

HOUSE No. 4820

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to business and job growth in the commonwealth..

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 2A. To provide for certain unanticipated obligations of the commonwealth,
2 to provide for an alteration of purpose for current appropriations, and to meet certain
3 requirements of law, the sums set forth in this section are hereby appropriated from the General
4 Fund unless specifically designated otherwise, for the several purposes and subject to the
5 conditions specified in this section, and subject to laws regulating the disbursement of public
6 funds for the fiscal year ending June 30, 2010; provided, that notwithstanding any general or
7 special law to the contrary, appropriations made herein shall not revert and shall be available for
8 expenditure until June 30, 2011. The sums shall be in addition to any amounts previously
9 appropriated and made available for the purposes of these items.

10 1100-7400 For the recapitalization of the Massachusetts Growth Capital
11 Corporation.....
12 \$20,000,000.

7007-9031 For the recapitalization of the Massachusetts Technology Development Corporation, established pursuant to section 3 of chapter 40G of the General Laws.....\$5,000,000.

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

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 joint committee 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, and the chairs of the senate and house committees on ways and means, which shall include detailed descriptions of infrastructure improvement projects funded pursuant to this program and all funds expended for this purpose.....\$50,000,000.

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

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

(i) During the first year of each new gubernatorial administration, there shall convene an economic development planning council consisting of 12 members: 1 of whom shall be the secretary of housing and economic development, who shall serve as chair; 1 of whom shall be the secretary of administration and finance; 1 of whom shall be the secretary of labor and workforce development; 1 of whom shall be the secretary of energy and environmental affairs; 1 of whom shall be the secretary of transportation; 1 of whom shall be appointed by Speaker of the House of Representatives; 1 of whom shall be appointed by the President of the Senate; and 5 of whom shall be appointed by the governor: 1 of whom shall be the president of the University of Massachusetts or a president from a community college, 1 of whom shall be a representative from Associated Industries of Massachusetts, 1 of whom shall be a representative from the Massachusetts municipal association, 1 of whom shall be a representative from a chamber of commerce, and 1 of whom shall be from a venture capital firm with a principal place of business in Massachusetts. Members of the council shall serve for a term of 1 year or until an economic development policy has been approved by the governor pursuant to this section.

The secretary, with the assistance of the economic development planning council established under this section, shall develop and implement during the first year of each new

gubernatorial administration, a comprehensive economic development policy for the commonwealth and a strategic plan for implementing the policy. The policy shall set forth long-term goals and actionable benchmarks that are not limited to a particular gubernatorial administration. In developing the policy, the council may hold public hearings in regions throughout the commonwealth. Once a policy has been finalized, it shall be submitted to the governor for approval and made available on the official website of the commonwealth.

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

SECTION 6. Section 35J of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words ‘International Trade Council’ and inserting in place thereof the following words:- international trade office.

SECTION 7. Section 1 of chapter 23A of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words ‘department of business and technology in this chapter called the department, which shall be under the control of the director of business and technology’ and inserting in place thereof the following words:- Massachusetts office of business development, in this chapter referred to as MOBD, which shall be under the control of the director of business development,.

SECTION 8. Said section 1 of said chapter 23A, as so appearing, is hereby amended by striking out subsection (b).

SECTION 9. Section 3A of chapter 23A of the General Laws, as most recently amended by section 2 of chapter 166 of the acts of 2009, is hereby amended by striking out the definition of ‘Enhanced expansion product’ and inserting in place thereof the following definition:-

78 ‘Enhanced expansion project’, a facility that in its entirety and as of the project proposal
79 date: (i) is located or will be located within the commonwealth; (ii) generates substantial sales
80 from outside of the commonwealth; and (iii) generates a net increase of at least 100 full-time
81 employees within 2 years before or after project certification, but not before January 1 of the
82 year preceding the year in which the project receives certification, and which shall be maintained
83 for a period of not less than 5 years; provided, however, that in the case of a facility that as of the
84 project proposal date is already located in the commonwealth, ‘enhanced expansion project’ shall
85 refer only to a facility at which the controlling business has expanded or proposed to expand the
86 number of permanent full-time employees at such facility and the expansion shall represent: (1)
87 an increase in the number of permanent full-time employees employed by the controlling
88 business within the commonwealth; and (2) not a replacement or relocation of permanent full-
89 time employees employed by the controlling business at any other facility located within the
90 commonwealth; and provided further, that in the case of a facility to be located within the
91 commonwealth after the project proposal date, ‘enhanced expansion project’ shall refer only to a
92 facility that is: (a) the first facility of the controlling business to be located within the
93 commonwealth; or (b) a new facility of such business and not a replacement or relocation of an
94 existing facility of such controlling business located within the commonwealth; or an expansion
95 of an existing facility of the controlling business that results in an increase in permanent full-time
96 employees.

97 SECTION 10. Said section 3A of said chapter 23A is hereby further amended by
98 inserting in the definition of ‘Facility’ after the word ‘buildings’ the words ‘or locations’.

SECTION 11. Said section 3A of said chapter 23A is hereby further amended by striking out, in the definition of ‘gateway municipalities’, the words ‘educational attainment rates that are below the commonwealth’s average’ and inserting in place thereof the following words:-

a rate of educational attainment of a bachelor's degree or above that is below the commonwealth’s average.

SECTION 12. Said section 3A of said chapter 23A is hereby further amended by striking, each time it appears, the term ‘manufacturing retention’, and inserting in place thereof the following words:- manufacturing retention and job growth.

SECTION 13. Said section 3A of said chapter 23A, as most recently amended by section 3 of chapter 166 of the acts of 2009, is hereby amended by striking the definition of ‘manufacturing retention project’ and inserting in place thereof the following definition:-

‘Manufacturing retention and job growth project’, a manufacturing facility that in its entirety and as of the project proposal date: (i) is located or will be located within a gateway municipality; (ii) generates a net increase or retention of a minimum of at least 50 permanent full-time positions or creates a minimum of 25 new full-time positions; provided, however, that if the controlling business increases the number of full-time positions at the facility, it shall be within 2 years after certification of the project and the controlling business shall make a commitment that the positions created or retained are to be maintained for at least a 5-year period; and (iii) generates substantial sales from outside of the commonwealth; provided, however, that in the case of a facility that as of the project proposal date is already located in the gateway municipality, ‘manufacturing retention project’ shall refer only to a facility for which there is a proposed expansion or retention of the number of permanent full-time employees at

121 such facility by the controlling business, to occur after the project proposal date and the
122 expansion shall represent a retention or increase of at least 50 permanent full-time positions or
123 creates a minimum of 25 new full-time employees employed by the controlling business within
124 the project and shall not represent a replacement or relocation of permanent full-time employees
125 employed by the controlling business at any other facility located within the commonwealth; and
126 provided further, that in the case of a facility to be located after the project proposal date, the
127 ‘manufacturing retention project’ shall refer only to a facility that is: (1) the first facility of the
128 controlling business to be located within the commonwealth; or (2) a new facility of such
129 business and not a replacement or relocation of an existing facility of such controlling business
130 located within the commonwealth.

131 SECTION 14. Said Section 3A of said chapter 23A is hereby further amended by
132 inserting after the definition of ‘Manufacturing retention project proposal’ the following
133 definition:

134 ‘Massachusetts office of business development’ or ‘MOBD’ the office established by
135 section 1.

136 SECTION 15. Section 3F of said chapter 23A, as most recently amended by chapter 166
137 of the acts of 2009, is hereby amended by striking, each time it appears, the term ‘manufacturing
138 retention’ and inserting in place thereof the following words:- manufacturing retention and job
139 growth.

140 SECTION 16. Section 3I of chapter 23A of the General Laws, as appearing in the 2008
141 Official Edition, is hereby amended by striking out, in line 2 and line 33, the words ‘the

department' and inserting in place thereof, in each instance, the following words:- Massachusetts office of business development.

SECTION 17. Said Chapter 23A is hereby further amended by inserting after section 3I the following sections:-

Section 3J. (a) The Massachusetts office of business development, or MOBD, shall partner with statewide or regional economic development organizations, including, but not limited to, public-private alliances promoting economic development, to establish a plan for business development to support regionally-based efforts to grow and retain existing businesses and attract new business to the commonwealth. The plan shall include the municipalities which comprise the region to be served under the plan and a contact for businesses seeking assistance, services or information from the commonwealth in that region. MOBD may contract with economic development organizations to implement the regional plan and provide services to businesses.

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

(c) Each contract entered into by MOBD shall include performance criteria specific to the contracting organization developed under section 3K and uniform standards for the use of

contract funds related to accounting procedures, personnel practices, purchasing procedures and conflict of interest rules. As a condition to its receipt of funds, the contracting organization shall agree to follow these standards and to perform the contracted services in conformity with conflict of interest rules which shall include provisions requiring that in any matter where a person, corporation or other business entity in which any partner is in any way interested, such interest is disclosed in advance and further, that no partner having such an interest may participate in a decision relating to such person, corporation or other business entity. The contracting organization shall also agree to a biennial audit and examination of its audited financial statements conducted by the auditor of the commonwealth.

(d) MOBD shall establish standard governance provisions to be required of regional economic development organizations that contract with the commonwealth as provided in this section.

