes of this chapter;

1732 (p) create, issue, buy and sell stock and other capital participation instruments; to hold
1733 such stock and capital participation instruments and to underwrite the creation of a capital
1734 market for these securities;

1735 (q) provide advisory services, technical assistance and training programs to small
1736 businesses as may be necessary or desirable to carry out the purposes of this chapter;

1737 (r) exercise other powers, rights or responsibilities of a corporation organized under
1738 chapter 156B;

1739 (s) create and issue shares which a person, firm or corporation may purchase; provided,
1740 however, that each share issued shall be in the form of non-voting common stock with each
1741 share having a par value of \$10; provided, further, that the total value of the shares issued shall
1742 not exceed \$25,000,000;

1743 (t) make loans or grants to, or otherwise finance or invest in, a business to further the
1744 purposes of this chapter; provided, further, that such loans or grants may be made to certified
1745 community development corporations or other community based nonprofit entities for the
1746 purpose of such corporations or entities providing financing to businesses;

1747 (u) provide loan guarantees to public or private entities for the purpose of causing such
1748 entities to provide financing to a business;

1749 (v) establish and collect such fees, charges and interest rates as the corporation
1750 determines to be reasonable; and

1751 (w) require, by contract in a financing agreement, or otherwise, specific operational
1752 activities, financial actions or management changes, as conditions for the receipt of a loan,
1753 financing or investment by the corporation.

1754 No debt obligation issued under clause (i), stock or capital participation instrument created under
1755 clause (p) or share issued under clause (s) shall be or become an indebtedness or obligation of the
1756 commonwealth, and it shall be plainly stated on the face of each bond, capital participation instrument,
1757 share or other evidence of indebtedness that it does not constitute an indebtedness or obligation of the
1758 commonwealth but is payable solely from the revenues or income of the Massachusetts Growth Capital
1759 Corporation.

1760 Section 4. The corporation shall contract with another public authority for the performance by
1761 that authority of core administrative functions, as determined by the secretary of housing and economic
1762 development which may include, but shall not be limited to, human resources, financial management,
1763 information technology, legal, procurement and asset management, to minimize the administrative costs
1764 and expenses of the corporation.

1765 Section 5.

1766 (a) The corporation may participate in a project; provided that, the corporation shall find
1767 and incorporate in the official records of the corporation that the project will be of a public benefit such
1768 that the project is reasonably expected to:

- 1769 (i) support or promote economic development, revitalization or stability;
1770 (ii) promote employment opportunities for residents of the commonwealth;
1771 (iii) promote the creation or retention of jobs; or,
1772 (iv) support the creation or expansion of a business sector whose success would
1773 enhance the economic development of the commonwealth, enhance the quality of life of
1774 residents of the commonwealth or enhance the employment opportunities for residents of the
1775 commonwealth.

1776 (b) The corporation shall not participate in a project unless it determines, in writing, that its
1777 participation is necessary because funding for the project is not available in the traditional capital
1778 markets or that credit has been offered on terms that would preclude the success of the project.

1779 (c) The corporation shall endeavor to participate in projects each year that provide financial
1780 products, which in the aggregate total not less than 30 percent of the total capital committed by the
1781 corporation over a 3 year period, to projects which enhance the economic development of a target area,
1782 as defined in section 2 of chapter 40H, or enhance the quality of life and promote employment
1783 opportunities for low and moderate income residents of the commonwealth. If a certified CDC requests
1784 that the corporation participate in a project, the corporation shall make a determination of whether the
1785 project: (i) is likely to provide employment opportunities to low and moderate income residents of the
1786 commonwealth; (ii) is likely to enhance the quality of life of low and moderate income residents of the
1787 commonwealth; or (iii) supports the creation or expansion of the business sector in the region served by
1788 the CDC. If the corporation enters into an agreement to participate in such a project, the terms of the
1789 financial products made available shall favorably reflect the economic and social benefits which inures
1790 to the commonwealth from the project.

1791 (d) Each contract shall include a requirement for adequate reporting of financial and other
1792 data to the corporation. The contract shall require that a business receiving financial products shall

1793 participate in financial and managerial consulting services and the contract shall include a requirement
1794 for an annual or other periodic audit of the project books.

1795 Section 6. The corporation shall endeavor to participate in projects each year that provide
1796 financial products, which in the aggregate total not less than 20 percent of the total capital committed by
1797 the corporation in that year, to minority-owned or women-owned contractors notwithstanding the
1798 conditions described in section 5, except that the corporation shall have determined, in writing; (a) that
1799 the project plans conform to applicable environmental, zoning, building, planning and sanitation laws;
1800 (b) that there is a reasonable expectation that the project will be successful; and (c) that the participation
1801 of the corporation is necessary for the successful completion of the proposed project because funding for
1802 the project is unavailable in the traditional capital markets, or that credit has been offered on terms that
1803 would preclude the success of the project.

1804 Section 7. (a) The GCC may establish or invest in the capital stock of 1 or more corporations
1805 organized to increase capital available to small businesses or to engage local residents and businesses to
1806 work together to undertake programs, projects and activities which develop and improve urban, rural and
1807 suburban communities by creating and expanding economic opportunities for low and moderate income
1808 people. Without limitation, such a corporation may:

1809 (1) serve as a financial intermediary between entities undertaking projects and small
1810 businesses and public or private sources of capital including, without limitation, direct lenders,
1811 guarantors or grant makers. Any corporation so organized may accomplish its purposes by
1812 means of (i) investing in the equity capital of; (ii) making direct loans to; or (iii) issuing loan
1813 guarantees to entities undertaking projects or to small businesses; and

1814 (2) provide financial and managerial consulting services to entities undertaking projects,
1815 small businesses and minority-owned or women-owned contractors.

1816 (b) The GCC may have a controlling or a minority interest in such a corporation, as the directors
1817 of the GCC shall determine in the board's discretion; provided, however, that at least 1 director of the
1818 GCC shall sit on the board of directors of the corporation.

1819 (c) A corporation established under this section or in which the GCC has invested under this
1820 section shall, prior to making an investment in the capital stock of, or loans or loan guarantees to, entities
1821 undertaking projects or to small businesses, make the following findings:

1822 (1) that such action is consistent with the objectives of this section and may reasonably
1823 be expected to contribute to the redevelopment and economic well-being of the commonwealth,
1824 will create or retain jobs or will assist minority or women-owned businesses;

1825 (2) that the funds provided by the GCC will be used solely in connection with the costs
1826 of the project or the operation of the small business;

1827 (3) that the contract for participation in a project requires adequate reporting of financial
1828 data from the small business or project to such corporation, that the contract requires that a
1829 business receiving financial products shall participate in financial and managerial consulting
1830 services and that the contract includes a requirement for an annual or other periodic audit of the
1831 books of the project or the small business;

1832 (4) that its participation is necessary to the successful completion of the proposed project
1833 or to the success of the small business because funding for the project or small business is
1834 unavailable in the traditional capital markets or that credit has been offered on terms that would
1835 preclude the success of the project or the small business; and

1836 (d) Should the GCC desire to sell or otherwise dispose of stock received under a contract under
1837 this section, the small business or entity undertaking a project, or the small business or entity's nominee,

1838 shall within 120 days have the right of first refusal upon the sale and the right to meet a subsequent bona
1839 fide offer by a third party.

1840 (e) The GCC shall not, nor shall the GCC in combination with a corporation established or
1841 invested in by the GCC under this section, own more than 49 percent of the voting stock in a small
1842 business.

1843 (f) Upon the request of the GCC, the commissioner of banks shall examine the books of a
1844 corporation established or invested in by the GCC under this section if such examination is a condition
1845 of the particular investment, lending, loan guaranty or grant program administered by such corporation.

1846 Section 8. (a) The corporation shall establish a program to support the provision of financial and
1847 managerial consulting and technical assistance to eligible companies which receive financial assistance
1848 from the commonwealth or any of the commonwealth's public authorities. Services supported may
1849 include, but shall not be limited to, procurement of investment capital, management, administration,
1850 production, product marketing, assisting business in securing federal contracts and business expansion,
1851 renovation and diversification. The program shall include: (i) referrals to technical assistance provided
1852 without charge to eligible companies by public and private small business support organizations; (ii)
1853 financial support to engage private consultants; and (iii) a directory of organizations, experts and
1854 consultants available to be engaged to offer financial or managerial consulting services.

1855 (b) The corporation shall coordinate the program with the United State Small Business
1856 Administration, the Massachusetts Small Business Development Center Network and other private for
1857 profit and nonprofit providers of consulting and technical assistance to small businesses. The corporation
1858 shall consult with the commonwealth's public authorities, private business associations and regional
1859 economic development organizations in administering the program.

1860 (c) The corporation may provide matching grants to fund consulting and technical assistance to
1861 small businesses who receive financial assistance from the commonwealth or any of the
1862 commonwealth's public authorities. The grants shall be used by the recipient businesses to pay for
1863 mandated small business consulting and technical assistance services. Prior to awarding a grant, the
1864 corporation shall have determined that the financial or managerial consulting services mandated as a
1865 condition of financial support of the small business are not available without charge from an entity
1866 participating in the program and that procuring such services creates a hardship and impedes the
1867 likelihood of success of a project. Grants awarded shall require a 100 percent match by the recipient.

1868 Section 9. (a) The GCC may establish an economic stabilization program for the following
1869 purposes:

1870 (1) To provide flexible high risk financing necessary to implement a change of ownership, a
1871 corporate restructuring or a turnaround plan for an economically viable, but troubled business
1872 which faces the likelihood of a large employment loss, plant closure or failure without such a
1873 change of ownership, corporate restructuring or turnaround plan. The program shall provide
1874 assistance to firms in specific mature industries for the purpose of technological investment or
1875 upgrading of management operations in order for the business to maintain future economic
1876 stability. The financial participation of the GCC shall aim to supplement private financial
1877 institutions and public economic development agencies when such institutions are unable to
1878 provide all the financing or bear all of the risk necessary to transfer ownership, restructure or
1879 turnaround a business in a situation where the business might otherwise fail or greatly reduce its
1880 employment.

1881 (2) To provide flexible high risk financing in connection with the start-up of employee-
1882 owned businesses or the implementation of employee-ownership projects. The financial
1883 participation of the GCC shall aim to supplement private financial institutions and public

1884 economic development agencies when such institutions are unable to provide all the financing or
1885 bear all of the risk necessary to start-up an employee-owned business or implement an
1886 employee-ownership project.

1887 (b) The GCC shall endeavor to direct at least 10 percent of the financing provided by the
1888 economic stabilization program to businesses that are employee-owned businesses in order to fulfill the
1889 purposes of this section.

1890 (c) The GCC may participate in projects under this section; provided, that, the corporation shall
1891 find and incorporate in the official records of the corporation that the project will be of a public benefit
1892 and:

1893 (1) when providing assistance in connection with the purchase of a troubled business,
1894 the directors shall determine and incorporate in the minutes of a meeting of the directors that:

1895 (i) the business is likely to experience a large loss of employment, plant closure, or
1896 failure without the loan financing or investment by corporation;

1897 (ii) the business within a specific mature industry requires assistance for the purpose of
1898 technological investment or upgrading of management operations in order for the
1899 business to maintain future economic stability;

1900 (iii) the business or person seeking to purchase the business has taken or shall take such
1901 actions as the directors deem necessary to ensure the business has a reasonable chance to
1902 continue as a successful business, including, but not limited to, changes in its operations,
1903 financing, or management and that said actions are included as a condition for financing
1904 by the corporation in the financing agreement; and

1905 (iv) the business or person seeking to purchase the business has made diligent efforts to
1906 obtain the financing necessary to continue its operations or transfer ownership of the
1907 business from private financial institutions and public economic development agencies
1908 and such financing is unavailable or has been offered on terms that would prevent the
1909 successful continuation or change in ownership of the business; or

1910 (2) when providing assistance in connection with an employee-owned business or an
1911 employee-ownership project, the directors shall determine and incorporate in the minutes of a
1912 meeting of the directors that:

1913 (i) the business or person seeking assistance has taken or shall take such actions as the
1914 directors deem necessary to ensure that the employee-ownership project has a
1915 reasonable chance to succeed; and

1916 (ii) except with respect to assistance for pre-feasibility and feasibility studies, that such
1917 business or person has made diligent efforts to obtain the financing necessary to institute
1918 or implement the employee-ownership project from private financial institutions and
1919 public economic development agencies, and such financing is unavailable or has been
1920 offered on terms that would prevent the successful institution or implementation of the
1921 project.

