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HOUSE . . . . . No. 4629

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act providing for job creation by small businesses..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 53. Sections 32, 33, 34, 35, 36, 37, 38 and 40 shall take effect on January 1, 2011.

EXTENSION OF CERTAIN PERMITS

SECTION 54. (a) As used in this section, the following words shall have the following meanings:

"Approval", means, except as otherwise provided in this section, any permit, certificate, order excluding an enforcement order, license, certification, determination, exemption, variance, waiver, building permit, or other approval or determination of rights from any municipal, regional or state governmental entity, including any agency, department, commission, or other instrumentality thereof, concerning the use or development of real property, including certificates, licenses, certifications, determinations, exemptions, variances, waivers, building permits, or other approvals or determination of rights issued or made pursuant to chapter 21, chapter 21A excepting section 16, chapter 21D, sections 61 to 62H, inclusive, of

chapter 30, chapters 30A, 40, 40A to 40C, inclusive, 40R, 41, 43D, section 21 of chapter 81, chapter 91, 131, 131A or 143, section 4 or 5 of chapter 249, or chapter 258 of the General Laws, or chapter 665 of the acts of 1956; or any local bylaw or ordinance.

"Development", means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

"Tolling Period", means the period beginning January 1, 2008 and continuing through January 1, 2011.

(b) For any approval in effect or existence during the tolling period, in addition to the lawful term of the approval, the approval shall be extended for a period of 3 years.

(c) Nothing in this section shall be deemed to extend:

(1) any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or to any permit or approval by whatever authority issued of which the duration of effect or the date or terms of its expiration are specified or determined by or pursuant to law or regulation of the federal government or any of its agencies or instrumentalities; or

(2) any permit, license, privilege or approval issued by the division of fisheries and wildlife pursuant to chapter 131 for hunting, fishing or aquaculture.

(d) Nothing in this section shall affect the ability of any municipal, regional or state governmental entity, including any agency, department, commission, or other instrumentality

thereof to revoke or modify a specific permit or approval, or extension thereof pursuant to this section, when that specific permit or approval or the law or regulation under which the permit or approval was issued contains language authorizing the modification or revocation of the permit or approval.

(e) If any approval tolled pursuant to this section is based upon the connection to a sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a hookup before the effective date of this section. Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to this Act shall be allocated in order of the granting of the original approval of the connection.

(g) In the case when an owner or petitioner sells or otherwise transfers a property or project, in order for the permit to receive an extension, all commitments made by the original owner or petitioner must be upheld by the new owner or petitioner. If the new owner or petitioner does not meet or abide by those commitments then the permit extension shall not apply

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

INFRASTRUCTURE FINANCING

SECTION 55. Section 1 of chapter 40Q of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting the following definition:-

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

SECTION 56. Said section 1 is hereby further amended by striking out in the definition of “Development program”, clause (8) and inserting in its place the following clause:-

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

SECTION 57. Said section 1 is hereby amended by striking out the definition of “Inflation factor” and inserting in place thereof the following definition:

"Inflation factor", if the city or town has not included an election statement in its invested revenue district development program, a ratio: (1) the numerator of which shall be the total assessed value of all parcels of residential, commercial and industrial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential, commercial and industrial real estate as determined by the commissioner of revenue pursuant to paragraph (f) of section 21C of chapter 59; and (2) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, the ratio shall not be less than 1. In the event that the proposed Invested Revenue District does not include residential

property, then the assessed value attributable to residential property shall not be included in either the numerator or the denominator in calculating the inflation factor.

SECTION 58. Said section 1 is hereby further amended by striking out in the definition of “Invested revenue district development program” between subparagraphs (6) and (7) the word “and”.

SECTION 59. Said section 1 is hereby further amended by inserting in the definition of “Invested revenue district program” after clause (7) the following clause:-

, and (8) if applicable, a statement of the city or town electing that the original assessed value not be increased by the adjustment factor.

SECTION 60. Said section 1 is hereby further amended by striking out the definition of “Original assessed value” and inserting in its place the following definition:-

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

SMALL BUSINESS REGULATORY STATEMENTS

SECTION 61. Section 2 of chapter 30A of the General Laws, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

The notice shall also include an estimate of the proposed regulation’s fiscal effect including that on the public and private sector, for its first and second year, and a projection over the first 5-year period, or a statement of no fiscal effect. Unless the proposed regulation has the

purpose of setting rates within the commonwealth, the notice shall also include a statement considering the impact of the proposed regulation on small business and agricultural operations based in the Commonwealth. This statement of consideration shall include, but not be limited, to an identification and estimate of the number of the small businesses subject to the proposed regulation, a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation, description of the projected reporting, record keeping and other compliance requirements of the proposed regulations, the appropriateness of performance standards versus design standards and an identification of all relevant regulations of the adopting agency that may duplicate or conflict with the proposed regulation. Prior to the adoption of any proposed regulation, an agency shall prepare a regulatory flexibility analysis in which the agency shall consider utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small businesses. The agency shall consider, without limitation, each of the following methods of reducing the impact of the proposed regulation on small businesses: (1) The establishment of less stringent compliance or reporting requirements for small businesses; (2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses; (3) The consolidation or simplification of compliance or reporting requirements for small businesses; (4) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and (5) The exemption of small businesses from all or any part of the requirements contained in the proposed regulation. These statements of consideration must be published at least 30 days before hearing.

SECTION 62. Section 3 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

The notice shall also include an estimate of the proposed regulation's fiscal effect including that on the public and private sector, for its first and second year, and a projection over the first 5-year period, or a statement of no fiscal effect. Unless the proposed regulation has the purpose of setting rates within the commonwealth, the notice shall also include a statement considering the impact of the proposed regulation on small business. This statement of consideration shall include, but not be limited, to an identification and estimate of the number of the small businesses subject to the proposed regulation, a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation, a description of the projected reporting, record keeping and other compliance requirements of the proposed regulations, the appropriateness of performance standards versus design standards and an identification of all relevant regulations of the adopting agency that may duplicate or conflict with the proposed regulation. Prior to the adoption of any proposed regulation, an agency shall prepare a regulatory flexibility analysis in which the agency shall consider utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small businesses. The agency shall consider, without limitation, each of the following methods of reducing the impact of the proposed regulation on small businesses: (1) The establishment of less stringent compliance or reporting requirements for small businesses; (2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses; (3) The consolidation or simplification of compliance or reporting requirements for small businesses; (4) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and (5) The exemption of small businesses from all or any part of the requirements contained in

the proposed regulation. These statements of consideration must be published at least 30 days before the proposed action.