(e) Contracts entered into under this section shall be for a term not greater than 2 years, and may provide for the renewal of the contract at the discretion of MOBD, provided that the renewal shall be for a term not longer than 2 years. Nothing in this subsection shall preclude an organization from reapplying to provide services under a new contract.

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

(g) If MOBD determines, through a request for proposal process, that no organization meets the requirements set forth in this section to be a regional contact, MOBD may either rebid

185 the contract or serve as the primary coordinator for development initiatives in that region and
186 rebid the contract at its discretion.

187 (h) The contact under a regional plan for business development shall, under the terms of
188 the contract with MOBD, be required to perform the following services on behalf of the
189 commonwealth:

190 (i) act as the primary contact for businesses seeking assistance from state or local
191 governments, including those seeking to locate within the region or expand existing operations;

192 (ii) identify public funding sources for business activity and provide assistance in
193 accessing public tax incentive programs;

194 (iii) identify potential sites for business development and maintain an inventory of key
195 development parcels;

196 (iv) market the identified region in coordination with the Massachusetts marketing
197 partnership established under section 13A and in compliance with the marketing materials
198 developed by the partnership;

199 (v) furnish advice and assistance to businesses and industrial prospects which may locate
200 in the region, existing businesses and industries, and persons seeking to establish new businesses
201 or industries, and engage in related activities;

202 (vi) establish and maintain a network of public and private expertise related to regional
203 assets, industry clusters, workforce and education opportunities and public tax and regulatory
204 incentive and capital access programs;

(vii) partner with an MOBD representative to the region and representatives of quasi-public agencies and authorities engaged in economic development activities to exchange information and jointly provide direct consultation with businesses seeking to expand or locate to the region;

(viii) act as the primary contact for the region for a business seeking state assistance and incentives in a location decision;

(ix) in partnership with the staff of MOBD, assist member municipalities with economic development efforts related to business attraction and retention and with access to state economic development programs; and

(x) submit an annual report to MOBD on the region's business development activities. The report shall include: a summary of the preceding year's program activities, objectives and accomplishments; a description of how the primary contact's programs and marketing strategy aligns with the commonwealth's overall economic development and strategies; an analysis of how the primary contact's involvement in promotion activities has generated prospective business expansion and relocation clients; and a summary of the primary contact's efforts to obtain funds from local, private, and federal sources.

(i) The MOBD shall have the authority to cancel any contract with an organization serving as a regional contact upon a showing that the regional contact has failed to provide the necessary regional services listed in subsection (h).

(j) The MOBD shall locate staff throughout the regions of the commonwealth and coordinate with staff of existing regional economic development organizations in order to establish efficient and rapid access to all state government and quasi-public business services.

227 The Massachusetts office of business development shall provide information to the regional
228 economic development organizations about state economic development, business assistance,
229 capital access and incentive programs, marketing activities and programs offered by agencies,
230 authorities and private entities.

231 Section 3K. (a) The governor shall appoint the director of the office of performance
232 measurement within the executive office of housing and economic development. The director
233 shall have experience with economic development in the public or private sector. The director
234 shall establish performance measurement metrics for all public and quasi-public entities engaged
235 in economic development and any private organizations under contract with the commonwealth
236 to perform economic development services in order to improve the effectiveness of the economic
237 development efforts of the commonwealth. In developing these metrics, the director shall seek
238 out private sector advice and models that can be adapted to the needs of the commonwealth.
239 Clear metrics shall be developed and effectuated while ensuring that no undue administrative
240 burden is placed on agencies and organizations subject to this section.

241 (b) Agencies or organizations subject to the reporting requirements under this section
242 shall work with the director to develop a yearly plan and shall agree to the performance
243 measurements by which they will be evaluated. Each agency or organizations shall then file an
244 annual report with the office of performance management in a form and manner prescribed by
245 the director. Any report submitted to the office of performance management shall be made
246 available to the public and published on the state website. An annual report shall include, but not
247 be limited to the agency's: (i) operations and accomplishments; (ii) performance on the goals and
248 programs or initiatives outlined in the approved plan of the agency; (iii) receipts and
249 expenditures during the fiscal year; and (iv) assets and liabilities at the end of the fiscal year.

(c) The director shall evaluate the goals and measures established by the office and shall recommend changes to proposed goals and measures as are appropriate to align goals and measures with the statewide economic development policy plan established by section 16G of chapter 6A.

(d) The secretary shall use the performance measurements established in this section to determine the quality of service of all private entities, including regional economic development organizations that perform economic development services under contract with the office.

SECTION 18. Said chapter 23A, as so appearing, is hereby further amended by striking out sections 13A to 13E, inclusive, and inserting in place thereof the following sections:-

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

‘Foreign offices’, foreign offices for international trade within the international trade office.

‘Partnership’, the Massachusetts marketing partnership established by this section.

‘Tourism’, the office of travel and tourism.

(b) There shall be within the executive office of housing and economic development, but not subject to the supervision or control of said executive office, the Massachusetts marketing partnership which shall coordinate marketing efforts on behalf of the commonwealth and shall oversee the activities of the agencies placed within it.

(c) The partnership shall consist of 11 partners: 1 of whom shall be the secretary of housing and economic development, who shall chair the partnership; 1 of whom shall be the

271 director of the Massachusetts office of business development or the director's designee; 1 of
272 whom shall be the executive director of the Massachusetts Convention Center Authority or the
273 executive director's designee; 1 of whom shall be the executive director of the Massachusetts
274 Port Authority or the executive director's designee; 1 of whom shall be the executive director of
275 the Massachusetts Alliance for Economic Development, or its successor organization; and 6 of
276 whom shall be appointed by the governor for terms of 5 years: 2 of whom shall be employed by
277 a business that has a principal place of business in the commonwealth and exports goods to other
278 countries, 1 of whom shall be selected from a list of 3 names submitted by the Associated
279 Industries of Massachusetts, 1 of whom has significant experience with a public relations or
280 advertising firm doing business in the commonwealth, 1 of whom shall be on the faculty of a
281 public or private business school in the commonwealth who is experienced in international
282 business, and 2 of whom shall represent a regional tourism council in the commonwealth outside
283 of Suffolk County, Middlesex County and Norfolk County. Of the initial partners appointed by
284 the governor, 3 shall serve a term of 2 years and 3 shall serve a term of 5 years.

285 Of the 6 gubernatorial appointments, no more than 3 shall be from the same political
286 party. Each partner shall serve without compensation but shall be reimbursed for actual and
287 necessary expenses reasonably incurred in the performance of the partner's duties, including
288 reimbursement for the reasonable costs of travel deemed necessary by the partnership. A person
289 appointed to fill a vacancy in the office of a partner shall be appointed in a like manner and shall
290 serve for only the unexpired term of the former partner. A partner shall be eligible for
291 reappointment and may be removed by the governor for cause. The partnership shall annually
292 elect 1 partner to serve as vicechair.

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

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

(f) Chapters 268A and 268B shall apply to all ex officio partners or the partners' designees and employees of the agencies within the partnership. Chapters 268A and 268B shall apply to all other partners, except that the agencies within the partnership may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with a person, corporation or other business entity in which any partner is in any way interested or involved; provided, however, that such interest or involvement is disclosed in advance to the partners of the partnership and recorded in its minutes; and provided further, that no partner having such an interest or

involvement may participate in a decision of the partnership relating to such person, corporation or other business entity. Employment by the commonwealth or service in an agency or political subdivision of the commonwealth shall not be deemed to be such an interest or involvement.

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

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

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

(j) An action of the partnership may take effect immediately and need not be published or posted unless otherwise provided by law. Meetings of the partnership shall be subject to section 11A 1/2 of chapter 30A, except that said section 11A 1/2 shall not apply to any meeting of

partners in the partnership serving ex officio in the exercise of their duties as officers of the commonwealth so long as no matter relating to the official business of the partnership is discussed and decided at the meeting. The partnership shall be subject to all other sections of said chapter 30A and records pertaining to the administration of the partnership shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the partnership shall be considered to be public funds for the purposes of chapter 12A.

(k) The partnership shall be subject to sections 3K and 56 of this chapter.

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

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

(1) adopt and amend bylaws, regulations and procedures for the governance of its affairs and the conduct of its business for the administration and enforcement of sections 13A to 13Q, inclusive; provided, however, that regulations adopted by agencies within the partnership shall be adopted under chapter 30A;

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

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

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

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

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

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

367 (8) obtain insurance;

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

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

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

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

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

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

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

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

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

395 (18) develop a common internet portal to be used by state agencies and state authorities
396 to promote the commonwealth's programs providing business assistance and to promote
397 economic development in the commonwealth;

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

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

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

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

Section 13D. (a) The partnership and the agencies within the partnership shall, for the purposes of compliance with state finance law, operate as a state agency as defined in section 1 of chapter 29 and shall be subject to the laws applicable to agencies under the control of the governor including, but not limited to, chapter 7, chapter 7A, chapter 10 and chapter 29; provided, however, that the comptroller may identify additional instructions or actions necessary for the partnership to manage fiscal operations in the state accounting system and meet statewide and other governmental accounting and audit standards. Unless otherwise exempted by law or the applicable central service agency, the partnership shall participate in other available commonwealth central services including, but not limited, to the state payroll system under section 31 of chapter 29, and may purchase other goods and services provided by state agencies under the direction of the comptroller. The comptroller may chargeback the partnership for the transition and ongoing costs for participation in the state accounting and payroll systems and may retain and expend such costs without further appropriation for the purposes of this section. The partnership shall be subject to section 5D of chapter 29 and subsection (f) of section 6B of

chapter 29. This section shall not apply to authorities who are serving as partners of the partnership.