1922 Section 10. The GCC shall be subject to section 16G of chapter 6A and section 56 of chapter
1923 23A.

1924 **SECTION 106.** Section 92 of chapter 41 of the General Laws, as appearing in the 2008 Official
1925 Edition, is hereby amended by striking out, in line 13, and in lines 14 and 15, the words “two thousand
1926 five hundred dollars”, and inserting in place thereof, in each instance, the following figure:- \$7,000.

1948 Facilities Siting Board under chapter 40A and chapter 164 or requests for variances or waivers from state
1949 laws or regulations.

1950 “Priority development site”, priority development site as defined in section 2 of chapter 43D.

1951 “Project”, project as defined in section 62 of chapter 30.

1952 “Site”, a privately or publicly owned property that is zoned for commercial or industrial use.

1953 Section 2. (a) Issuing authorities shall complete permit reviews and final decisions within 180
1954 days, or 210 days for permit processes requiring a public comment period, subject to an extension under
1955 section 5, for projects that are in: (i) priority development sites designated under chapter 43D; (ii)
1956 located within a growth district; (iii) provided the applicant has received a certificate indicating the
1957 completion of the process under sections 61 to 62H, inclusive, of chapter 30; and (iv) provided neither
1958 the project nor any portion of the project shall be in a wetland as defined by section 40 of chapter 131,
1959 tidelands as defined by section 1 of chapter 91, priority habitat as delineated by the division of fisheries
1960 and wildlife under chapter 131A or an area of critical environmental concern as designated by the
1961 secretary of energy and environmental affairs.

1962 (b) The time period to complete reviews and issue permit decisions shall begin the day after the
1963 issuing authority issues notice that the application materials necessary for the permit are complete. The
1964 issuing authority shall notify the applicant in writing within 20 business days from receipt of the
1965 completed form of additional information needed or requirements that it may have. The issuing authority
1966 may provide for pre-application conferences to facilitate this process.

1967 (c) The resubmission of the application or the submission of such additional information
1968 required by the issuing authority shall commence a new 30-day period for review of the additional
1969 information.

1970 Section 3. Failure by any issuing authority to take final action on a permit or approval within the
1971 180-day or 210-day period or extended time, if applicable, shall be considered a grant of the permit
1972 requested of that authority. In that event, within 3 days after the date of expiration of the time period, the
1973 applicant shall file a notice with the issuing authority, attaching the application, setting forth the facts
1974 giving rise to the grant and stating that notice of the grant has been mailed, by certified mail, to all
1975 parties to the proceedings and all persons entitled to notice of hearing in connection with the application.

1976 Section 4. The grant shall not occur if: (1) the issuing authority has made a timely determination
1977 that the application is not complete in accordance with its requirements, properly notified the applicant
1978 and the applicant has not made a timely response to complete the application; (2) the issuing authority
1979 has determined that the final application contained false or misleading information; or (3) the issuing
1980 authority has determined that substantial changes to the project affect the information required to process
1981 the permit application have occurred since the filing of the application.

1982 Section 5. The 180 or 210 day time period may be waived or extended for good cause upon
1983 written request of the applicant with the consent of the issuing authority or upon written request of the
1984 issuing authority with the consent of the applicant. The 180 or 210 day time period shall be extended
1985 without consent of the applicant if the issuing authority determines either: (1) that action by another
1986 federal, state or municipal government agency is required before the issuing authority may act; (2) that
1987 judicial proceedings affect the ability of the issuing authority or applicant to proceed with the
1988 application; or (3) that enforcement proceedings that could result in revocation of an existing permit for
1989 that facility or activity and denial of the application have been commenced. In those circumstances, the
1990 issuing authority shall provide written notification to the applicant and send a copy to the secretary of
1991 housing and economic development. When the reason for the extension is no longer applicable, the
1992 issuing authority shall immediately notify the applicant and shall complete its decision within the time
1993 period specified in this section, beginning the day after the notice is issued. An issuing authority shall not

1994 deny a permit exclusively due to a lack of time for review if the applicant has provided a complete
1995 application and met all other obligations under this chapter.

1996 Section 6. The commencement of the time period for an administrative or judicial appeal of a
1997 grant under section 3 shall be the date the applicant files notice of the grant under said section 3. The 180
1998 or 210 day timeline shall not apply to an administrative appeal following the issuance of a permit.

1999 Section 7. Nothing in this chapter shall be construed to alter the substantive jurisdictional
2000 authority of issuing authorities. Nothing in this chapter shall be construed to modify any requirement of
2001 the State Implementation Plan or other requirement of law that is necessary to retain federal delegation
2002 to, or assumption by, the commonwealth of the authority to implement a federal law or program.

2003 Section 8. The secretary of housing and economic development shall promulgate rules and
2004 regulations to implement this chapter with the approval of the secretary of energy and environmental
2005 affairs. Any agency issuing permits under this chapter may issue rules and regulations to tailor this
2006 chapter to the specific permits issued by such agency.

2007 **SECTION 108.** Clause Sixteenth of section 5 of chapter 59 of the General Laws is hereby
2008 amended by striking out paragraph (3), as amended by section 4 of chapter 173 of the acts of 2008, and
2009 inserting in place thereof the following paragraph:-

2010 (3) In the case of (i) a manufacturing corporation or a research and development corporation, as
2011 defined in section 42B of chapter 63, or (ii) a limited liability company that; (a) has its usual place of
2012 business in the commonwealth; (b) is engaged in manufacturing in the commonwealth and whose sole
2013 member is a manufacturing corporation as defined in section 42B of chapter 63 or is engaged in research
2014 and development in the commonwealth and whose sole member is a research and development
2015 corporation as defined in said section 42B; and (c) is a disregarded entity, as defined in paragraph 2 of
2016 section 30 of chapter 63, all property owned by the corporation or the limited liability company other

2017 than real estate, poles and underground conduits, wires and pipes; provided, however, that no property,
2018 except property entitled to a pollution control abatement under clause forty-fourth or a cogeneration
2019 facility, shall be exempt from taxation if it is used in the manufacture or generation of electricity and it
2020 has not received a manufacturing classification effective on or before January 1, 1996. For the purposes
2021 of this section, a cogeneration facility shall be an electrical generating unit having power production
2022 capacity which, together with any other power generation facilities located at the same site, is not greater
2023 than 30 megawatts and which produces electric energy and steam or other form of useful energy utilized
2024 for industrial, commercial, heating or cooling purposes. For purposes of this paragraph, in determining
2025 whether the sole member of a limited liability company treated as a disregarded entity is a manufacturing
2026 corporation or a research and development corporation, the attributes and activities of the limited
2027 liability company shall be taken into account by the member along with the member's other attributes
2028 and activities. This clause as it applies to a research and development corporation, as defined in section
2029 42B of said chapter 63, and as it applies to a limited liability company that is a disregarded entity and
2030 whose sole member is a manufacturing corporation or a research and development corporation shall take
2031 effect only upon its acceptance by the city or town in which the real estate, poles and underground
2032 conduits, wires and pipes are located.

2033 **SECTION 109.** Said section 5 of said chapter 59, as appearing in the 2008 Official Edition, is
2034 hereby amended by striking out clause Fifty-first and inserting in place thereof the following clause:-

2035 Fifty-first, the value of a parcel of real property which is included within an executed agreement
2036 under clause (v) of section 59, clause (v) of subsection (a) of section 60 or clause (iv) of subsection (a) of
2037 section 60A of chapter 40, and the value of personal property situated on that parcel, but taxes on real
2038 and personal property eligible for exemption under this clause shall be assessed only on that portion of
2039 the value of the property that is not exempt under section 59, section 60 or section 60A of chapter 40,
2040 and this exemption shall be for a term not longer than the period specified for the exemption in the
2041 agreement. The amount of the exemption under this clause for a parcel of real property shall be the

2042 exemption percentage adopted under clause (iii) of section 59, subsection (a) of section 60 or of section
2043 60A of said chapter 40 multiplied by the amount by which the parcel's value exceeds the product of its
2044 assessed value for the last fiscal year before it became eligible for exemption under this clause multiplied
2045 by the adjustment factor determined under said section 59, section 60 or section 60A of said chapter 40.
2046 The amount of the exemption under this clause for personal property shall be the exemption percentage
2047 adopted under clause (iii) of section 59, subsection (a) of section 60 or of section 60A of said chapter 40
2048 multiplied by the fair cash valuation of the personal property. Taxes on property eligible for exemption
2049 under this clause shall be assessed only on that portion of the value of the property that is not exempt
2050 under this clause.

2051 **SECTION 110.** Said chapter 59 is hereby further amended by inserting after section 5L the
2052 following section:-

2053 Section 5M. A gateway municipality, as defined in section 1 of chapter 40V, may, by vote of its
2054 legislative body, subject to the charter of the municipality, establish an exemption in an amount not less
2055 than 10 per cent and not more than 100 per cent of the incremental value of the market rate units
2056 contained in a certified housing development project within a housing development zone under chapter
2057 40V, for a period of not less than 5 years and not more than 20 years. For the purposes of this section,
2058 “market rate residential unit” shall mean a market rate residential unit as defined in section 1 of chapter
2059 40V. Such exemption shall be approved by the department of housing and community development, as
2060 established in chapter 23B. The department shall promulgate applicable rules and regulations to carry out
2061 this section.

2062 **SECTION 111.** Section 4 of chapter 62 of the General Laws, as appearing in the 2008 Official
2063 Edition, is hereby amended by inserting after the words “paragraph (b)”, in line 32, the following
2064 words:- , excepting Part C taxable income derived from the sale of investments which: (1) are in a
2065 corporation which is domiciled in the commonwealth with a date of incorporation on or after January 1,

2066 2011 which has less than \$50 million in assets at the time of investment and complies with subsections
2067 (e)(1), (e)(2), (e)(5), and (e)(6) of Section 1202 of the Internal Revenue Service Code; and (2) are held
2068 for 3 years or more, which shall be taxed at a rate of 3 per cent; provided, however, that in order to
2069 qualify for the 3 per cent rate, such investments shall be made within 5 years of the date of incorporation
2070 and, to the extent consistent with the provisions of this subsection, shall be in stock in a corporation that
2071 satisfies the requirements for treatment as "qualified small business stock" under section 1202(c) of the
2072 federal Internal Revenue Code, without regard to the requirement that the corporation be a C
2073 corporation.

2074 **SECTION 112.** Subsection (g) of section 6 of chapter 62 of the General Laws, inserted by
2075 section 21 of chapter 166 of the acts of 2009, is hereby amended by striking out paragraph (1) and
2076 inserting the following paragraph:

2077 (1) A credit shall be allowed against the tax liability imposed by this chapter, to the extent
2078 authorized by the economic assistance coordinating council established in section 3B of chapter 23A, up
2079 to an amount equal to 50 per cent of such liability in any taxable year; provided, however, that the 50 per
2080 cent limitation shall not apply where the credit is refundable under paragraph (5): (i) for certified
2081 expansion projects and certified enhanced expansion projects, as defined in sections 3A and 3F of said
2082 chapter 23A, an amount up to 10 per cent, and (ii) for certified manufacturing retention projects, as
2083 defined in said sections 3A and 3F of said chapter 23A, an amount up to 40 per cent of the cost of
2084 property that would qualify for the credit allowed by section 31A of chapter 63 if the property were
2085 purchased by a manufacturing corporation or a business corporation engaged primarily in research and
2086 development and used exclusively in a certified project as defined in said sections 3A and 3F of said
2087 chapter 23A. A lessee may be eligible for a credit pursuant to this subsection for real property leased
2088 pursuant to an operating lease. If such property is disposed of or ceases to be in qualified use within the
2089 meaning of section 31A or ceases to be used exclusively in a certified project before the end of the
2090 certified project's certification period, or if a certified project's certification is revoked, the recapture

2091 provisions of subsection (e) of section 31A shall apply. If such property is disposed of after the certified
2092 project's certification period but before the end of such property's useful life, the recapture provisions of
2093 subsection (e) of section 31A shall apply. The expiration of a certified project's certification shall not
2094 require the application of the recapture provisions of subsection (e) of section 31A.