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

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

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

(b) The executive director of the office of travel and tourism shall be appointed by the governor, and serve at the pleasure of the governor. The position of executive director of the

443 office of travel and tourism shall be classified under section 45 of chapter 30 and the executive
444 director of travel and tourism shall devote full time during business hours to the duties of the
445 office of travel and tourism and shall give to the state treasurer a bond for the faithful
446 performance of those duties.

447 (c) The executive director of travel and tourism shall be the executive and administrative
448 head of travel and tourism and shall be responsible for administering and enforcing the laws
449 relative to travel and tourism and to any administrative unit of that office. Powers and duties
450 given to an administrative unit of travel and tourism by a general or special law shall be
451 exercised subject to the direction, control and supervision of the executive director of travel and
452 tourism.

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

458 Section 13G. The executive director of travel and tourism may, subject to appropriation
459 and with the approval of the partnership, appoint and may, with like approval, remove all such
460 employees as may be necessary to carry out the work of tourism. Unless otherwise provided by
461 law, all such appointments and removals shall be made under chapter 31. The executive director
462 may, subject to appropriation and the laws and regulations pertaining to the employment of
463 consultants, employ such consultants as the executive director may deem necessary.

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

(b) The advisory commission shall have 30 members: 1 representative from each of the following organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging Association, the Massachusetts Camping Ground Association, the New England Bus Association, the Massachusetts cultural council and the Massachusetts historical commission; 1 representative of a professional sports franchise located in the commonwealth, 2 representatives of the Massachusetts Visitor Industry Council; the executive director or the executive director's designee of each of the following regional tourism councils: the Berkshire Hills Visitors Bureau, the Bristol County Convention and Visitors Bureau, the Cape Cod Chamber of Commerce, the Franklin County Chamber of Commerce, the Greater Boston Convention and Visitors Bureau, the Worcester County Convention and Visitors Bureau, the Martha's Vineyard Chamber of Commerce, the Greater Merrimack Valley Convention and Visitors Bureau, the Mohawk Trail Association, the North of Boston Convention and Visitors Bureau, the Greater Springfield Convention and Visitors Bureau, the Plymouth County Development Council, Inc., the Nantucket Island Chamber of Commerce, the MetroWest Tourism and Visitor's Bureau, the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitor's Bureau and the following individuals, who shall not serve as chair: the commissioner of conservation

and recreation or the commissioner's designee, the administrator of the highway division or the administrator's designee, the Massachusetts state coordinator of the United States National Park Service, and the house and senate chairs of the joint committee on tourism, arts and cultural development.

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

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

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

Section 13K. (a) There shall be within the partnership a Massachusetts international trade office, which shall be under the supervision and control of an executive director. The executive director shall be appointed by the governor, and serve at the pleasure of the governor. The executive director shall devote his full time during business hours to the duties of the

Massachusetts international trade office. The executive director of the international trade office shall be the executive and administrative head of the office and shall be responsible for administering and enforcing the laws relative to the office and to any administrative unit of the office. The executive director shall also serve as the Massachusetts international trade representative.

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

(c) The international trade representative shall, within 30 days of receipt, forward any requests or communications received from the United States Trade Representative relative to any issue of international trade, including requests seeking the commonwealth's consent to be bound by international trade agreements, to the clerk of the house of representatives and the clerk of the

senate, who shall promptly refer the communications or requests to the joint committee on economic development and emerging technologies. The joint committee shall, within 30 days of receipt, conduct a public hearing on any request seeking the commonwealth's consent to be bound by an international trade agreement. The joint committee may issue a report within 120 days of the public hearing including a resolution to the general court relative to the recommendations of the committee on whether the commonwealth should consent to the international trade agreement in question and memorializing the commonwealth's international trade representative and the governor to take appropriate measures within their power to advise the United States Trade Representative of the recommendations of the general court.

Section 13L. (a) There shall be within the international trade office 1 or more foreign offices for international trade. The foreign offices may be located in any country that the executive director of the international trade office determines to be best suited as the location for the furthering of foreign trade opportunities for the businesses of the commonwealth. The foreign offices shall encourage and further trade between foreign businesses and businesses in the commonwealth. The foreign offices shall also promote investment opportunities in the commonwealth for foreign businesses in order to encourage the location and establishment of such businesses within the commonwealth. For the purposes of furthering foreign trade and investment, the foreign offices, subject to appropriation and approval by the executive director of the trade international office, may contract for such advertising and other communication services as may be necessary. The foreign offices shall maintain an updated list of businesses in the commonwealth and foreign businesses which are or might become active in the import or export of their products and services. The executive director shall consult with Massachusetts office of business development and the regional economic development designated pursuant to

section 3J in order to ensure that the businesses and assets of all regions of the commonwealth are included in such lists. The foreign office may also provide additional information and assistance to businesses in the commonwealth that desire to export their goods and services. The foreign offices shall maintain and give suitable publicity to an updated list of available sites for the location of foreign based businesses in the commonwealth. The foreign offices may make available technical assistance to foreign businesses interested in the establishment of plants or facilities in the commonwealth.

(b) The foreign offices shall, on a regular basis, make all foreign trade information available to the executive director of the international trade office, who shall publish and furnish such information to regional economic development organizations designated under section 3J and to businesses and corporations in the commonwealth which might be interested in, or benefit from the utilization of such information. The executive director of the international trade office may charge a fee not to exceed the actual printing costs for such information, except that no fee shall be charged to regional economic development organizations designated under section 3J.

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

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

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

581 Section 13P. The executive director of the international trade office and the director of
582 any foreign office shall annually file a financial report with the clerks of the house and senate
583 and the joint legislative committee on economic development and emerging technologies on the
584 operation and activities of the office. The report shall include a complete evaluation of the results
585 of the activities of the foreign offices and its effects on the business economy of the
586 commonwealth, especially in the areas of the export of goods and services and in the location of
587 foreign businesses in the commonwealth.

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

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

594 SECTION 19. Section 14 of said chapter 23A, as so appearing, is hereby amended by
595 striking out, in lines 17 and 18, the words ‘director of economic development’ and inserting in
596 place thereof the following words:- executive director of tourism.

SECTION 20. Said section 14 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 55 and 56, the words ‘, subject to approval by the director of economic development’ and inserting in place thereof the following words:- of tourism.

SECTION 21. Sections 15 to 28, inclusive, of said chapter 23A are hereby repealed.

SECTION 22. Sections 39A to 39D, inclusive, of said chapter 23A are hereby repealed.

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

SECTION 24. Said chapter 23A, as so appearing, is hereby amended by striking out section 56 and inserting in place thereof the following section:-

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

(b) The secretary shall aggregate the data submitted under section 3K of chapter 23A and shall, not later than December 31, submit an annual report to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on labor and workforce development, the joint committee on small business and community development and the joint committee on higher education. The report shall include an analysis of all public lending activities to businesses with an assessment of the economic impact of those activities and an analysis evaluating public lending to small businesses as defined in section 57 of this chapter.

(c) In order to fully utilize all appropriate measures to provide risk capital to small businesses in the commonwealth the Massachusetts Growth Capital Corporation, the

618 Massachusetts Development Finance Agency and the Massachusetts Technology Development
619 Corporation may establish 1 or more small business investment corporations or special small
620 business investment corporations as provided by the federal Small Businesses Equity
621 Enhancement Act of 1992.

622 (d) The books and records of the quasi-public entities and public purpose agencies of the
623 commonwealth under this section shall be subject to an annual audit conducted by an
624 independent auditor. The results of both audits shall be published in conjunction with the
625 publication of audited financial statements.

626 (e) The secretary of housing and economic development shall from time to time convene
627 the Massachusetts Life Sciences Center created under chapter 23I, the Massachusetts clean
628 energy technology center created under chapter 23J, the Massachusetts Technology
629 Development Corporation created under chapter 40G, the Massachusetts Technology Park
630 Corporation created under chapter 40J, and the Massachusetts Technology Transfer Center
631 created under chapter 75 , for the purpose of ensuring that: (1) the agencies' projects, programs
632 and plans are coordinated and consistent with this section; (2) the agencies are sharing
633 administrative functions for efficiencies and cost saving measures; (3) the agencies are sharing
634 information that is beneficial to the growth and expansion of technology related companies in the
635 commonwealth; and (4) the agencies are sharing best practices related to assisting technology
636 related companies with debt and equity products and technical assistance.

637 SECTION 25. Subsection (a) of section 57 of said chapter 23A, as so appearing, is
638 hereby further amended by striking out the definition of 'small business' and inserting in place
639 thereof the following definition:-

‘Small business’, a business entity, including its affiliates, that (i) is independently owned and operated; (ii) has a principal place of business in the commonwealth; and (iii) would be defined as a small business under applicable federal law.

SECTION 26. Section 8 of chapter 23D, as most recently amended by chapter 27 of the acts of 2009, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

There shall be within the Massachusetts growth capital corporation established by chapter 40F an economic stabilization trust.

SECTION 27. Said chapter 23D is hereby further amended by striking out section 9 in its entirety and inserting in place thereof the following section:-

Section 9. The trust shall be governed by the directors of the Massachusetts growth capital corporation established by section 2 of chapter 40F.