2095 The total amount of credits that may be authorized by the economic assistance coordinating
2096 council in a calendar year pursuant to this section and section 38N of chapter 63 shall not exceed an
2097 annual cap equal to \$25,000,000 minus the credits granted and carryforwards of credits from prior years
2098 pursuant to subsection (q)(5) of section of 6 of this chapter and section 38BB(5) of said chapter 63, and
2099 shall include: (1) refundable credits granted during the year pursuant to this section or said section 38N
2100 of said chapter 63; (2) nonrefundable credits granted during the year pursuant to this section or said
2101 section 38N of said chapter 63, to the extent that such nonrefundable credits are estimated by the
2102 commissioner to offset tax liabilities during the year; and (3) carryforwards of credits from prior years
2103 under this section or said section 38N of said chapter 63, to the extent that such credit carryforwards are
2104 estimated by the commissioner to offset tax liabilities during the year. Of these allowable credits, the
2105 economic assistance coordinating council may award not more than \$5,000,000 in a calendar year to
2106 certified enhanced expansion projects as defined in sections 3A and 3F of chapter 23A, and not more
2107 than \$10,000,000 for certified manufacturing retention projects as defined in said sections 3A and 3F of
2108 said chapter 23A. Any portion of the annual cap not awarded by the economic assistance coordinating
2109 council in a calendar year shall not be applied to awards in a subsequent year. The economic assistance
2110 coordinating council shall provide the commissioner of revenue with any documentation that the
2111 commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall
2112 provide a report confirming compliance with the annual cap to the secretary of administration and
2113 finance and the secretary of housing and economic development.

2114 As used in this paragraph, "EACC" shall mean the economic assistance coordinating council
2115 established in section 3B of chapter 23A. A credit allowed under this section may be taken only after the

2116 taxpayer completes a report signed by an authorized representative of the corporation and files the report
2117 with the EACC within 2 years after the initial project certification by the EACC and annually thereafter.
2118 The report shall contain pertinent employment data needed to determine whether the taxpayer has
2119 reasonably satisfied the employment projections set forth in its original project proposal granted pursuant
2120 to section 3F of said chapter 23A. Paragraph (3) of section 3F of said chapter 23A shall apply to tax
2121 benefits awarded under this section. Nothing in this section shall limit the authority of the commissioner
2122 to make adjustments to a corporation's liability upon audit.

2123 **SECTION 113.** Paragraph (1) of subsection (j) of said section 6 of said chapter 62, as appearing
2124 in the 2008 Official Edition, is hereby amended by striking out the figure "2011" and inserting in place
2125 thereof the following figure:- 2013.

2126 **SECTION 114.** Said paragraph (1) of said subsection (j) of said section 6 of said chapter 62, as
2127 so appearing, is hereby further amended by striking out the figure "2012" and inserting in place thereof
2128 the following figure:- 2014.

2129 **SECTION 115.** Said section 6 of said chapter 62 is hereby further amended by adding the
2130 following subsection: -

2131 (q) (1) A credit shall be allowed against the tax liability imposed by this chapter, to the extent
2132 awarded by the department of housing and community development established in chapter 23B,
2133 hereinafter referred to as "DHCD", for a certified housing development project, as defined in chapter
2134 40V, in an amount up to ten per cent of the cost of qualified substantial rehabilitation expenditures of the
2135 market rate units within the projects, as defined in section 1 of chapter 40V. The credit under this
2136 subsection shall be allowed for the taxable year in which department of housing and community
2137 development gives the commissioner written notification of completion of the certified housing
2138 development project.

2139 (2) Taxpayers eligible for the this credit may, with prior notice to and under regulations adopted
2140 by the commissioner of revenue, transfer the credits, in whole or in part, to any individual or entity, and
2141 the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee
2142 had incurred the qualified rehabilitation expenditures itself. If the sponsor of the certified housing
2143 development project is a partnership or a limited liability company taxed as a partnership, the credit, if
2144 transferred must be transferred by the partnership or the limited liability company. If the credits allowed
2145 to a partnership, a limited liability company taxed as a partnership or multiple owners of property are not
2146 transferred they shall be passed through to the persons designated as partners, members or owners,
2147 respectively, pro rata or pursuant to an executed agreement among the persons designated as partners,
2148 members or owners documenting an alternative distribution method without regard to their sharing of
2149 other tax or economic attributes of the entity. Credits passed through to individual partners and members
2150 are not transferable.

2151 (3) If the credit allowable for any taxable year exceeds the taxpayer's tax liability for that tax
2152 year , the taxpayer may carry forward and apply in any subsequent taxable year, the portion, as reduced
2153 from year to year , of those credits which exceed the tax for the taxable year; provided, however, that in
2154 no event shall the taxpayer apply the credit to the tax for any taxable year beginning more than 5 years
2155 after the taxable year in which department of housing and community development gives the
2156 commissioner written notification of completion of the certified housing development project If the
2157 credit is transferred by the taxpayer, the carry over provisions applicable to the transferee apply.

2158 A transferee shall use the credit in the year it is transferred. If the credit allowable for any
2159 taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and
2160 apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which
2161 exceed the tax for the taxable year; provided, however, that in no event shall the transferee apply the
2162 credit to the tax for any taxable year beginning more than 5 years after the taxable year in which DHCD
2163 gives the commissioner written notification of completion of the certified housing development project.

2164 (4) For any certified housing development project, qualified rehabilitation expenditures
2165 applicable to this credit shall be treated for purposes of this subsection as made on the date that DHCD
2166 gives the Commissioner written notification of completion of the certified housing development project.

2167 (5) The total amount of credits that may be authorized by DHCD in a calendar year pursuant to
2168 this subsection and section 38BB of chapter 63 shall not exceed \$5,000,000 and shall include: (1) credits
2169 granted during the year pursuant to this subsection or said section 38BB of said chapter 63; (2) carry
2170 forwards of credits from prior years pursuant to this subsection or said section 38BB of said chapter 63,
2171 to the extent that such credit carry forwards are estimated by the commissioner to offset tax liabilities
2172 during the year. Any portion of the \$5,000,000 annual cap not awarded by the DHCD in a calendar year
2173 shall not be applied to awards in a subsequent year. The DHDC shall provide the commissioner of
2174 revenue with any documentation that the commissioner deems necessary to confirm compliance with the
2175 annual cap and the commissioner shall provide a report confirming compliance with the annual cap to
2176 the secretary of administration and finance and the secretary of housing and economic development.(6)
2177 The commissioner, in consultation with the DHDC, shall prescribe regulations necessary to carry out this
2178 subsection.

2179 **SECTION 116.** Section 6I of chapter 62 of the General Laws, as appearing in the 2008 Official
2180 Edition, is hereby amended by striking out, in lines 70 and 71, the words “, if allocated a federal low
2181 income housing tax credit with respect to a project,”.

2182 **SECTION 117.** Said section 6I of said chapter 62 is hereby further amended by striking out, in
2183 line 72, as so appearing, the words “the same” and inserting in place thereof the following word:- a.

2184 **SECTION 118.** Section 1 of chapter 62C, as amended by section 39 of chapter 131 of the acts
2185 of 2010, is hereby further amended by striking out the definition of “Tax credit program” and inserting
2186 in place thereof the following definition:-

2187 “Tax credit program”, (i) the tax credit in subsection (j) of section 6 of chapter 62 and section
2188 38Q of chapter 63; (ii) the dairy farmer tax credit in subsection (o) of said section 6 of said chapter 62
2189 and the dairy farm tax credit in section 38Z of said chapter 63; (iii) the U.S.F.D.A. user fees credit in
2190 section 31M of said chapter 63 and subsection (n) of said section 6 of said chapter 62; (iv) the film tax
2191 credit in subsection (b) of section 38X of said chapter 63 and subsection (l) of said section 6 of said
2192 chapter 62; (v) the historic rehabilitation tax credit in section 38R of said chapter 63 and section 6J of
2193 said chapter 62; (vi) the life sciences investment tax credit in section 38U of said chapter 63 and
2194 subsection (m) of said section 6 of said chapter 62; (vii) the low-income housing tax credit in section
2195 31H of said chapter 63 and section 6I of said chapter 62; (viii) the medical device tax credit in section
2196 31L of said chapter 63 and section 6 1/2 of said chapter 62; (ix) the refundable research credit in
2197 subsection (j) of section 38M of said chapter 63; (x) the economic development incentive program in
2198 subsection (g) of said section 6 of said chapter 62 and section 38N of said chapter 63; and (xi) any
2199 transferrable or refundable credits under chapter 62 and 63 established on or after July 1, 2010.

2200 **SECTION 119.** Subsection (b) of section 21 of chapter 62C of the General Laws, as amended
2201 by section 34 of chapter 27 of the acts of 2009, is hereby further amended by adding the following
2202 clause:-

2203 (26) the disclosure to members of the Joint Enforcement Task Force on the Underground
2204 Economy and Employee Misclassification, established by Executive Order 499, of information relating
2205 to the classification by a business entity of individuals providing services to such business entity as
2206 employees or independent contractors, including but not limited to information relating to the business
2207 entity’s withholding or failure to withhold personal income tax pursuant to chapter 62B with respect to
2208 payments to particular individuals and the amount of any such payments or withholding.

2209 **SECTION 120.** Subparagraph (b) of paragraph 5 of section 30 of chapter 63 of the General
2210 Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the last sentence and

2211 inserting in place thereof the following 2 sentences:- Losses sustained in any taxable year prior to
2212 January 1, 2010, may be carried forward for not more than 5 years and may not be carried back. Losses
2213 sustained in any taxable year beginning on January 1, 2010 may be carried forward for not more than 20
2214 years and may not be carried back.

2215 **SECTION 121.** Clause (c) of said paragraph 5 of said section 30 of said chapter 63, as so
2216 appearing, is hereby amended by striking out subclause (iii).

2217 **SECTION 122.** Said paragraph 5 of said section 30 of said chapter 63, as so appearing, is
2218 hereby further amended by adding the following 2 clauses:-

2219 (d) A business corporation that incurs losses before the corporation becomes subject to tax
2220 liability in the commonwealth shall not be allowed to carry those losses forward under this section.

2221 (e) Notwithstanding any other provision of this section, when a corporation is allowed to carry
2222 forward net operating losses under this section, the loss shall be determined and carried forward by
2223 multiplying the loss by the corporation's apportionment percentage as determined under this chapter for
2224 the taxable year in which the loss is sustained, with respect to the business that generated the loss and is
2225 to be deducted by the corporation from its taxable net income allocated or apportioned to the
2226 commonwealth. The commissioner shall adopt rules or regulations to implement this section and to
2227 coordinate the application of this section with the other provisions of this chapter.

2228 **SECTION 123.** Paragraph (1) of subsection (c) of section 31H of said chapter 63, as appearing
2229 in the 2008 Official Edition, is hereby amended by striking out the words “, if allocated a federal low
2230 income housing tax credit with respect to a project,”.

2231 **SECTION 124.** Said paragraph (1) of said subsection (c) of said section 31H of said chapter 63,
2232 as so appearing, is hereby further amended by striking out the words “the same” and inserting in place
2233 thereof the following word:- a.

2234 **SECTION 125.** Paragraph (3) of subsection (c) of section 32B of said chapter 63, as appearing
2235 in the 2008 Official Edition, is hereby amended by adding the following clause:-

2236 (iv) Where a combined group determines its taxable net income or loss on a water's edge basis,
2237 an item of income of a corporation that is organized outside of the United States shall not be included in
2238 the combined group's taxable income to the extent that such item is exempt from United States federal
2239 income tax by virtue of a federal income tax treaty. Any items of expense and apportionment factors
2240 related to such item of exempt income shall be excluded in the determination of taxable net income or
2241 loss to the extent provided in regulations issued by the commissioner. However, any such item of
2242 exempt income shall be taken into account to determine whether the corporation is included in the
2243 water's edge group under clause (ii) or (iii). If a corporation organized outside of the United States is
2244 included in a water's edge combined group and has an item of income that is exempt from United States
2245 federal income tax by virtue of a federal tax treaty, the corporation shall be considered to be included in
2246 the combined group under that clause only with regard to any items of income described in that clause
2247 that are not so exempt, taking into account items of expense and apportionment factors associated with
2248 such items of non-exempt income to the extent provided by regulations issued by the commissioner.
2249 Nothing in this clause shall prevent the commissioner from adjusting, under sections 31I, 31J, 31K or
2250 39A of this chapter, section 3A of chapter 62C, or any other provision of law, any deduction claimed by
2251 the payer for amounts that are excluded from the combined group's taxable income under this clause.
2252 The commissioner may require the reporting of the amounts of such excluded income and the
2253 documentation of any claimed treaty exemption as conditions to be met by a payer claiming a deduction
2254 of such payments.

2255 **SECTION 126.** Section 38N of said chapter 63 is hereby amended by striking out subsection
2256 (a), as appearing in section 23 of chapter 166 of the acts of 2009, and inserting in place thereof the
2257 following subsection:

2258 (a) A corporation subject to tax under this chapter that participates in a certified project, as
2259 defined in sections 3A and 3F of chapter 23A, may take a credit against the excise imposed by this
2260 chapter to the extent authorized by the economic assistance coordinating council established by section
2261 3B of said chapter 23A, in an amount not to exceed 50 per cent of such liability in a taxable year;
2262 provided, however, that the 50 per cent limitation shall not apply if the credit is refundable under
2263 subsection (b): (i) for certified expansion projects and certified enhanced expansion projects, as defined
2264 in said sections 3A and 3F of said chapter 23A, an amount up to 10 per cent; and (ii) for certified
2265 manufacturing retention projects, as defined in said sections 3A and 3F of said chapter 23A, an amount
2266 up to 40 per cent of the cost of any property that would qualify for the credit allowed by section 31A if
2267 the property were purchased by a manufacturing corporation or a business corporation engaged primarily
2268 in research and development and is used exclusively in a certified project, as defined in said sections 3A
2269 and 3F of said chapter 23A. A lessee may be eligible for a credit under this subsection for real property
2270 leased under an operating lease.

2271 The total amount of credits that may be authorized by the economic assistance coordinating
2272 council in a calendar year under subsection (g) of section 6 of chapter 62 and this section shall not
2273 exceed an annual cap equal to \$25,000,000 minus the credits granted and carryforwards of credits from
2274 prior years under subsection (5) of section 38BB of this chapter and paragraph (5) of subsection (q) of
2275 section 6 of chapter 62 and shall include: (1) refundable credits granted during the year under said
2276 subsection (g) of said section 6 of said chapter 62 or this section; (2) nonrefundable credits granted
2277 during the year under said subsection (g) of said section 6 of said chapter 62 or this section, to the extent
2278 that such nonrefundable credits are estimated by the commissioner to offset tax liabilities during the
2279 year; and (3) carryforwards of credits from prior years under said subsection (g) of said section 6 of said
2280 chapter 62 or this section, to the extent that such credit carryforwards are estimated by the commissioner
2281 to offset tax liabilities during the year. Of these allowable credits, the economic assistance coordinating
2282 council may award not more than \$5,000,000 in a calendar year to certified enhanced expansion projects,

2283 as defined in sections 3A and 3F of chapter 23A, and not more than \$5,000,000 for certified
2284 manufacturing retention projects, as defined in said sections 3A and 3F of said chapter 23A. Any
2285 portion of the annual cap not awarded by the economic assistance coordinating council in a calendar year
2286 shall not be applied to awards in a subsequent year. The economic assistance coordinating council shall
2287 provide the commissioner with any documentation that the commissioner deems necessary to confirm
2288 compliance with the annual cap and the commissioner shall provide a report confirming compliance with
2289 the annual cap to the secretary of administration and finance and the secretary of housing and economic
2290 development.

2291 The credit allowed under this section may be taken by an eligible corporation; provided,
2292 however, that the credit allowed by section 31A or section 31H shall not be taken by such corporation.
2293 For purposes of this paragraph, the corporation need not be a manufacturing corporation or a business
2294 corporation engaged primarily in research and development. If such property is disposed of or ceases to
2295 be in qualified use within the meaning of section 31A or ceases to be used exclusively in a certified
2296 project before the end of the certified project's certification period, or if a certified project's certification
2297 is revoked, the recapture provisions of subsection (e) of section 31A shall apply. If such property is
2298 disposed of after the certified project's certification period but before the end of such property's useful
2299 life, the recapture provisions of subsection (e) of section 31A shall apply. The expiration of a certified
2300 project's certification shall not require the application of the recapture provisions of subsection (e) of
2301 section 31A.

2302 As used in this paragraph, "EACC" shall mean the economic assistance coordinating council
2303 established in section 3B of chapter 23A. A credit allowed under this section may be taken only after the
2304 taxpayer completes a report signed by an authorized representative of the corporation and files the report
2305 with the EACC within 2 years after the initial project certification by the EACC and annually thereafter.
2306 The report shall contain pertinent employment data needed to determine whether the taxpayer has
2307 reasonably satisfied the employment projections set forth in its original project proposal granted pursuant

2308 to section 3F of said chapter 23A. Paragraph (3) of section 3F of said chapter 23A shall apply to tax
2309 benefits awarded under this section. Nothing in this section shall limit the authority of the commissioner
2310 to make adjustments to a corporation's liability upon audit.

2311 **SECTION 127.** Section 38Q of said chapter 63, as appearing in the 2008 Official Edition, is
2312 hereby amended by striking out, in line 3, the figure "2011" and inserting in place thereof the following
2313 figure:- 2013.

2314 **SECTION 128.** Said section 38Q of said chapter 63, as so appearing, is hereby further amended
2315 by striking out, in line 8, the figure "2012" and inserting in place thereof the following figure:- 2014.

2316 **SECTION 129.** Said chapter 63 is hereby further amended by inserting after section 38AA the
2317 following section: -

2318 Section 38BB. (1) A credit shall be allowed against the tax liability imposed by this chapter, to
2319 the extent awarded by the department of housing and community development, in this section referred to
2320 as "DHCD", established in chapter 23B, for a certified housing development project, as defined in
2321 chapter 40V, in an amount up to 10 per cent of the cost of qualified substantial rehabilitation
2322 expenditures of the market rate units within the project, as defined in section (1) of chapter 40V. The
2323 credit under this section shall be allowed for the taxable year in which DHCD gives the commissioner of
2324 revenue written notification of completion of the certified housing development project.

2325 (2) Taxpayers eligible for the this credit may, with prior notice to and under regulations adopted
2326 by the commissioner of revenue transfer the credits, in whole or in part, to any individual or entity, and
2327 the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee
2328 had incurred the qualified rehabilitation expenditures itself.

2329 (3) If the credit allowable for any taxable year exceeds the taxpayer's tax liability for that tax
2330 year, the taxpayer may carry forward and apply in any subsequent taxable year, the portion, as reduced

2331 from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in
2332 no event shall the taxpayer apply the credit to the tax for any taxable year beginning more than 5 years
2333 after the taxable year in which DHCD gives the commissioner written notification of completion of the
2334 certified housing development project. If the credit is transferred by the taxpayer, the carry over
2335 provisions applicable to the transferee shall apply.

2336 A transferee shall use the credit in the year it is transferred. If the credit allowable for any
2337 taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and
2338 apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which
2339 exceed the tax for the taxable year; provided, however, that in no event shall the transferee apply the
2340 credit to the tax for any taxable year beginning more than 5 years after the taxable year in which DHCD
2341 gives the commissioner of revenue written notification of completion of the certified housing
2342 development project.

2343 (4) For any certified housing development project, qualified rehabilitation expenditures
2344 applicable to this credit shall be treated for purposes of this section as made on the date that DHCD gives
2345 the commissioner of revenue written notification of completion of the certified housing development
2346 project.

2347 (5) The total amount of credits that may be authorized by DHCD in a calendar year under this
2348 section and subsection (q) of section (6) of chapter 62 shall not exceed \$5,000,000 and shall include: (1)
2349 credits granted during the year under this section or said subsection (q) of section (6) of chapter 62; (2)
2350 carry forwards of credits from prior years under this section or said subsection (q) of section (6) of
2351 chapter 62, to the extent that such credit carry forwards are estimated by the commissioner of revenue to
2352 offset tax liabilities during the year. Any portion of the \$5,000,000 annual cap not awarded by DHCD in
2353 a calendar year shall not be applied to awards in a subsequent year. DHCD shall provide the
2354 commissioner of revenue with any documentation that the commissioner deems necessary to confirm

2355 compliance with the annual cap and the commissioner shall provide a report confirming compliance with
2356 the annual cap to the secretary of administration and finance and the secretary of housing and economic
2357 development.

2358 (6) The commissioner of revenue, in consultation with DHCD, shall adopt regulations necessary
2359 to carry out this section.

2360 **SECTION 130.** Section 45 of chapter 75 of the General Laws, as appearing in the 2008 Official
2361 Edition, is hereby amended by striking out, in line 15, the words “director of business and technology”
2362 and inserting in place thereof the following words:- secretary of housing and economic development.

2363 **SECTION 131.** Said section 45 of said chapter 75, as so appearing, is hereby further amended
2364 by striking out, in line 19, the words, “department of business technology” and inserting in place thereof
2365 the following words:- Massachusetts office of business development.

2366 **SECTION 132.** Said section 45 of said chapter 75, as so appearing, is hereby further amended
2367 by striking out, in lines 25 to 27, inclusive, the words “director of business and technology, or his
2368 designee, the director of science and technology within the department of business and technology and
2369 7” and inserting in place thereof the following words:- secretary of housing and economic development,
2370 who shall serve as chair, the executive director of the Massachusetts development finance agency, the
2371 president of the Massachusetts life sciences center, the executive director of the Massachusetts clean
2372 energy center, the director of the John Adams Innovation Institute, the president of the Massachusetts
2373 Technology development corporation and 8.

2374

2375 **SECTION 133.** Said chapter 75 is hereby further amended by inserting after section 45 the
2376 following section:-

2377 Section 45A. The center shall be subject to section 16G of chapter 6A and section 56 of chapter
2378 23A.

2379 **SECTION 134.** Section 184B of chapter 94 of the General Laws, as appearing in the 2008
2380 Official Edition, is hereby amended by striking out the definition of “Food department” and inserting in
2381 place thereof the following definition:-

2382 ‘Food department’, any seller other than a food store or warehouse club with any grocery item
2383 section, area, or display and which sells one hundred or more different food items for consumption off
2384 the seller’s premises at least in part to individuals for their own personal, family, or household use;
2385 provided, however, that any food section which is within a larger business and is the functional
2386 equivalent of a supermarket with its own separate checkout, may be deemed a food store by the director
2387 of standards.

2388 **SECTION 135.** Said section 184B of said chapter 94, as so appearing, is hereby further
2389 amended by striking out the definition of “Food store” and inserting in place thereof the following
2390 definition:-

2391 ‘Food store’, any store, shop, supermarket, grocer, convenience store, or other seller whose
2392 primary business is selling either food for consumption off the seller’s premises alone or in combination
2393 with grocery items or other nondurable items typically found in a supermarket, and such items are sold at
2394 least in part to individuals for their own personal, family, or household use. For purposes of this section
2395 and sections 184C to 184E, a warehouse club shall not be considered a food store.

2396 **SECTION 136.** The definition of “Food store” in said section 184B of said chapter 94 is hereby
2397 amended by striking out the words ‘For purposes of this section and sections 184C to 184E, a warehouse
2398 club shall not be considered a food store, inserted by section 135 .

2399 **SECTION 137.** Section 184B of said chapter 94, as so appearing, is hereby further amended by
2400 adding the following definition:-

2401 'Warehouse club', a retail store in which customers pay annual membership fees in order to
2402 purchase items at member-only prices.

2403 **SECTION 138.** The definition of "Warehouse club" in said section 184B of said chapter 94 is
2404 hereby repealed.

2405 **SECTION 139.** Section 12 of said chapter 138, as so appearing, is hereby amended by
2406 inserting after the first paragraph the following paragraph:-

2407 The local licensing authority of any city or town wherein the granting of licenses under this
2408 section is authorized, notwithstanding any limitation on the number of licenses the city or town is
2409 authorized to grant in section 17, may grant a license to the holder of a farmer-winery license under
2410 section 19B or from any other state for service to travelers, strangers, and other patrons and customers
2411 who are at least 21 years of age, such wine to be served and drunk on the premises of the winery at such
2412 locations on the premises of the farm as the local licensing authority may deem reasonable and proper.
2413 For purposes of this section, a farm shall have the meaning ascribed to it in section 1A of chapter 128.

2414 **SECTION 140.** Section 15 of said chapter 138, as so appearing, is hereby amended by inserting
2415 after the figure "19C", in line 18, the following words:- , or to an applicant licensed to operate as a
2416 farmer-winery under said section 19B or in any other state.

2417 **SECTION 141.** Said section 15 of said chapter 138, as so appearing, is hereby further amended
2418 by inserting after the word "fee", in line 47, the following words:- and nothing shall prohibit the local
2419 licensing authority from establishing reduced fees for special licenses issued under section 15F.