SECTION 28. Section 10 of said chapter 23D, as most recently amended by chapter 27 of the acts of 2009, is hereby amended by striking out the first sentence and inserting in place thereof the following:-

The board of the Massachusetts Growth Capital Corporation shall appoint a director of the trust.

SECTION 29. Sections 11 through 15, inclusive of said chapter 23D are hereby repealed.

SECTION 30. Chapter 23D of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 16 and inserting in place thereof the following section:-

Section 16. There shall be established within the Massachusetts growth capital corporation established by chapter 40F a separate fund to be known as the employee ownership revolving loan fund, the proceeds of which shall be used to provide low interest long term loans to individuals for the purchase of such individual's ownership interest in an employee owned business. The fund shall consist of all monies designated for that fund by the board of directors of the Massachusetts growth capital corporation in consultation with the director of the industrial services program. Said board shall administer the employee ownership revolving loan fund program. The application process, and the terms and conditions of approving such loans shall be determined by the board in consultation with the director. Said fund shall be subject to the reporting and auditing requirements of section 56 of chapter 23A.

SECTION 31. Section 20 of said chapter 23D, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words 'trustees of the economic stabilization trust' and inserting in place thereof the following words:- directors of the Massachusetts Growth Capital Corporation.

SECTION 32. Chapter 23F of the General Laws is hereby repealed.

SECTION 33. Section 1 of chapter 23G of the General Laws, as so appearing, is hereby amended by inserting at the end of the definition of 'Costs of the project' the following phrase:-

; provided that, notwithstanding anything in this chapter to the contrary, 'cost of the project' and 'costs' may also include any capital or operating expenditure which may legally be

681 made by any person to which the agency is authorized to provide financing, whether through the
682 issuance of bonds by the agency or otherwise, or any other type of financial assistance, or with
683 respect to any property, whether tangible or intangible, which may be developed or redeveloped
684 by the agency, and may also include any capital or operating expenditure which may legally be
685 made with respect to any property, whether tangible or intangible, for which the agency is
686 authorized to provide financing, whether through the issuance of bonds by the agency or
687 otherwise, or any other type of financial assistance, or which may be developed or redeveloped
688 by the agency.

689 SECTION 34. Said section 1 of said chapter 23G, as so appearing, is hereby further
690 amended by inserting after the definition of ‘Governing body’ the following definitions:-

691 ‘Massachusetts Health and Educational Facilities Authority’, and ‘HEFA,’ an authority
692 established pursuant to chapter 614 of the acts of 1968, as amended.

693 ‘Hospital’, a nonprofit hospital within the commonwealth licensed by the department of
694 public health; or a nonprofit health maintenance organization within the commonwealth licensed
695 by the commissioner of insurance; or an affiliated nonprofit person, which is organized and
696 operated for the benefit of, to perform 1 or more of the functions of, or to carry out 1 or more of
697 the purposes of 1 or more licensed nonprofit hospitals or health maintenance organizations,
698 including operation of a nursing home, comprehensive gerontology facility or congregate care
699 facility; or any other nonprofit charitable person in the commonwealth not otherwise eligible to
700 participate under this chapter; provided, however, that such other nonprofit charitable person
701 may only undertake the financing and construction or acquisition of a project or undertake the
702 financing and construction or acquisition of a project or undertake the refunding or refinancing

of obligations or of a mortgage or of advances to the extent that such projects, obligations, mortgages, or advances consist of or result from the purchase of energy or from energy conservation or related projects of such other nonprofit charitable person; and provided further, that such other nonprofit charitable person participates in or is a member of a group power purchasing program organized and administered by or on behalf of the agency.

SECTION 35. Said section 1 of said chapter 23G, as so appearing, is hereby further amended by striking out the last four sentences in the definition of ‘Industrial enterprise’ and inserting in place thereof the following sentences:-

Industrial enterprise shall also include commercial enterprise, which shall mean the conduct of a trade or business. Facilities for the use of governmental and nonprofit entities shall be considered facilities to be used in a commercial enterprise, and bonds may be issued under this chapter to finance costs of such facilities, including such costs paid prior to the authorization of such bonds as the board shall approve in connection with the provision of such facilities; and for this purpose the term commercial enterprise shall be read to include the operating of such facilities, but the requirements of clause (e) of subsection (2) of section 12 of chapter 40D, and the requirement in clause (k) of subsection (2) of said section 12 that in the case of a project including a commercial enterprise or incidental thereto for use by a governmental or nonprofit entity, the project is located in a predominantly commercial area for which a commercial area revitalization plan has been adopted by the governing body of the municipality and approved by the director of housing and community development and the project is consistent with the plan, shall not apply if the board determines that the issuance of the bonds will result in a public benefit. The words ‘industrial enterprise’ shall also include an institution. For the purposes of this chapter and of chapter 40D, as applied to the Agency, an institution shall not be deemed to

constitute a commercial enterprise. The board shall not be required with respect to an institution to make the findings set forth in clauses (e) and (k) of subsection (2) of section 12 of chapter 40D if the board finds that the issuance of the bonds will result in a public benefit.

SECTION 36. Said section 1 of said chapter 23G, as so appearing, is hereby further amended by striking out the definition of ‘Institution’ and inserting in place thereof the following definition:-

‘Institution’, a hospital or a nonprofit person organized to operate a facility or facilities that provide cultural or educational services; provided, however, that nothing in this definition shall be construed to limit the power or authority of the Agency to provide financing to a person, as defined in this section, to which the Agency is otherwise authorized to provide financing.

SECTION 37. Said section 1 of said chapter 23G, as so appearing, is hereby further amended by inserting at the end of the definition of ‘Project’ the following phrase:-

; provided that, notwithstanding anything in this chapter 23G to the contrary, ‘project’ may also include any capital or operating expenditure which may legally be made by any person to which the agency is authorized to provide financing, whether through the issuance of bonds by the agency or otherwise, or any other type of financial assistance, or with respect to any property, whether tangible or intangible, which may be developed or redeveloped by the agency, and the property, whether tangible or intangible, produced or acquired by such expenditure, and may also include any property, whether tangible or intangible, which may legally be the subject of financing by the agency, whether through the issuance of bonds by the agency or otherwise, or of any other type of assistance provided by the Agency, or which may be developed or redeveloped by the agency.

SECTION 38. Subsection (b) of section 2 of said chapter 23G, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentences:-

The agency shall be governed and its corporate powers exercised by a board of directors consisting of the secretary of administration and finance and the secretary of housing and economic development, or their respective designees, and 9 members to be appointed by the governor, one of whom shall be experienced in real estate development, one of whom shall be experienced in commercial or industrial credit, one of whom shall be experienced in mortgage lending, one of whom shall be experienced in banking or investment banking, one of whom shall be experienced in planning and the redevelopment of environmentally contaminated lands, one of whom shall be experienced in health care facility financing, and one of whom shall be a representative of organized labor. The secretary of housing and economic development shall serve as chairperson of the board.

SECTION 39. Subsection (k) of section 8 of said chapter 23G, as so appearing, is hereby amended by adding the following sentence:-

Notwithstanding any provision of this chapter to the contrary, any indebtedness of the Massachusetts Health and Educational Facilities Authority may be refunded under this subsection (k) if said indebtedness was subject to being refunded under chapter 614 of the acts of 1968, as amended.

SECTION 40. Said chapter 23G, as so appearing, is hereby further amended by striking out sections 27 and 28, as so appearing, and inserting in place thereof the following sections:

Section 27. (a) There is hereby established and placed within the agency the Emerging Technology Fund, referred to in this section and section 28 as the fund, to which shall be

770 credited appropriations, bond proceeds or other monies authorized by the general court and
771 specifically designated to be credited to the fund, such additional funds as are subject to the
772 direction and control of the agency, pension funds, federal grants or loans or private investment
773 capital which may properly be applied in furtherance of the objectives of the fund, proceeds from
774 the sale of qualified investments secured or held by the fund, fees and charges imposed relative
775 to the making of qualified investments, as the same shall be defined and approved under rules
776 approved by the advisory committee created under section 28 for the fund, secured or held by the
777 fund, and other monies which may be available to the agency or the advisory committee for the
778 purposes of the fund from another source or sources. The agency shall hold the fund in an
779 account or accounts separate from other funds or accounts and shall manage the fund on behalf
780 of the advisory committee, under rules and policies established by the advisory committee.

781 (b) The agency, on behalf of the advisory committee, shall invest and reinvest the fund
782 and the income of the fund, except as provided in this section, as follows: (i) in the making of
783 qualified investments, under rules approved by the advisory committee; (ii) in defraying the
784 ordinary and necessary expenses of administration and operation associated with the fund; (iii) in
785 the investment of funds not required for immediate disbursement in the purchase of such
786 securities as may be lawful investments for fiduciaries in the commonwealth; (iv) for the payment
787 of binding obligations associated with such qualified investments which are secured by the fund
788 as the obligations become payable; and (v) for the payment of principal or interest on qualified
789 investments secured by the fund or the payment of a redemption premium required to be paid
790 when such qualified investments are redeemed prior to maturity; provided, however, that monies
791 in the fund shall not be withdrawn at any time in such an amount as would reduce the amount of
792 the fund to less than the minimum requirement established jointly by the agency and advisory

committee, except for the purpose of paying binding obligations associated with qualified investments which are secured by the fund as the obligations become payable.

(c) The fund shall be held and applied by the agency, on behalf of the advisory committee, to make qualified investments designed to advance the following public purposes: (i) to stimulate increased financing for new, renovated or improved manufacturing, research and development and related facilities and financing for the operations of emerging technology companies in the commonwealth by leveraging private financing for highly, productive state of the art facilities or for the operations of emerging technology companies, which will lead to increased and more rewarding employment opportunities in the commonwealth by providing financing related to such facilities including, without limitation, financing of the construction or expansion of such facilities, including specialized real estate improvements and specialized equipment for those facilities; and financing for the operations of emerging technology companies; (ii) to make matching grants to universities, colleges, public instrumentalities, companies and other entities to induce the federal government, industry and other grant funding sources to fund advanced research and development activities in new and emerging technologies and new application of existing technologies in the commonwealth, so as to serve to increase and strengthen the commercial and industrial base of the commonwealth and the economic development and employment opportunities related to the commercial and industrial base; (iii) to provide bridge financing to universities, colleges, public instrumentalities, companies and other entities in anticipation of the receipt of grants of the type described in clause (ii) awarded or to be awarded by the federal government, industry or other sources; (iv) to provide low or no interest equipment loans targeted to companies within the defense technology and homeland security sector particularly those that are seeking to become more competitive against out of state

companies; (v) to make grants to the Massachusetts Technology Transfer Center, established by section 45 of chapter 75, to fund activities that facilitate the transfer of technology from the commonwealth's research institutions to the commonwealth's emerging technology industries, for productive use by such industries and to make targeted investments in proof of concept funding for emerging technologies; and(vi) to provide matching grants in the field of marine science technology for companies in the commonwealth that receive small business innovation research or small business technology transfer grants from the small business administration.

The matching award amount shall be the lesser of \$20,000 or 15 per cent of the small business innovation research or small business technology transfer grant. There shall be a maximum of \$60,000 available per company, including affiliates, per calendar year allocated on a competitive basis, contingent upon the availability of funds. The matching funds shall be used for product development and commercialization. The agency shall make no such qualified investment under clause (i) of subsection (b) unless the advisory committee finds that, to the extent possible, said qualified investment is such that a definite benefit to the economy of the commonwealth may reasonably be expected as a result. In addition, the agency shall make no such qualified investment under said clause (i) of said subsection (b) unless such qualified investment is in conformity with rules approved by the advisory committee. Said rules shall define which industries within the commonwealth shall be considered emerging technology industries for purposes of this section, provided that 'emerging technology industries' shall include industries employing new or state of the art technology in biotechnology, marine science technology, pharmaceuticals, defense and homeland security related technologies, advanced materials, electronics, nanotechnology, environmental, medical device, information technology, plastics and polymers, telecommunications industries involved in the research and development

of state of the art medication delivery devices or any other technological field or industry which the advisory committee has classified or shall classify as an emerging technology. Said rules shall also set the terms and conditions for investments which are to constitute qualified investments, which may include, without limitation, loans, working capital and contract based loans, guarantees, loan insurance or reinsurance, equity investments, grants made only under clauses (ii) and (v) of subsection (c), or other financing or credit enhancing devices, as made by the agency directly or on its own behalf or in conjunction with other public instrumentalities, or private institutions, or the federal government; provided, however, that said rules shall provide that each such qualified investment made under clause (i) of said subsection (c) shall involve a transaction with the participation of at least 2 at risk private parties. Said rules shall, in addition, set forth the terms, procedures, standards and conditions which the agency shall employ to identify qualified applications, process applications, make investment determinations, safeguard the fund, advance the objective of increasing employment opportunities, oversee the progress of qualified investments and secure the participation of other public instrumentalities, private institutions, or the federal government in such qualified investments; provided, however, that said rules shall provide that each recipient of a qualified investment shall be required to pay a fee as a condition of such receipt, which fee may take the form of points, an interest rate premium or a contribution of warrants or other form of equity or consideration to the fund as prescribed by the advisory committee; and provided, further, that said rules shall provide for negotiated agreements between the agency and each recipient of a qualified investment regarding the terms and conditions by which the fund's support of a recipient could be reduced or withdrawn.

(d) The agency may solicit investments by private institutions or investors in the activities of the fund and may reach agreements with such private institutions or investors

862 regarding the terms of such investments including, without limitation, the rights of such investors
863 to participate in the income or appropriation of the fund. To help secure investments by private
864 institutions or investors in the activities of the fund, the advisory committee may develop a
865 proposal relative to the creation of a separate investment entity which would allow for the
866 commingling of the resources of the fund with the maximum participation by such private
867 institutions or investors in a manner which is consistent with the public purpose of the fund and
868 under terms and conditions calculated to protect and preserve the assets of the fund; provided,
869 however, that if the creation or operation of such a separate entity as proposed by the advisory
870 committee would require additional or clarifying amendments to the enabling act of the agency,
871 said proposal shall include proposed statutory language.

872 (e) Copies of the approved rules, and modifications to the rules, shall be submitted to the
873 chairs of the house and senate committees on ways and means and the joint committee on
874 economic development and emerging technologies and the clerks of the house of representatives
875 and senate.

876 (f) Qualified investment transactions undertaken by the agency on behalf of the advisory
877 committee under this section shall not, except as specified in this section, be subject to chapter
878 175, and shall be payable solely from the Emerging Technology Fund, established by this section
879 and shall not constitute a debt or pledge of the faith and credit of the commonwealth, the agency
880 or any subdivision of the commonwealth.

881 (g) The agency, on behalf of the advisory committee, shall not make an expenditure from
882 or commitment of the assets of the fund, including, without limitation, the making of qualified
883 investments secured by the fund, if making such a qualified investment would reduce the amount

884 of the fund below the minimum requirement established by law, unless the agency, at the time of
885 making of such qualified investment, deposits in the fund from the proceeds of that qualified
886 investment or from any fees and charges imposed relative to the making of qualified
887 investments, or otherwise, an amount which, together with the amount in the fund, shall not be
888 less than the minimum requirement; provided, however, that at no time shall the minimum
889 requirement of the fund be less than the maximum amount of principal and interest becoming
890 due in the current and succeeding fiscal year of the agency on all outstanding bonds and other
891 obligations which are secured by the fund or such greater amount as may be set forth in the rules
892 governing the fund.

893 Section 28. (a) There is hereby established an advisory committee relative to the fund
894 consisting of the director of the Massachusetts office of business development, the director of the
895 John Adams Innovation Institute, the president of the Massachusetts Technology Development
896 Corporation, and 6 other persons, 3 of whom shall be appointed by the governor and 3 of whom
897 shall be appointed by the board of the agency; provided, however, that the director of the John
898 Adams Innovation Institute, and the president of the Massachusetts Technology Development
899 Corporation may designate another person to act in such member's place for a particular
900 purpose, including the right to attend and vote at a meeting of the advisory committee; provided,
901 further, that at least 1 member appointed by the governor shall be a representative of an
902 emerging technology industry, at least 1 member appointed by the governor shall have
903 knowledge of financing of emerging technology companies, and at least 1 member shall have
904 knowledge of technology transfer and commercialization activities at research institutions; and
905 provided, further, that at least 1 member appointed by the board of the agency shall be a
906 representative of an emerging technology industry, and at least 1 member appointed by the board

of the agency shall have knowledge of financing of emerging technology companies and 1 member appointed by the board of the agency shall be a member of the agency's board of directors. The executive director of the Massachusetts Technology Transfer Center shall serve as an ex officio member of the advisory committee. Each appointed member of the advisory committee shall serve for a term of 3 years or until such member's successor is appointed; provided, however, that of those initially appointed, of each the governor's appointees and the board of the agency's appointees shall serve for a term of 1 year, 1 of each of the governor's appointees and the board of the agency's appointees shall serve for a term of 2 years, and 1 of each the governor's appointees and the board of the agency's appointees shall serve for a term of 3 years. A person appointed to fill a vacancy on the advisory committee shall be appointed in a like manner and shall be eligible for reappointment. A member of the advisory committee appointed by the governor may be removed by the governor for cause. A member of the advisory committee appointed by the board of the agency may be removed by the board of the agency for cause.

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

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

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

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

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

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

SECTION 41. Said chapter 23G, as so appearing, is hereby further amended by adding the following section:

Section 44. The agency shall be subject to sections 3K and 56 of chapter 23A.

951 SECTION 42. Clause (7) of subsection (a) of section 4 of chapter 23I of the General
952 Laws, as so appearing, is hereby amended by inserting after the word ‘document’, in line 35, the
953 following words:-

954 ; provided, however, that the center shall contract with another public authority for the
955 performance by that authority of core administrative functions, as determined by the secretary of
956 housing and economic development which may include but shall not be limited to, human
957 resources, financial management, information technology, legal, procurement and asset
958 management, to minimize the administrative costs and expenses of the center.

959 SECTION 43. Subsection (d) of section 6 of said chapter 23I, as so appearing, is hereby
960 amended by inserting after the figure ‘75’, in line 82, the following words:-

961 to fund activities that facilitate the transfer of technology from the commonwealth’s
962 research institutions to the commonwealth’s life science industries, for productive use by such
963 industries and to make targeted investments in proof of concept funding for emerging
964 technologies.