2420 **SECTION 142.** Said chapter 138 is hereby further amended by inserting after section 15A the
2421 following section:-

2422 Section 15F. Notwithstanding any other provision of chapter 138, in any city or town wherein
2423 the granting of licenses to sell wine is authorized under this chapter, the local licensing authority may

2424 issue to an applicant authorized to operate a farmer-winery under section 19B or in any other state, a
2425 special license for the sale of wine produced by or for the licensee in sealed containers for off-premise
2426 consumption at an indoor or outdoor agricultural event. All sales of wine shall be conducted by an
2427 agent, representative, or solicitor of the licensee to customers who are at least 21 years of age. A
2428 licensee under this section may provide, without charge, samples of wine to prospective customers at an
2429 indoor or outdoor agricultural event. All samples of wine shall be served by an agent, representative, or
2430 solicitor of the licensee to individuals who are at least 21 years of age and all samples shall be consumed
2431 in the presence of such agent, representative, or solicitor of the licensee; provided, however, that no
2432 sample shall exceed one (1) ounce of wine and no more than 5 samples shall be served to an individual
2433 prospective customer. For the purposes of this section, the term “agricultural event” shall be limited to
2434 those events certified by the department of agricultural resources as set forth in this section.

2435 An applicant for a special license under this section shall first submit a plan to the department of
2436 agricultural resources that shall demonstrate that the event is an agricultural event. The plan shall
2437 include a description of the event, the date, time and location of the event, a copy of the operational
2438 guidelines or rules for the event, written approval that the prospective licensee has been approved as a
2439 vendor at the event, including the name and contact information of the on-site manager, and a plan
2440 depicting the premises and the specific location where the license will be exercised.

2441 Upon review of the plan, the department may certify that the event is an agricultural event;
2442 provided, however, that in making that determination, the department shall consider the following
2443 factors: (i) operation as a farmers’ market or agricultural fair approved or inspected by the department;
2444 (ii) frequency and regularity of the event, including dates, times and locations; (iii) number of vendors;
2445 (iv) terms of vendor agreements; (v) presence of an on-site manager; (vi) training of the on-site manager;
2446 (vii) operational guidelines or rules, which shall include vendor eligibility and produce source; (viii)
2447 focus of event on local agricultural products grown or produced within the market area; (ix) types of
2448 shows or exhibits, including those which are described in clause (f) of the first paragraph of section 2 of

2449 chapter 128; and (xi) sponsorship or operation by an agricultural or horticultural society organized under
2450 the laws of the commonwealth, or by a local grange organization and/or association whose primary
2451 purpose is the promotion of agriculture and its allied industries. The department of agricultural resources
2452 may promulgate rules and regulations necessary for the operation, oversight, approval, and inspection of
2453 agricultural events under this section.

2454 An applicant for a license under this section shall file with the local licensing authority along
2455 with its application proof of certification from the department of agricultural resources that tge event is
2456 an agricultural event. A special license under this section shall designate the specific premises, and dates
2457 and times covered. A special license may be granted for an indoor or outdoor agricultural event which
2458 takes place on multiple dates and/or times during a single calendar year but no special license shall be
2459 granted for an agricultural event that will not take place within 1 calendar year. The special license shall
2460 be displayed conspicuously by the licensee at the licensed premises. A copy of a special license granted
2461 by the local licensing authority shall be submitted by the authority to the commission at least 7 days
2462 prior to the date the agricultural event is first scheduled to begin. The local licensing authority may
2463 charge a fee for each special license granted, but such fee shall not exceed fifty \$50. A special license
2464 granted under this section shall be nontransferable to any other person, corporation, or organization and
2465 shall be clearly marked nontransferable on its face.

2466 The commission may promulgate rules and regulations it deems appropriate to effectuate the
2467 purposes of this section.

2468 **SECTION 143.** Section 17 of said chapter 138, as so appearing, is hereby amended by adding
2469 the following paragraph:

2470 In addition to the number of licenses otherwise authorized to be granted pursuant to this section,
2471 a city or town may grant additional licenses under sections 12, 15 or 15F to the holder of a farmer-
2472 winery license under section 19B or in any other state for the sale of wine produced by or for the

2473 applicant. A license granted by a city or town under said section 12, 15 or 15F shall not be include as a
2474 license for purposes of determining the number of licenses allowed to be granted by a city or town under
2475 this section. A license granted pursuant to this paragraph shall be nontransferable to any other person,
2476 corporation or organization and shall be clearly marked nontransferable on its face.

2477 **SECTION 144.** Section 19B of said chapter 138, as so appearing, is hereby amended by
2478 inserting after the word “section”, in line 97, the following words:- 15, 15F or

2479 **SECTION 145.** Said section 19B of said chapter 138, as so appearing, is hereby further
2480 amended by striking out, in line 99, the word “and”, the second time it appear.

2481 **SECTION 146.** Said section 19B of said chapter 138, as so appearing, is hereby amended by
2482 inserting after the word “country” in line 100,, the following word:-

2483 (5) at retail by the glass or bottle to be consumed on the premises prescribed by a license issued
2484 by local authority pursuant to section twelve of this chapter.

2485 **SECTION 147.** Said section 19B of said chapter 138, as so appearing, is hereby further
2486 amended by striking out subsection (h) and inserting in place thereof the following words:-

2487 (h) A winegrower shall not sell at retail to consumers any wine or winery product not produced
2488 by or for the winery and sold under the winery brand name. All retail sales shall be made on the winery
2489 premises, except where a winegrower obtains additional licenses for the sale of wine to consumers at
2490 additional locations off the winery premises at locations authorized by a license issued pursuant to
2491 sections 15 and 15F.

2492 **SECTION 148.** Section 52C of chapter 149 of the General Laws, as appearing in the 2008
2493 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the
2494 following paragraph: -

2495 An employer shall notify an employee within 10 days of the employer placing in the employee's
2496 personnel record any information to the extent that the information is, has been used or may be used, to
2497 negatively affect the employee's qualification for employment, promotion, transfer, additional
2498 compensation or the possibility that the employee will be subject to disciplinary action. An employer
2499 receiving a written request from an employee shall provide the employee with an opportunity to review
2500 such employee's personnel record within 5 business days of such request. The review shall take place at
2501 the place of employment and during normal business hours. An employee shall be given a copy of the
2502 employee's personnel record within 5 business days of submission of a written request for such copy to
2503 the employer. An employer shall not be required to allow an employee to review the employee's
2504 personnel record on more than 2 separate occasions in a calendar year; provided, however, that the
2505 notification and review caused by the placing of negative information in the personnel record shall not be
2506 deemed to be 1 of the 2 annually permitted reviews.

2507 **SECTION 149.** Section 1H of chapter 164 of the General Laws, as so appearing, is hereby
2508 amended by striking out the definition of the word "department" and inserting in place thereof the
2509 following definition:-

2510 "Department", the department of public utilities.

2511 **SECTION 150.** Section 14 of chapter 167 of the General Laws, as so appearing, is hereby
2512 amended by striking out, in line 22, the words "and 30" and inserting in place thereof the following
2513 words:- , 30 and 30A.

2514 **SECTION 151.** Said section 2 of said chapter 167F, as so appearing, is hereby amended by
2515 inserting after paragraph 30 the following paragraph: --

2516 30A. To participate in the activities of the Massachusetts Growth Capital Corporation created
2517 under chapter 40W by making capital available to the corporation by making an investment or deposit in

2518 or grant to said corporation, an affiliate or subsidiary of said corporation or any fund managed by said
2519 corporation.

2520 **SECTION 152.** The first paragraph of section 168 of chapter 175 of the General Laws, as so
2521 appearing, is hereby amended by inserting after the sixth sentence the following sentence:-

2522 Any insurance policy procured under this section shall contain the following disclosure notice to
2523 the policyholder: This policy is insured by a company which is not admitted to transact insurance in the
2524 commonwealth, is not supervised by the commissioner of insurance and, in the event of an insolvency of
2525 such company, a loss shall not be paid by the Massachusetts Insurers Insolvency Fund under chapter
2526 175D. The commissioner may by regulation amend the foregoing disclosure notice.

2527 **SECTION 153.** Said section 168 of said chapter 175, as so appearing, is hereby further amended
2528 by striking out, in line 61, the word "or".

2529 **SECTION 154.** Said section 168 of said chapter 175, as so appearing, is hereby further
2530 amended by inserting after the figure "20A," in line 65, the following words:- ; or (c) such company is
2531 an eligible alien unauthorized insurer, as defined in section 168A.

2532 **SECTION 155.** Said chapter 175 is hereby further amended by inserting after section 168 the
2533 following section:-

2534 Section 168A. (a) As used in this section "eligible alien unauthorized insurer" shall mean a
2535 company formed under the laws of any government or state other than the United States or 1 of its states
2536 or its territories that has filed an application with the commissioner under clause (4) of subsection (c),
2537 which application has been approved by the commissioner.

2538 (b) Notwithstanding any general or specific law to the contrary, a special broker licensed by the
2539 commissioner pursuant to section 168 of this chapter may procure insurance from any company formed

2540 under the laws of any government or state other than the United States or one of its states or its territories
2541 that is not authorized to transact business in the commonwealth if:

2542 (1) such company has been determined by the commissioner to be an eligible alien
2543 unauthorized insurer pursuant to clause (4) of subsection (c);

2544 (2) the special broker has executed and filed an affidavit with the commissioner within
2545 20 days after procuring such insurance stating that the full amount or type of insurance
2546 cannot be obtained from among companies admitted to transact insurance in the
2547 commonwealth after a diligent effort has been made to do so and that the amount of
2548 insurance procured in such company is only the excess over the amount so procurable
2549 from admitted companies;

2550 (3) the procured policy contains the disclosure notice required by section 168; and

2551 (4) all other requirements of this section and section 168 that are not inconsistent with
2552 this subsection have been met.

2553 Insurance procured under this section shall be valid and enforceable as to all parties.

2554 Nothing in this section shall be deemed to amend or modify any of the provisions of, or any of
2555 the exemptions specified in, section 168 that are inconsistent with this section.

2556 (c) No company shall be determined to be an eligible alien unauthorized insurer unless it:

2557 (1) has provided satisfactory evidence to the commissioner of its good reputation and
2558 financial integrity;

2559 (2) has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction
2560 in an amount not less than \$20,000,000;

2561 (3) has in force a United States trust fund of not less than the greater of:

2562 (i) \$5,400,000; or

2563 (ii) a percentage of its United States surplus lines gross liabilities arising

2564 from business written on or after January 1, 1998, excluding aviation, wet

2565 marine, transportation insurance and direct procurement placements, such

2566 percentage to equal to the percentage and subject to any cap employed by the

2567 International Insurers Department of the National Association of Insurance

2568 Commissioners, as of December 31 next preceding the date of determination,

2569 where: (A) the liabilities are maintained in an irrevocable trust account in the

2570 United States in a qualified financial institution, on behalf of United States

2571 policyholders consisting of cash, securities, letters of credit or other investments

2572 of substantially the same character and quality as those which are eligible

2573 investments under this chapter for the capital and statutory reserves of admitted

2574 insurers to write like kinds of insurance in the commonwealth; provided,

2575 however, that the trust fund, which shall be included in any calculation of

2576 capital and surplus or its equivalent, shall satisfy the requirements of the

2577 Standard Form Trust Agreement required for listing with the International

2578 Insurers Department of the National Association of Insurance Commissioners;

2579 (B) the company may request approval from the commissioner to use the trust

2580 fund to pay valid surplus lines claims; provided, however, that the balance of the

2581 trust fund shall never be less than the minimum amount required by this

2582 subsection; and (C) in calculating the trust fund amount required by this

2583 subsection, credit shall be given for surplus lines deposits separately required

2584 and maintained for a particular state or territory of the United States, not to

2585 exceed the amount of the company's loss and loss adjustment reserves in that
2586 particular state or territory; and

2587 (4) has submitted to the commissioner an application evidencing the company's
2588 compliance with the requirements of this section that has been approved by the commissioner.