965 SECTION 44. Said chapter 23I, as so appearing, is hereby further amended by inserting
966 the following new section:-

967 Section 18. The center shall be subject to sections 3K and 56 of chapter 23A.

968 SECTION 45. Section 3 of said chapter 23J of the General Laws, as so appearing, is
969 hereby amended in by inserting after the word ‘chapter;’, in line 30, the following words:-

970 provided, however, that the center shall contract with another public authority for the
971 performance by that authority of core administrative functions, as determined by the secretary of

972 housing and economic development which may include but shall not be limited to, human
973 resources, financial management, information technology, legal, procurement and asset
974 management, to minimize the administrative costs and expenses of the center.

975 SECTION 46. Said chapter 23J, as so appearing, is hereby amended by adding the
976 following new section:-

977 Section 9. The center shall be subject to sections 3K and section 56 of chapter 23A.

978 SECTION 47. Section 1 of chapter 29 of the General Laws, as so appearing, is hereby
979 amended by striking out the definition of ‘State authority,’ and inserting in place thereof the
980 following definition:-

981 ‘State authority’ a body politic and corporate constituted as a public instrumentality of
982 the commonwealth and established by an act of the General Court to serve an essential
983 governmental function; provided, however that ‘state authority’ shall not include: (1) a state
984 agency; (2) a city or town; (3) a body controlled by a city or town; or (4) a separate body politic
985 where the governing body is elected by the general public.

986 SECTION 48. Said chapter 29, as so appearing, is hereby further amended by inserting
987 after section 30 the following section:-

988 Section 30A. Notwithstanding section 50 of chapter 3, a state agency or state authority
989 shall not use state funds to pay for an executive or legislative agent, as defined in section 39 of
990 chapter 3, unless the executive or legislative agent is a fulltime employee of the state agency or
991 state authority.

SECTION 49. 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. This statement of consideration shall include, but not be limited, to 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. The requirements of this paragraph to prepare or publish statements shall be enforceable by a civil action for mandamus relief, but the sufficiency of the statement shall not be grounds for invalidating or staying the regulation.

SECTION 50. 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 a description of the projected reporting, record

1014 keeping and other compliance requirements of the proposed regulations, the appropriateness of
1015 performance standards versus design standards and an identification of all relevant regulations of
1016 the adopting agency that may duplicate or conflict with the proposed regulation. The
1017 requirements of this paragraph to prepare or publish statements shall be enforceable by a civil
1018 action for mandamus relief, but the sufficiency of the statement shall not be grounds for
1019 invalidating or staying the regulation.

1020 SECTION 51. Section 5 of said chapter 30A, as so appearing, is hereby amended by
1021 striking out the second paragraph.

1022 SECTION 52. Section 59 of chapter 40 of the General Laws, as so appearing, is hereby
1023 amended by striking out clause (iii) and inserting in place thereof the following clause:-

1024 (iii) authorizes tax increment exemptions from property taxes, under clause Fifty-first of
1025 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
1026 property which is located in the TIF zone and for which an agreement has been executed with the
1027 owner of the real property under clause (v); provided, however, that the TIF plan shall specify
1028 the level of the exemptions expressed as exemption percentages, not to exceed 100 per cent to be
1029 used in calculating the exemptions for the parcel, and for personal property situated on that
1030 parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided,
1031 further, that the exemption for each parcel of real property shall be calculated using an
1032 adjustment factor for each fiscal year of the specified term equal to the product of the inflation
1033 factors for each fiscal year since the parcel first became eligible for an exemption under this
1034 clause; provided, further that the inflation factor for each fiscal year shall be a ratio; (a) the
1035 numerator of which shall be the total assessed value of all parcels of commercial and industrial

1036 real estate that are assessed at full and fair cash value for the current fiscal year minus the new
1037 growth adjustment for the current fiscal year attributable to the commercial and industrial real
1038 estate as determined by the commissioner of revenue under subsection (f) of section 21C of
1039 chapter 59; and (b) the denominator of which shall be the total assessed value for the preceding
1040 fiscal year of all the parcels included in the numerator; provided, however, that the ratio shall not
1041 be less than 1;.

1042 SECTION 53. Clause (iii) of subsection (a) of section 60 of said chapter 40, as so
1043 appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the
1044 following paragraph:-

1045 authorize tax increment exemptions from property taxes, under clause Fifty-first of
1046 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
1047 property which is located in the UCHTIF zone and for which an agreement has been executed
1048 under clause (v); provided, however, that the UCHTIF plan shall specify the level of exemptions
1049 expressed as exemption percentages, not to exceed 100 per cent to be used in calculating the
1050 exemptions for the parcel, and for personal property situated on that parcel, as provided under
1051 said clause Fifty-first of said section 5 of said chapter 59; provided, further, that the exemption
1052 for each parcel of real property shall be calculated using an adjustment factor for each fiscal year
1053 of the specified term equal to the product of the inflation factors for each fiscal year since the
1054 parcel first became eligible for such exemption under this clause; provided, further, that the
1055 inflation factor for each fiscal year shall be a ratio:—

1056 SECTION 54. Clause (iii) of section 60A of said chapter 40, as so appearing, is hereby
1057 amended by striking out the first paragraph and inserting in place thereof the following
1058 paragraph:-

1059 authorize tax increment exemptions from property taxes, under clause Fifty-first of
1060 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
1061 property which is located in the MWTTIF zone and for which an agreement has been executed
1062 with the owner of the parcel under clause (iv); provided, however, that the MWTTIF plan shall
1063 specify the level of exemptions expressed as exemption percentages, not to exceed 100 per cent,
1064 to be used in calculating the exemptions for the parcel, and for personal property situated on that
1065 parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided,
1066 further, that the exemption for each parcel of real property shall be calculated using an
1067 adjustment factor for each fiscal year of the specified term equal to the product of the inflation
1068 factors for each fiscal year since the parcel first became eligible for such exemption pursuant to
1069 this clause; provided, further, that the inflation factor for each fiscal year shall be a ratio:

1070 SECTION 55. Section 3 of said chapter 40A, as so appearing, is hereby amended by
1071 inserting after the word ‘more’, in line 25, the following words:-

1072 or to parcels 1 acre or more if the sale of products produced from the agriculture,
1073 aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually
1074 generates at least \$1,000 per acre based on gross sales dollars.

1075 SECTION 56. Section 24 of chapter 40B of the General Laws, as so appearing, is hereby
1076 amended by striking out, in line 17, the words ‘director of economic development’ and inserting
1077 in place thereof the following words:- secretary of housing and economic development.

1078 SECTION 57. Chapter 40E of the General Laws is hereby repealed.

1079 SECTION 58. The General Laws are hereby amended by striking out chapter 40F and
1080 inserting in place thereof the following chapter:

1081 Chapter 40F.

1082 Massachusetts Growth Capital Corporation

1083 Section 1. For the purposes of this chapter the following words and terms shall, except
1084 where the context clearly indicates otherwise, have the following meanings:

1085 ‘Capital participation instruments’, purchase of stock, both common and preferred,
1086 convertible securities, warrants, subscriptions, options to acquire, capital loans, and working
1087 capital or inventory loans, royalties, and other lawful derivations of the foregoing.

1088 ‘Community Development Corporation’ or ‘CDC’, a nonprofit corporation organized
1089 under chapter 180, and exempt from taxation under section 501(c) of the Internal Revenue Code
1090 and which: (i) focuses a substantial majority of the corporation’s efforts on serving 1 or more
1091 specific neighborhoods or municipalities, a region of the commonwealth, or a constituency that
1092 is economically disadvantaged; (ii) has as the corporation’s purpose to engage local residents and
1093 businesses to work together to undertake community development programs, projects and
1094 activities which develop and improve urban, rural and suburban communities in sustainable ways
1095 that create and expand economic opportunities for low and moderate income people; (iii)
1096 demonstrates to the department of housing and community development that the corporation’s
1097 constituency, including low and moderate income people, is meaningfully represented on the
1098 board of directors of the corporation; provided, however, that in making this determination, the

1099 department shall consider the following criteria (1) the percentage, if any, of the board that is
1100 elected by the general membership; (2) the percentage of the board members that are residents of
1101 the service area; (3) the percentage of board members that are people of low or moderate income;
1102 (4) the racial and ethnic composition of the board in comparison to the racial and ethnic
1103 composition of the community being served; (5) other mechanisms, including committees,
1104 membership meetings, that the organization uses to ensure that their constituency has a
1105 meaningful role in the governance and direction of the organization; and (6) other criteria as
1106 determined by the department.

1107 'Corporation' or 'GCC', the Massachusetts Growth Capital Corporation created by
1108 section 2.

1109 'Equity investment', any of the following types of investment activity: (a) a purchase of
1110 stock; (b) a purchase of a partnership interest; (c) a purchase of a limited liability company
1111 membership interest; or (d) a loan made on such terms that it has sufficient characteristics of
1112 equity.

1113 'Financial products', loans, equity investments and other similar financing activities
1114 including, but not limited to, the purchase of loans originated by a certified community
1115 development financial institution, the provision of loan guarantees, or the provision of surety
1116 bond guarantees.

1117 'Project', (a) the act of making available financial products to small businesses and
1118 nonprofit corporations; (b) manufacturing, wholesale, retail, service, or other business activity;
1119 (c) economic development activity involving the financing of commercial, industrial or other real
1120 estate activity; or (d) other activity from which a community will derive economic benefit.

‘Small business’, a business entity, including its affiliates, that (a) is independently owned and operated; (b) has a principal place of business in the commonwealth; and (c) would be defined as a ‘small business’ under applicable federal law.

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

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

(b) The corporation shall consist of 13 directors; 1 of whom shall be the secretary of housing and economic development, who shall serve as chair; 1 of whom shall be the undersecretary of housing and community development; 1 of whom shall be the secretary of administration and finance, or the secretary’s designee; and 10 of whom shall be appointed by the governor. Of the 10 directors appointed by the governor; 3 shall be persons who together shall be experienced in small business financing, other financial instruments, turnarounds of troubled businesses, and the organization and operation of employee owned businesses; provided, however, that each such director shall be experienced and knowledgeable in at least 1 such area; 1 shall be a representative of an organization of small businesses or manufacturing companies in the commonwealth; 1 shall be a representative of a community bank in the commonwealth and nominated by the Massachusetts Bankers Association; 1 shall be

1143 experienced in community economic development and employed by a CDC or a representative
1144 of the Massachusetts Association of Community Development Corporations; 1 shall be a current
1145 or retired certified public accountant or chief financial officer; 1 shall be a practicing or retired
1146 attorney with a business financing experience; 1 shall be a small business owner; and 1 shall be a
1147 representative of organized labor. Each member appointed by the governor shall serve a term of
1148 5 years, except that in making the governor's initial appointments the governor shall appoint 2
1149 members to serve for a term of 1 year, 2 members to serve for a term of 2 years, 2 members to
1150 serve for a term of 3 years, 2 members to serve for a term of 4 years, and 2 members to serve for
1151 a term of 5 years.

1152 (c) A person appointed to fill a vacancy in the office of a director shall be appointed in a
1153 like manner and shall serve for only the unexpired term. A director shall be eligible for
1154 reappointment. A director may only be removed from the director's appointment by the governor
1155 for good cause. The directors shall annually elect 1 director as vicechair and designate a
1156 secretary treasurer who need not be a director. The secretary treasurer shall keep a record of the
1157 proceedings of the corporation and shall be the custodian of all books, documents, and papers
1158 filed with the corporation, the minute books of the corporation and of its official seal.

1159 (d) Seven of the directors of the corporation shall constitute a quorum and 7 affirmative
1160 votes shall be necessary for the transaction of business or the exercise of a power or function of
1161 the corporation. Each director shall be entitled to reimbursement for the director's actual and
1162 necessary expenses incurred in the performance of the director's official duties.

1163 (e) The corporation, its directors, officers and employees shall be subject to sections 1 to
1164 4, inclusive, of chapter 268A except that the corporation may purchase from, sell to, borrow

1165 from, loan to, contract with or otherwise deal with a person in which a director of the corporation
1166 is interested or involved; provided, however, that such interest or involvement is disclosed in
1167 advance to the directors and recorded in the minutes of the corporation; provided, further, that no
1168 director having such an interest or involvement may participate in a decision of the directors
1169 relating to such person. Employment by the commonwealth or service in an agency of the
1170 commonwealth shall not be deemed to be such an interest or involvement.

1171 (f) The president of the corporation shall be appointed and the president's salary
1172 established by the directors. The president shall be the chief administrative and operational
1173 officer of the corporation and shall direct and supervise administrative affairs and the general
1174 management of the corporation. The president may employ such other employees as shall be
1175 designated by the directors, shall attend meetings of the directors, shall cause copies to be made
1176 of all minutes and other records and documents of the corporation and shall certify that such
1177 copies are true copies and all persons dealing with the corporation may rely upon such
1178 certification.

1179 (g) All officers and employees of the corporation having access to its cash and negotiable
1180 securities shall give bond to the corporation at its expense in such amounts and with such surety
1181 as the directors may prescribe. The persons required to give bond may be included in 1 or more
1182 blanket or scheduled bonds.

1183 (h) Directors shall not be liable to the commonwealth, to the agency or to any other
1184 person as a result of the director's activities, whether ministerial or discretionary, as such
1185 directors, except for willful dishonesty or intentional violations of the law. The corporation may

1186 purchase liability insurance for directors, officers, and employees and may indemnify said
1187 persons against claims of others.

1188 (i) Documentary materials, data or conversations made or received by a director or
1189 employee of the corporation and consisting of, or to the extent that such materials, data or
1190 conversations consist of, trade secrets or commercial or financial information regarding the
1191 operation of a business conducted by an applicant for assistance which the corporation is
1192 empowered to render or regarding the competitive position of such applicant in a particular field
1193 of endeavor, shall not be public records of the corporation and shall not be subject to section 10
1194 of chapter 66. A discussion or consideration of such trade secrets or commercial or financial
1195 information may be held by the directors in executive session closed to the public
1196 notwithstanding chapter 30A, but the purpose of such an executive session shall be set forth in
1197 the official minutes of the corporation and no business which is directly related to such purpose
1198 shall be transacted nor shall a vote be taken in such an executive session.

1199 Section 3. The GCC shall have the power to:

1200 (1) adopt bylaws for the regulation of its affairs and the conduct of its business;

1201 (2) adopt an official seal;

1202 (3) sue and be sued in its own name;

1203 (4) make and execute contracts and all other instruments necessary or convenient for the
1204 exercise of its power and functions;

1205 (5) acquire, hold and dispose of personal property for its corporate purposes;

1206 (6) enter into agreements or other transactions with federal and state agencies;

1207 (7) acquire real property, or an interest in real property, by purchase or foreclosure, if
1208 such acquisition is necessary or appropriate to protect or secure an investment or loan in which
1209 the agency has an interest; to sell, transfer and convey such property to a buyer and in the event
1210 such sale, transfer or conveyance cannot be effected with reasonable promptness or at a
1211 reasonable price, to lease such property to a tenant;

1212 (8) invest funds held in reserves or sinking funds, or funds not required for immediate
1213 disbursement, in such investments as may be lawful for fiduciaries in the commonwealth;

1214 (9) borrow money by the issuance of debt obligations whether tax exempt or taxable and
1215 secure such obligations by the pledge of its revenues or of the revenues, mortgages and notes of
1216 others; provided, however, that the corporation shall not issue debt obligations if the principal
1217 amount of those debt obligations, when added to the principal amount of existing debt
1218 obligations issued by the corporation, excluding debt obligations previously refunded or to be
1219 refunded by the corporation, would exceed 30 million dollars;

1220 (10) employ and fix the compensation of a president, who shall be the chief executive
1221 officer of the corporation and such other agents, employees, professional and business advisers
1222 as may be necessary in the judgment of the directors; provided, however, that the president,
1223 professional advisers and business advisers shall not be subject to chapter 31 or section 9A of
1224 chapter 30.

1225 (11) appear in its own behalf before boards, commissions, departments or other agencies
1226 of municipal, state or federal government;

1227 (12) procure insurance against any loss in connection with its property in such amounts,
1228 and from such insurers, as may be necessary or desirable;

1229 (13) consent, subject to any contract with noteholders or bondholders, whenever it deems
1230 it necessary or desirable in the fulfillment of the purposes of this chapter, to the modification,
1231 with respect to rate of interest, time of payment of an installment of principal or interest, or other
1232 terms, of a mortgage, mortgage loan, mortgage loan commitment, contract or other agreement to
1233 which the GCC is a party;

1234 (14) do any and all things necessary or convenient to carry out its purposes and exercise
1235 the powers expressly given and granted in this chapter;

1236 (15) receive and accept from federal and state agencies and public or private entities
1237 grants, loans or advances for or in aid of the purposes of this chapter and to receive and accept
1238 contributions from a source of either money, property, labor or other things of value, to be held,
1239 used and applied for the purposes of this chapter;

1240 (16) create, issue, buy and sell stock and other capital participation instruments; to hold
1241 such stock and capital participation instruments and to underwrite the creation of a capital market
1242 for these securities;

1243 (17) provide advisory services, technical assistance and training programs to small
1244 businesses as may be necessary or desirable to carry out the purposes of this chapter;

1245 (18) exercise other powers, rights or responsibilities of a corporation organized under
1246 chapter 156B.

1247 (19) create and issue shares which a person, firm or corporation may purchase; provided,
1248 however, that each share issued shall be in the form of nonvoting common stock with each share

1249 having a par value of \$10; provided, further, that the total value of the shares issued shall not
1250 exceed \$25,000,000;

1251 (20) make loans or grants to, or otherwise finance or invest in, a business to further the
1252 purposes of this chapter; provided, further, that such loans or grants may be made to certified
1253 community development corporations or other community based nonprofit entities for the
1254 purpose of such corporations or entities providing financing to businesses;

1255 (21) provide loan guarantees to public or private entities for the purpose of causing such
1256 entities to provide financing to a business;

1257 (22) establish and collect such fees, charges and interest rates as the corporation
1258 determines to be reasonable; and

1259 (23) require, by contract in a financing agreement, or otherwise, specific operational
1260 activities, financial actions or management changes, as conditions for the receipt of a loan,
1261 financing or investment by the corporation.