2589 (d) The application required by clause (4) of subsection (c) shall be on forms issued or approved
2590 by the commissioner and shall include the following information regarding the alien unauthorized
2591 insurer applicant:

2592 (1) evidence that the unauthorized alien insurer has been listed by the International
2593 Insurers Department of the National Association of Insurance Commissioners;

2594 (2) a certified audited financial statement of the eligible alien unauthorized insurer
2595 reflecting information as of a date not more than 12 months prior to the submission of the
2596 application evidencing compliance with the capital and surplus requirements of clause (2) of
2597 subsection (c) and an actuarial opinion as to the adequacy of and methodology used to determine
2598 the insurer's loss reserves;

2599 (3) a copy, certified by the trustee, of the United States trust agreement required by
2600 clause (3) of subsection (c) prepared in accordance with the National Association of Insurance
2601 Commissioner's Standard Form Trust Agreement for Alien Excess or Surplus Lines Insurers;

2602 (4) a copy, certified by the trustee, of the most recent quarterly statement of account or
2603 list of assets in the trust account required by clause (3) of subsection (c) evidencing that the alien
2604 unauthorized insurer has in force, as of the end of the most recent quarter, assets in the amounts
2605 required by said clause (3) of said subsection (c);

2606 (5) a certified copy of the eligible alien unauthorized insurer's current license or
2607 certificate of authority issued by its domiciliary jurisdiction indicating that the company is
2608 authorized to insure the types of risks in its domiciliary jurisdiction that it proposes to insure in
2609 the commonwealth;

2610 (6) a certificate of good standing or substantially similar documentation issued by the
2611 eligible alien unauthorized insurer's domiciliary jurisdiction;

2612 (7) biographical affidavits, on forms promulgated by the National Association of
2613 Insurance Commissioners or approved by the commissioner for all executive officers, directors
2614 and senior management personnel of the eligible alien unauthorized insurer, prepared not more
2615 than 12 months prior to the submission date of the application required by clause (4) of
2616 subsection (c); and

2617 (8) such additional information as the commissioner may require in order to determine
2618 that the eligible alien unauthorized insurer complies with the requirements of this section.

2619 (e) The commissioner may refuse to approve an application under this section if the
2620 commissioner determines that such refusal will be in the public interest. In reviewing an application, the
2621 commissioner may consider:

2622 (1) the length of time the insurer has been authorized in its domiciliary jurisdiction and
2623 elsewhere;

2624 (2) the unavailability of the particular coverages from authorized insurers or
2625 unauthorized insurers meeting the requirements of this section and section 168;

2626 (3) the size of the company as measured by its assets, capital and surplus, reserves,
2627 premium writings, insurance in force or other appropriate criteria;

2628 (4) the kinds of business the company writes, its net exposure and the extent to which
2629 the company's business is diversified among several lines of insurance and geographic locations;
2630 and

2631 (5) the past and projected trend in the size of the company's capital and surplus
2632 considering such factors as premium growth, operating history, loss and expense ratios or other
2633 appropriate criteria

2634 (f) The commissioner may revoke a company's status as an eligible alien unauthorized insurer in
2635 accordance with the terms and conditions of section 5 the commissioner has determined that the insurer:

- 2636 (1) is in unsound financial condition or has acted in an untrustworthy manner;
2637 (2) no longer meets the standards in subsection (c);
2638 (3) has willfully violated the laws of the commonwealth; or
2639 (4) does not conduct a proper claims practice.

2640 **SECTION 156.** Section 21 of chapter 218 of the General Laws, as so appearing, is hereby
2641 amended by striking out, lines 6 and 35, the following words, "two thousand dollars" and inserting in
2642 place thereof, in each instance, the following figure:- \$7,000.

SECTION 157. Section 22 of said chapter 218, as so appearing, is hereby amended by adding
the following paragraph:-

2643 The procedure shall include the beginning of actions with an entry fee of \$30 for claims of \$500 or less,
2644 \$40 for claims of greater than \$500 but less than or equal to \$2000, \$90 for claims of greater than \$2000
2645 but less than or equal to \$5000, and \$140 for claims greater than \$5000, plus the surcharge required by
2646 section four C of chapter two hundred and sixty-two, but without summons and complaint and without
2647 requirement, except by special order of court, of any pleading other than a concise written statement of
2648 the claim.

2649 **SECTION 158.** Chapter 465 of the acts of 1956 is hereby amended by inserting after section 21
2650 the following section:-

2651 Section 21A. The authority shall be subject to section 16G of chapter 6A and section 56 of
2652 chapter 23A of the General Laws.

2653 **SECTION 159.** The fourth paragraph of section 15 of chapter 701 of the acts of 1960, as most
2654 recently amended by chapter 167 of the acts of 1990, is hereby amended by striking out, in line 4, the
2655 word ‘ten’ and inserting in place thereof the figure:- 25.

2656 **SECTION 160.** Section 3 of chapter 614 of the acts of 1968 is hereby amended by inserting
2657 before the definition of ‘Authority’, the following definition:-

2658 ‘Agency’, the Massachusetts Development Finance Agency established by chapter 23G, as
2659 amended.

2660 **SECTION 161.** Subsection (a) of section 4 of chapter 614 of the acts of 1968, as amended by
2661 section 6 of chapter 454 of the acts 1969,, is hereby further amended by striking out the fourth, fifth,
2662 sixth, seventh and eighth sentences and inserting in place thereof the following sentence:- Said authority
2663 shall be governed by the board of the Massachusetts Development Finance Agency as established by
2664 section 2 of chapter 23G and the board members of the agency shall serve as trustees for any existing
2665 authority trust.

2666 **SECTION 162.** Section 4 of said chapter 614 of the acts of 1968 is hereby repealed.

2667 **SECTION 163.** Subsection (b) of said section 4 of said chapter of chapter 614 of the acts of
2668 1968, as amended is hereby further amended by adding the following sentence: The executive director,
2669 assistant executive director, and any other employees of the Authority who act as trustees for any trust
2670 established under the authority granted by this chapter shall not approve matters in their capacity as
2671 trustees without first receiving approval from the board.

2672 **SECTION 164.** Chapter 190 of the acts of 1982 is hereby amended by inserting after section 40
2673 the following section:-

2674 Section 40A. The Authority shall be subject to section 16G of chapter 6A and section 56 of
2675 chapter 23A of the General Laws.

2676 **SECTION 165.** Section 6 of chapter 528 of the acts of 1990, as amended by section of chapter
2677 131 of the acts of 2010, is hereby further amended by striking out the words “August 1,2010” and
2678 inserting in place thereof the following “September 30, 2010.”

2679 **SECTION 166.** Section 64 of chapter 365 of the acts of 1996, as amended by chapter 352 of the
2680 acts of 2004, is hereby amended by adding the following sentence:-

2681 The corporation shall be subject to section 16G of chapter 6A and section 56 of chapter 23A of
2682 the General Laws.

2683 **SECTION 167.** Notwithstanding any general or special law to the contrary, within 4 years of
2684 the effective date of this act, each agency shall review the agency’s rules and regulations currently
2685 existing to determine whether such rules and regulations should be continued without change or should
2686 be amended or rescinded to minimize economic impact of those rules and regulations on small
2687 businesses in a manner consistent with the stated objective of applicable statutes. If the head of the
2688 agency determines that completion of the review of existing rules is not feasible by the established date
2689 the agency shall publish a statement certifying that determination. The agency may extend the
2690 completion date by 1 year at a time for a total of not more than 5 years.

2691 **SECTION 168.** The state secretary shall immediately notify all agencies required to file rules or
2692 regulations under section 5 of chapter 30A of the General Laws of the new requirements regarding small
2693 business impact statements.

2694 **SECTION 169.** Notwithstanding any other general or special law to the contrary a stock
2695 purchase agreement between the commonwealth and Community Development Finance Corporation in
2696 existence on the effective date of this act which contains outstanding obligations on the part of the
2697 commonwealth and which has been pledged as security for the payment of debt obligations issued by the

2698 Community Development Finance Corporation which are also outstanding on the effective date of this
2699 act shall continue to constitute a general obligation of the commonwealth for which the faith and credit
2700 of the commonwealth remains pledged for the benefit of the Community Development Finance
2701 Corporation and of the holders of said debt obligations of the Community Development Finance
2702 Corporation until the terms of said debt obligations are satisfied.

2703 **SECTION 170.** The secretary of housing and economic development, in consultation with the
2704 economic assistance coordinating council, shall promulgate regulations that reflect the changes
2705 implemented in section 74A of this act.

2706 **SECTION 171.** Notwithstanding any other general or special law to the contrary, the pension
2707 reserves investment management board established under section 23 of chapter 32 of the General Laws
2708 shall review its investment portfolio and to the extent it is reasonably possible it shall invest not less than
2709 \$25,000,000 and not more than \$50,000,000 in banks or financial institutions which make capital
2710 available to small businesses under the guidelines of subdivision (7) of section 23 of chapter 32 of the
2711 General Laws and shall make such investment a priority of the portfolio as long as such investment is
2712 consistent with sound investment policy.

2713 **SECTION 172.** To meet the expenditures necessary in carrying out section 2B, the state
2714 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to
2715 be specified by the governor from time to time but not exceeding, in the aggregate, \$75,000,000. All
2716 such bonds issued by the commonwealth shall be designated on their face, Job Creation by Small
2717 Business Act of 2010, and shall be issued for a maximum term of years, not exceeding 30 years, as the
2718 governor may recommend to the general court under section 3 of Article LXII of the Amendments to the
2719 Constitution. The bonds shall be payable not later than June 30, 2045. All interest and payments on
2720 account of principal on these obligations shall be payable from the General Fund. Bonds and interest

2721 thereon issued under this section shall, notwithstanding any other provisions of this act, be general
2722 obligations of the commonwealth.

2723 **SECTION 173.** Notwithstanding any general or special law to the contrary, certain regulatory
2724 approvals are hereby extended as provided in this section.

2725 (a) For purposes of this section, the following words shall, unless the context clearly requires
2726 otherwise, have the following meanings:

2727 “Approval” except as otherwise provided in subsection (b), any permit, certificate, order,
2728 excluding enforcement orders, license, certification, determination, exemption, variance, waiver,
2729 building permit, or other approval or determination of rights from any municipal, regional or state
2730 governmental entity, including any agency, department, commission, or other instrumentality of the
2731 municipal, regional or state governmental entity, concerning the use or development of real property,
2732 including certificates, licenses, certifications, determinations, exemptions, variances, waivers, building
2733 permits, or other approvals or determination of rights issued or made under chapter 21, chapter 21A
2734 excepting section 16, chapter 21D, sections 61 to 62H, inclusive, of chapter 30, chapters 30A, 40, 40A to
2735 40C, inclusive, 40R, 41, 43D, section 21 of chapter 81, chapter 91, chapter 131, chapter 131A, chapter
2736 143, sections 4 and 5 of chapter 249, or chapter 258, of the General Laws or chapter 665 of the acts of
2737 1956, or any local by-law or ordinance.

2738 “Development”, division of a parcel of land into 2 or more parcels, the construction,
2739 reconstruction, conversion, structural alteration, relocation or enlargement of a building or other
2740 structure or facility, or any grading, soil removal or relocation, excavation or landfill or any use or
2741 change in the use of any building or other structure or land or extension of the use of land.

2742 “Tolling period”, the period beginning August 15, 2008, and continuing through August 15,
2743 2010.

2744 (b) (1) Notwithstanding any general or special law to the contrary, an approval in effect or
2745 existence during the tolling period shall be extended for a period of 2 years, in addition to the lawful
2746 term of the approval.

2747 (2) Nothing in this section shall be deemed to extend or purport to extend:

2748 (i) a permit or approval issued by the government of the United States or an agency or
2749 instrumentality of the government of the United States or to a permit or approval, of which the
2750 duration of effect or the date or terms of its expiration are specified or determined by or under
2751 law or regulation of the federal government or any of its agencies or instrumentalities;

2752 (ii) a comprehensive permit issued by a board of appeals under sections 20 to 23,
2753 inclusive, of chapter 40B of the General Laws; or;

2754 (iii) a permit, license, privilege or approval issued by the division of fisheries and
2755 wildlife under chapter 131 for hunting, fishing or aquaculture.

2756 (3) Nothing in this section shall affect the ability of a municipal, regional or state governmental
2757 entity, including an agency, department, commission or other instrumentality of a municipal, regional or
2758 state governmental entity to revoke or modify a specific permit or approval or extension of a specific
2759 permit or approval under this section, when that specific permit or approval or the law or regulation
2760 under which the permit or approval was issued contains language authorizing the modification or
2761 revocation of the permit or approval.

2762 (4) In the event that an approval tolled under this section is based upon the connection to a
2763 sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient
2764 capacity, on the part of the treatment facility, to accommodate the development whose approval has been
2765 extended. If sufficient capacity is not available, those permit holders whose approvals have been
2766 extended shall have priority with regard to the further allocation of gallonage over those approval
2767 holders who have not received approval of a hookup prior to the effective date of this section. Priority
2768 regarding the distribution of further gallonage to a permit holder who has received the extension of an

2769 approval under this section shall be allocated in order of the granting of the original approval of the
2770 connection.

2771 (5) In the case when an owner or petitioner sells or otherwise transfers a property or project, in
2772 order for an approval to receive an extension, all commitments made by the original owner or petitioner
2773 under the terms of the permit must be upheld by the new owner or petitioner. If the new owner or
2774 petitioner does not meet or abide by those commitments then the approval shall not be extended under
2775 this section.

2776 (6) Nothing in this section shall be construed or implemented in such a way as to modify a
2777 requirement of law that is necessary to retain federal delegation to, or assumption by, the commonwealth
2778 of the authority to implement a federal law or program.

2779 **SECTION 174.** Notwithstanding any general or special law to the contrary, for the days of
2780 August 14, 2010 and August 15, 2010, an excise shall not be imposed upon nonbusiness sales at retail of
2781 tangible personal property, as defined in section 1 of chapter 64H of the General Laws. For the purposes
2782 of this act, tangible personal property shall not include telecommunications, tobacco products subject to
2783 the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles,
2784 motorboats, meals or a single item the price of which is in excess of \$2,500.

2785 **SECTION 175.** Notwithstanding any general or special law to the contrary, for the days of
2786 August 14, 2010 and August 15, 2010, a vendor shall not add to the sales price or collect from a
2787 nonbusiness purchaser an excise upon sales at retail of tangible personal property, as defined in section 1
2788 of chapter 64H of the General Laws. The commissioner of revenue shall not require a vendor to collect
2789 and pay excise upon sales at retail of tangible personal property purchased on August 14, 2010 and
2790 August 15, 2010. An excise erroneously or improperly collected during the days of August 14, 2010 and
2791 August 15, 2010, shall be remitted to the department of revenue. This section shall not apply to the sale
2792 of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General

2793 Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in
2794 excess of \$2,500.

2795 **SECTION 176.** Reporting requirements imposed upon vendors of tangible personal property, by
2796 law or by regulation, including, but not limited to, the requirements for filing returns required by chapter
2797 62C of the General Laws, shall remain in effect for sales for the days of August 14, 2010, and
2798 August 15, 2010.

2799 **SECTION 177.** On or before December 31, 2010, the commissioner of revenue shall certify to
2800 the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and
2801 corporate income taxes and other sources, pursuant to this act. The commissioner shall file a report with
2802 the joint committee on revenue and the house and senate committees on ways and means detailing by
2803 fund the amounts under general and special laws governing the distribution of revenues under chapter
2804 64H of the General Laws which would have been deposited in each fund, without this act.

2805 **SECTION 178.** The commissioner of revenue shall issue instructions or forms or promulgate
2806 rules or regulations, necessary for the implementation of this act.

2807 **SECTION 179.** Eligible sales at retail of tangible personal property under sections 175 and 176
2808 are restricted to those transactions occurring on August 14, 2010 and August 15, 2010. Transfer of
2809 possession of or payment in full for the property shall occur on 1 of those days, and prior sales or
2810 layaway sales shall be ineligible.

2811 **SECTION 180.** (a) There shall be a commission to study the feasibility of establishing a bank
2812 owned by the commonwealth or by a public authority constituted by the commonwealth.

2813 (b) The commission shall consist of the secretary for administration and finance and the
2814 secretary of housing and economic development or their respective designees, who shall serve as co-
2815 chairs of the commission; the state treasurer or the treasurer's designee; the state comptroller or the

2816 comptroller's designee; 2 persons to be appointed by the president of the senate, 1 of whom shall be a
2817 member of the senate; 1 person to be appointed by the minority leader of the senate; 2 persons to be
2818 appointed by the speaker of the house of representatives; 1 of whom shall be a member of the house of
2819 representatives; 1 person to be appointed by the minority leader of the house; the executive directors of
2820 the Massachusetts Development Financing Agency and the Massachusetts Housing Finance Agency or
2821 their designees; president of the Massachusetts Growth Capital Corporation or the president's designee;
2822 and 8 persons to be appointed by the governor who shall not be employees of the executive branch, 3 of
2823 whom shall be drawn from a list of 5 names submitted by the Massachusetts Bankers Association, at
2824 least 1 of whom shall be a representative of a community bank operating in the commonwealth, 1 of
2825 whom shall be drawn from a list of 3 names submitted by the Associated Industries of Massachusetts, 1
2826 of whom shall be drawn from a list of 3 names submitted by the Small Business Association of New
2827 England and 1 of whom shall be a professor at an institution of higher education in the commonwealth
2828 who has researched and published articles on banking. Of the governor's remaining appointments, not
2829 more than 1 may be a representative of a financial services firm located in the commonwealth. The
2830 governor shall ensure geographic diversity in the governor's appointments to the commission. The
2831 members of the commission shall be appointed not later 90 days after the effective date of this act.

2832 (c) The commission shall examine the technical, legal and financial feasibility of establishing a
2833 commonwealth-owned bank, including but not limited to a commonwealth-owned bank for
2834 infrastructure investment purposes. The commission shall seek participation in its deliberations from the
2835 president of the Federal Reserve Bank of Boston or the president's designee. The commission shall
2836 evaluate the experiences of other states with state-owned banks, identifying the financial performance of
2837 such banks and evaluating the lending practices of such banks to show whether such banks successfully
2838 fill lending gaps not filled by the private sector. The commission shall also evaluate the manner in which
2839 public funds are invested or deposited by the commonwealth and its political subdivisions including
2840 funds managed by the state treasurer; the Massachusetts Municipal Depository Trust and state and local

2841 pension funds. The commission shall examine the infrastructure investment activities conducted by
2842 other states with state-owned banks. The commission shall also examine the lending practices, including
2843 lending to support infrastructure, of the existing public agencies in the commonwealth that perform
2844 lending services. The Massachusetts development finance agency, Massachusetts Housing Finance
2845 Agency, Health and Educational Facilities Authority, Massachusetts Growth Capital Corporation and
2846 any other public authority in the commonwealth that lends money shall cooperate fully with the
2847 commission and shall supply information reasonably required by the commission to carry out its charge.

2848 (d) The commission shall hold at least 3 public hearings in distinct geographic regions of the
2849 commonwealth.

2850 (e) The commission shall publish its findings and recommendations, together with drafts of
2851 legislation, if any, necessary to carry those recommendations into effect, in a written report not later than
2852 1 year after the effective date of this act. The report shall be published on the official website of the
2853 commonwealth, and shall be contemporaneously filed with the house and senate committees on ways
2854 and means and the house and senate chairs of the joint committee on financial services.

2855 **SECTION 181.** There shall be a commission to develop an index of creative and innovative
2856 education in the public schools. The commission shall consist of the commissioner of elementary and
2857 secondary education, the secretary of housing and economic development, the secretary of labor and
2858 workforce development, or their designees, the executive director of the Massachusetts cultural council,
2859 3 members to be appointed by the senate who shall reside in different geographic regions, 3 members to
2860 be appointed by the house who shall reside in different geographic regions and 5 persons to be appointed
2861 by the governor who shall reside in different geographic regions, 1 of whom shall be a representative of
2862 the Massachusetts Advocates for the Arts, Sciences and Humanities, 1 of whom shall be a representative
2863 of the Associated Industries of Massachusetts and 1 of whom shall be a representative of the
2864 Massachusetts Business Roundtable. Each of the members shall be an expert or have experience in the

2865 fields of education, public policy, artistic development, workforce development or cultural development.
2866 The members of the commission shall be appointed no later than 30 days after the effective date of this
2867 act.

2868 In the course of its deliberations, the commission shall develop recommendations on how to
2869 produce and implement an index of creative and innovative education in the public schools, what
2870 funding or finance measures the commonwealth would need to implement that index and any
2871 recommendations for interagency agreements, intermunicipal agreements or other cooperative
2872 agreements that would be required to foster creative and innovative education programs in the public
2873 schools. The index shall rate every public school on teaching, encouraging and fostering creativity in
2874 students. The index shall be based in part on the creative opportunities in each school as measured by the
2875 availability of classes and before-school and after-school programs offered by and through school
2876 districts that provide creative opportunities for students including, but not limited to, arts education,
2877 debate clubs, science fairs, theatre performances, concerts, filmmaking and independent research.

2878 The commission shall measure and encourage skill building in increasingly critical areas to
2879 employers such as creativity, creative thinking skills, innovation and teamwork. The commission may
2880 hold public hearings to assist in the collection and evaluation of data and testimony. The commission
2881 shall complete a written report detailing any factors to be considered in the index and any financial
2882 measures that would be necessary for implementation. The commission shall submit a report to the
2883 governor, the clerks of the senate and house of representatives, the joint committee on tourism, arts and
2884 cultural development and the joint committee on education not later than December 31, 2010.

2885 Any research, analysis or other staff support that the commission reasonably requires shall be
2886 provided by the department of elementary and secondary education, the executive office of housing and
2887 economic development and the executive office of labor and workforce development, in cooperation
2888 with the Massachusetts cultural council.

2889 **SECTION 182.** There shall be a commission to study on alternative, dependable sources for
2890 funding tourist visitor centers in order to improve tourism throughout the commonwealth.

2891 The commission shall be chaired jointly by the executive director of travel and tourism or the
2892 executive director's designee and the executive director of business development or the executive
2893 director's designee. The commission shall also include the house and the senate chairs of the joint
2894 committee on tourism, arts and cultural development or their designees, 1 representative from the
2895 Massachusetts Visitor Industry Council, and 5 additional members to be appointed by the governor who
2896 shall be from geographically diverse areas and each of whom is a representatives of a regional tourism
2897 council, including the Berkshire Hills Visitors Bureau, the Southeastern Massachusetts Convention and
2898 Visitors Bureau, the Cape Cod Chamber of Commerce, the Franklin County Chamber of Commerce, the
2899 Greater Boston Convention and Visitors Bureau, the Worcester County Convention and Visitors Bureau,
2900 the Martha's Vineyard Chamber of Commerce, the Greater Merrimack Valley Convention and Visitors
2901 Bureau, the Mohawk Trail Association, the North of Boston Convention and Visitors Bureau, the
2902 Greater Springfield Convention and Visitors Bureau, the Plymouth County Development Council, Inc.,
2903 the MetroWest Tourism and Visitor's Bureau, the Johnny Appleseed Trail Association, Inc., the
2904 Hampshire County Tourism and Visitor's Bureau, and the Nantucket Island Chamber of Commerce.

2905 The study shall include but not be limited to effects of funding cuts on staffing and services, as
2906 well exploring alternative, dependable sources to fund tourist centers. The commission shall report the
2907 results of the study to the office of travel and tourism, the office of business development, the joint
2908 committee on tourism, arts and cultural development, and the house and senate committees on ways and
2909 means no later than December 31, 2010.

2910 **SECTION 183.** Notwithstanding any other general or special law to the contrary. The
2911 Executive Office of Labor and Workforce Development shall partner with the Department of Higher
2912 Education and the Department of Veteran Services to study and report back its finding on the feasibility
2913 of creating a program to give returning veterans opportunities to attend community colleges and

2914 technological trade programs within the Commonwealth that will assist veterans with already acquired
2915 technical skills from military service and assist them in transitioning those skills into a civilian
2916 workforce setting. The findings of said report are due by December 31, 2010.

2917 **SECTION 184.** The Massachusetts Growth Capital Corporation established pursuant to chapter
2918 40W shall examine the Massachusetts opportunity rebuilding and expansion infrastructure program as
2919 filed in the 2009-2010 legislative session and make legislative recommendations for filing and action on
2920 the implementation of said program to the clerks of the house of representatives and senate before July
2921 31, 2011.

2922 **SECTION 185.** Notwithstanding any general or special law to the contrary, the executive office
2923 of housing and economic development, in consultation with the executive office of energy and
2924 environmental affairs, shall conduct a study on the costs and benefits of recent electricity market
2925 reforms. The study shall include, but not be limited to:

- 2926 (i) an analysis of the economic and reliability implications of implementing
2927 administrative, regulatory and legislative mandates as they pertain to electricity;
2928 (ii) the extent to which these mandates impact the rates paid by residential, commercial
2929 and industrial customers in the commonwealth and contribute to the bill savings realized by
2930 these customers; and
2931 (iii) the extent to which these mandates contribute to economic development in the
2932 state..

2933 The study shall be completed with stakeholder input, including representatives from various
2934 sectors of the commonwealth's economy. The study shall be completed and submitted to the joint
2935 committee on telecommunications, utilities and energy and the joint committee on economic
2936 development and emerging technologies no later than December 31, 2010.

2937 **SECTION 186.** Notwithstanding any general or special law to the contrary, the Massachusetts
2938 Development Finance Agency shall establish fees under clause (16) of section 3 of chapter 23G of the

2939 General laws for fiscal years 2011, 2012 and 2013 that are no higher than the fees charged by that
2940 agency or the Massachusetts Health and Educational Facilities Authority in fiscal year 2010. For those 3
2941 fiscal years, the requirement to hold a public hearing in said clause (16) of said section 3 shall be
2942 suspended. The Massachusetts Development Finance Agency shall use all reasonable efforts to ensure
2943 that any additional revenue realized in those 3 fiscal years resulting from changes in chapter 23G in this
2944 act shall be used by the agency to expand the availability of the agency's programs.

2945 **SECTION 187.** Notwithstanding any general or special law to the contrary, the term the
2946 'Massachusetts Health and Educational Facilities Authority' or 'HEFA', wherever either appears in a
2947 general or special law, except as they appear in this act, shall mean the 'Massachusetts Development
2948 Finance Agency'; provided, however, that such change of reference shall not restrict or limit in any
2949 manner the exercise by the Massachusetts Development Finance Agency of its rights, powers, duties or
2950 purposes, or to its ownership and holding of properties and assets under chapter 23G or any other
2951 provision of law applicable to the Massachusetts Development Finance Agency, including without
2952 limitation the power of the Massachusetts Development Finance Agency to issue bonds under said
2953 chapter 23G or under any such other provision.

2954 **SECTION 188.** (a) On October 1, 2010, the Massachusetts Health and Educational Facilities
2955 Authority, as established by section 4 of chapter 614 of the acts of 1968, shall be dissolved, without any
2956 further action, and the rights, powers and duties, and properties of the Authority shall on and after such
2957 date be exercised, performed, owned and held by the Massachusetts Development Finance Agency as
2958 established by chapter 23G, as amended. All real estate, property rights, personal property, funds,
2959 moneys, revenues, receipts, contract rights, trust agreements, any rights or interests of the Authority in
2960 any trusts or trust property, or other intangible assets, equipment or other ownership, possessory, or
2961 security interests or mortgages of any kind whatsoever, or any portion thereof held by the Authority,
2962 including, without limitation, funds previously appropriated by the commonwealth for the Authority,
2963 shall be deemed for record notice and otherwise, as applicable, to belong to the Agency on the same

2964 basis and with the same interest as previously held by the Authority, as applicable. Any and all
2965 obligations and liabilities of said Authority shall become obligations and liabilities of the Agency. Any
2966 resolution taken by or commitment made by the Authority with respect to any financing, including loans,
2967 bond issuances, guarantees and insurance and any other action made by the Authority shall become
2968 resolutions of the Agency.

2969 (b) All duly existing contracts, leases, trusts, or obligations of the Authority that are in force
2970 immediately before the effective date of the dissolution of the Authority shall be deemed to be the
2971 obligations of the Agency. No existing right or remedy under this section shall be lost, impaired or
2972 affected by this act. The Agency shall have authority to exercise all rights and enjoy all interests
2973 conferred upon the Authority by the contracts, leases or obligations. In the case of collective bargaining
2974 agreements, any obligations under the agreements shall expire on the stated date of expiration of such
2975 agreements.

2976 (c) The transfer of the assets, liabilities, obligations and debt of the Authority to the Agency
2977 under this act shall be effective upon dissolution of the Authority and shall bind all persons with or
2978 without notice and without any further action or documentation. Without derogating from the foregoing,
2979 the Agency may, from time to time, execute and record and file for registration with any registry of
2980 deeds or the land court or with the secretary of the commonwealth, as appropriate, a certificate
2981 confirming the Agency's ownership of any interest in real or personal property formerly held by the
2982 Authority and transferred pursuant to the provisions of this act and establishing and confirming the limits
2983 of property so transferred.

2984 (d) This act shall not limit or impair the rights, remedies, or defenses of the commonwealth,
2985 the Agency, or the Authority in or to any action or proceeding, including, without limitation, any brought
2986 under chapter 258 of the General Laws. Actions and proceedings against or on behalf of the Authority

2987 shall continue unabated and, from and after the date of dissolution of the Authority, may be completed
2988 against or by the Agency.

2989 (e) Notwithstanding the foregoing, no existing rights of the holders of the bonds issued by
2990 the Authority shall be impaired, and the Agency as successor in interest to the Authority shall maintain
2991 the covenants of the trust indentures pertaining to such bonds so long as such bonds shall remain
2992 outstanding.

2993 (f) All orders, rules and regulations duly made and all approvals duly granted by the
2994 Authority, which are in force immediately before the effective date of this act, shall continue in force and
2995 the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded or canceled, in
2996 accordance with law, by the Agency.

2997 (g) All books, papers, records, documents, equipment, buildings, facilities, cash and other
2998 property and assets, both personal and real, including all such property and assets held in trust, which on
2999 October first, two thousand and ten are in the custody of the Authority shall be transferred to the
3000 Agency.

3001 **SECTION 189.** Notwithstanding any general or special law to the contrary, as of the effective
3002 date of this act, the Massachusetts Development Finance Agency shall develop and implement a transfer
3003 plan, subject to the approval of the secretary of administration and finance, providing for the orderly
3004 transfer of personnel, all assets, liabilities, obligations, debts listed, including but not limited to those
3005 listed in section 125 of this act, from the Authority to the Agency, consistent with the provisions
3006 contained in section 125 of this act. The transfer shall be complete by October 1, 2010.

3007 **SECTION 190.** (a) Notwithstanding any general or special law to the contrary, this section shall
3008 facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal
3009 obligations of the following functions of state government from the transferor agency to the transferee
3010 agency, defined as follows: (1) the functions of the Massachusetts Sports and Entertainment

3011 Commission, as the transferor agency, to the Massachusetts marketing partnership, as the transferee
3012 agency; (2) the functions of the Community Development Finance Corporation and the Economic
3013 Stabilization Trust, as transferor agencies, to the Massachusetts Growth Capital Corporation, as the
3014 transferee agency; (3) the functions of the department of business development, as the transferor agency,
3015 to the Massachusetts office of business development, as the transferee agency; (4) the functions of the
3016 office of travel and tourism in the department of business development, as the transferor agency, to the
3017 office of travel and tourism in the Massachusetts marketing partnership, as the transferee agency; (5) the
3018 functions of the office of international trade and investment in the department of business development,
3019 as the transferor agency, to the Massachusetts international trade office in the Massachusetts marketing
3020 partnership, as the transferee agency; (6) the functions of the Massachusetts Health and Educational
3021 Facilities Authority, as transferor agency, to the Massachusetts Development Finance Agency, as the
3022 transferee agency and (7) the function of the office of small business and entrepreneurship, as the
3023 transferor agency, to the Massachusetts Office of Business Development, as the transferee agency.

3024 (b) The employees of each transferor agency, including those who immediately before the
3025 effective date of this act hold permanent appointment in positions classified under chapter 31 of the
3026 General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General
3027 Laws or do not hold such tenure, or hold confidential positions, are hereby transferred to the respective
3028 transferee agency, without interruption of service, without impairment of seniority, retirement or other
3029 rights of the employee, and without reduction in compensation or salary grade, notwithstanding any
3030 change in title or duties resulting from such reorganization, and without loss of accrued rights to
3031 holidays, sick leave, vacation and benefits. The reorganization shall not impair the civil service status of
3032 any such reassigned employee who immediately before the effective date of this act either holds a
3033 permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a
3034 position by reason of section 9A of chapter 30 of the General Laws.

3035 Notwithstanding the provisions of any general or special law to the contrary, all such employees
3036 shall continue to retain their right to collectively bargain under chapter 150E of the General Laws and

3037 shall be considered employees for the purposes of said chapter 150E.
3038 Nothing in this section shall be construed to confer upon an employee a right not held immediately
3039 before the date of said transfer, or to prohibit a reduction of salary grade, transfer, reassignment,
3040 suspension, discharge, layoff or abolition of position not prohibited before such date.

3041 (c) All petitions, requests, investigations and other proceedings appropriately and duly brought
3042 before each transferor agency or duly begun by each transferor agency and pending before it before the
3043 effective date of this act, shall continue unabated and remain in force, but shall be assumed and
3044 completed by the transferee agency.

3045 (d) All orders, rules and regulations duly made and all approvals duly granted by each
3046 transferor agency, which are in force immediately before the effective date of this act, shall continue in
3047 force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance
3048 with law, by the transferee agency.

3049 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and other
3050 property, both personal and real, including all such property held in trust, which immediately before the
3051 effective date of this act are in the custody of each transferor agency shall be transferred to the transferee
3052 agency.

3053 (f) All duly existing contracts, leases, assets and obligations of each transferor agency shall
3054 continue in effect but shall be assumed by the respective transferee agency. No existing right or remedy
3055 of any character shall be lost, impaired or affected by this act.

3056 (g) All transfers under this section shall be completed by October 1, 2010.

3057 **SECTION 191.** The Massachusetts office of business development shall, within 180 days of the
3058 effective date of this act, publish and release a solicitation for a competitive regional economic
3059 development bidding process under section 3K of chapter 23A. The solicitation shall seek applications
3060 from eligible organizations under said section 3K to act as the commonwealth's primary agents for
3061 business development in various regions of the commonwealth. If MOBD determines through this

3062 process that there are no proposals to appropriately serve a particular region, then MOBD shall serve as
3063 the primary coordinator for business development initiatives in that region and reopen the bidding
3064 process at its discretion.

3065 The Massachusetts office of business development may implement the bidding process as a
3066 phased, multi-step process that may include 1 or more of the following prior to the issuance of a request
3067 for proposals:

- 3068 (i) a request for information that would inform the development of a request for proposals;
- 3069 (ii) a call for solutions that would focus on regional approaches to meet the needs of specified
3070 industry sectors or clusters or locations in the commonwealth; and
- 3071 (iii) a request for qualifications that would determine the pool of entities that would be eligible
3072 to apply for funding.

3073 The Massachusetts office of business development shall not initiate the bidding process under
3074 this section until the Massachusetts office of business development promulgates the formula for
3075 contractual reimbursement required in sections 3J and 3K of chapter 23A.

3076 **SECTION 192.** Notwithstanding any general or special law to the contrary, the Massachusetts
3077 Development Finance Agency shall promptly transfer \$15,000,000 of the Emerging Technology Fund,
3078 established pursuant to chapter 141 of the acts of 2003, to the Massachusetts Growth Capital Corporation
3079 established under chapter 40W of the General Laws.

3080 **SECTION 193.** The provisions of section 111 shall not be deemed severable. If any of its
3081 provisions shall be held to be invalid or unconstitutional by any court of competent jurisdiction, all of the
3082 provisions of this section shall be deemed to be void.

3083 **SECTION 194.** Sections 65 to 70, inclusive shall only apply to regulations proposed after the
3084 effective date of this act.

3085 **SECTION 195** . Sections 105 and 11 shall take effect upon their passage.

3086 **SECTION 196**. Sections 48 to 53, inclusive, and sections 55, 162 and 186 shall take effect on
3087 October 1, 2010.

3088 **SECTION 197**. Sections 112, 115 and 126 shall take effect on January 1, 2011.

3089 **SECTION 198**. Sections 99 to 104, inclusive, shall apply only to district created on or after the
3090 effective date of this act.

3091 **SECTION 199**. Section 105 shall apply to qualified substantial rehabilitation expenditures
3092 incurred on or after its effective date; provided however, that sections 3 and 5 of chapter 40V of the
3093 General Laws shall take effect on January 1, 2011.

3094 **SECTION 200**. Section 108 shall be effective for tax years beginning on or after January 1,
3095 2011.

3096 **SECTION 201**. Section 111 shall be effective for tax years beginning on or after January 1,
3097 2011.

3098 **SECTION 202**. Sections 136 and 138 shall take effect on December 1, 2011.

3099 **SECTION 203**. Sections 121 and 122 shall be effective for net operating losses and loss carry
3100 forwards determined or claimed as a deduction in tax years beginning on or after January 1, 2010. The
3101 commissioner or revenue may adopt rules or regulations to address any transition issues in implementing
3102 this section.

3103 **SECTION 204**. Section 125 shall apply to taxable years beginning on or after January 1, 2009.

3104 **SECTION 205**. Section 44 shall be effective on October 1,2010.

3105 **SECTION 206**. Except as otherwise provided, this act shall take effect on August 1, 2010.