1262 No debt obligation issued under paragraph (i), stock or capital participation instrument
1263 created under paragraph (p) or share issued under paragraph (s) shall be or become an
1264 indebtedness or obligation of the commonwealth, and it shall be plainly stated on the face of
1265 each bond, capital participation instrument, share or other evidence of indebtedness that it does
1266 not constitute an indebtedness or obligation of the commonwealth but is payable solely from the
1267 revenues or income of the Massachusetts Growth Capital Corporation.

1268 Section 4. The corporation shall contract with another public authority for the
1269 performance by that authority of core administrative functions, as determined by the secretary of

1270 housing and economic development which may include but shall not be limited to, human
1271 resources, financial management, information technology, legal, procurement and asset
1272 management, to minimize the administrative costs and expenses of the corporation.

1273 Section 5. (a) The corporation may participate in a project; provided that, the corporation
1274 shall find and incorporate in the official records of the corporation that the project will be of a
1275 public benefit such that the project is reasonably expected to: (i) support or promote economic
1276 development, revitalization or stability; (ii) promote employment opportunities for residents of
1277 the commonwealth; (iii) promote the creation or retention of jobs; or, (iv) support the creation or
1278 expansion of a business sector whose success would enhance the economic development of the
1279 commonwealth, enhance the quality of life of residents of the commonwealth or enhance the
1280 employment opportunities for residents of the commonwealth.

1281 (b) The corporation shall not participate in a project unless it determines, in writing, that
1282 its participation is necessary because funding for the project is not available in the traditional
1283 capital markets or that credit has been offered on terms that would preclude the success of the
1284 project.

1285 (c) The corporation shall endeavor to participate in projects each year that provide
1286 financial products, which in the aggregate total not less than 30 percent of the total capital
1287 committed by the corporation over a 3 year period, to projects which enhance the economic
1288 development of a target area, as defined in section 2 of chapter 40H, or enhance the quality of
1289 life and promote employment opportunities for low and moderate income residents of the
1290 commonwealth. If a certified CDC requests that the corporation participate in a project, the
1291 corporation shall make a determination of the likelihood that the project: (i) will provide

1292 employment opportunities to low and moderate income residents of the commonwealth; (ii) is
1293 likely to enhance the quality of life of low and moderate income residents of the commonwealth;
1294 or (iii) supports the creation or expansion of the business sector in the region served by the CDC.
1295 If the corporation enters into an agreement to participate in such a project, the terms of the
1296 financial products made available shall favorably reflect the economic and social benefits which
1297 inures to the commonwealth from the project.

1298 (d) Each contract shall include a requirement for adequate reporting of financial and other
1299 data to the corporation. The contract shall require that a business receiving financial products
1300 shall participate in financial and managerial consulting services and the contract shall include a
1301 requirement for an annual or other periodic audit of the project books.

1302 Section 6. The corporation shall endeavor to participate in projects each year that provide
1303 financial products, which in the aggregate total not less than 20 percent of the total capital
1304 committed by the corporation in that year, to minority owned or women owned contractors
1305 notwithstanding the conditions described in section 5, except that the corporation shall have
1306 determined, in writing: (i) that the project plans conform to applicable environmental, zoning,
1307 building, planning and sanitation laws; (ii) that there is a reasonable expectation that the project
1308 will be successful; and (iii) that the participation of the corporation is necessary for the
1309 successful completion of the proposed project because funding for the project is unavailable in
1310 the traditional capital markets, or that credit has been offered on terms that would preclude the
1311 success of the project.

1312 Section 7. (a) The GCC may establish or invest in the capital stock of 1 or more
1313 corporations organized for the purposes of increasing capital available to small businesses or to

1314 engage local residents and businesses to work together to undertake programs, projects and
1315 activities which develop and improve urban, rural and suburban communities by creating and
1316 expanding economic opportunities for low and moderate income people. Without limitation,
1317 such a corporation may:

1318 (1) serve as a financial intermediary between entities undertaking projects and small
1319 businesses and public or private sources of capital including, without limitation, direct lenders,
1320 guarantors or grant makers. Any corporation so organized may accomplish its purposes by means
1321 of (i) investing in the equity capital of, (ii) making direct loans to, or (iii) issuing loan guarantees
1322 to entities undertaking projects or to small businesses; and

1323 (2) provide financial and managerial consulting services to entities undertaking projects,
1324 small businesses and minority owned or women owned contractors.

1325 (b) The GCC may have a controlling or a minority interest in such a corporation, as the
1326 directors of the GCC shall determine in the board's discretion; provided, however, that at least
1327 1director of the GCC shall sit on the board of directors of the corporation.

1328 (c) a corporation established under this section or in which the GCC has invested under
1329 this section shall, prior to making an investment in the capital stock of, or loans or loan
1330 guarantees to entities undertaking projects or to small businesses, make the following findings:

1331 (1) That such action is consistent with the objectives of this section and may reasonably
1332 be expected to contribute to the redevelopment and economic wellbeing of the commonwealth,
1333 will create or retain jobs or will assist minority or women owned businesses.

1334 (2) That the funds provided by the GCC will be used solely in connection with the costs
1335 of the project or the operation of the small business.

1336 (3) That the contract for participation in a project requires adequate reporting of financial
1337 data from the small business or project to such corporation. The contract shall require that a
1338 business receiving financial products shall participate in financial and managerial consulting
1339 services and the contract shall include a requirement for an annual or other periodic audit of the
1340 books of the project or the small business.

1341 (4) That its participation is necessary to the successful completion of the proposed project
1342 or to the success of the small business because funding for the project or small business is
1343 unavailable in the traditional capital markets, or that credit has been offered on terms that would
1344 preclude the success of the project or the small business.

1345 (5) That should the GCC desire to sell or otherwise dispose of stock received under such
1346 a contract, the small business or entity undertaking a project, or the small business or entity's
1347 nominee, shall within 120 days have the right of first refusal upon the sale and the right to meet a
1348 subsequent bona fide offer by a third party.

1349 (d) The GCC shall not, nor shall the GCC in combination with such a corporation, own
1350 more than 49 percent of the voting stock in a small business.

1351 (e) Upon the request of the GCC, the commissioner of banks shall examine the books of a
1352 corporation established or invested in by the GCC under this section if such examination is a
1353 condition of the particular investment, lending, loan guaranty or grant program administered by
1354 such corporation.

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

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

(c) The corporation may provide matching grants to fund consulting and technical assistance to small businesses who receive financial assistance from the commonwealth or any of the commonwealth's public authorities. The grants shall be used by the recipient businesses to pay for mandated small business consulting and technical assistance services. Prior to awarding a grant, the corporation shall have determined that the financial or managerial consulting services mandated as a condition of financial support of the small business are not available without charge from an entity participating in the program and that procuring such services creates a

1378 hardship and impedes the likelihood of success of a project. Grants awarded shall require a 100
1379 percent match by the recipient.

1380 Section 9. (a) The GCC may establish an economic stabilization program for the
1381 following purposes:

1382 (1) To provide flexible high risk financing necessary to implement a change of
1383 ownership, a corporate restructuring or a turnaround plan for an economically viable, but
1384 troubled business which faces the likelihood of a large employment loss, plant closure or failure
1385 without such a change of ownership, corporate restructuring or turnaround plan. The program
1386 shall provide assistance to firms in specific mature industries for the purpose of technological
1387 investment or upgrading of management operations in order for the business to maintain future
1388 economic stability. The financial participation of the GCC shall aim to supplement private
1389 financial institutions and public economic development agencies when such institutions are
1390 unable to provide all the financing or bear all of the risk necessary to transfer ownership,
1391 restructure or turnaround a business in a situation where the business might otherwise fail or
1392 greatly reduce its employment.

1393 (2) To provide flexible high risk financing in connection with the startup of employee
1394 owned businesses or the implementation of employee ownership projects. The financial
1395 participation of the GCC shall aim to supplement private financial institutions and public
1396 economic development agencies when such institutions are unable to provide all the financing or
1397 bear all of the risk necessary to startup an employee owned business or implement an employee
1398 ownership project.

1399 (b) The GCC shall endeavor to direct at least 10 percent of the financing provided by the
1400 economic stabilization program to businesses that are employee owned businesses in order to
1401 fulfill the purposes of this section.

1402 (c) The GCC may participate in projects under this section, provided that, the corporation
1403 shall find and incorporate in the official records of the corporation that the project will be of a
1404 public benefit and:

1405 (1) when providing assistance in connection with the purchase of a troubled business, the
1406 directors shall determine and incorporate in the minutes of a meeting of the directors that:

1407 (i) the business is likely to experience a large loss of employment, plant closure, or
1408 failure without the loan financing or investment by corporation;

1409 (ii) the business within a specific mature industry requires assistance for the purpose of
1410 technological investment or upgrading of management operations in order for the business to
1411 maintain future economic stability;

1412 (iii) the business or person seeking to purchase the business has taken or will take such
1413 actions as the directors deem necessary to ensure the business has a reasonable chance to
1414 continue as a successful business, including, but not limited to, changes in its operations,
1415 financing, or management and that said actions are included as a condition for financing by the
1416 corporation in the financing agreement; and

1417 (iv) the business or person seeking to purchase the business has made diligent efforts to
1418 obtain the financing necessary to continue its operations or transfer ownership of the business
1419 from private financial institutions and public economic development agencies and such financing

1420 is unavailable or has been offered on terms that would prevent the successful continuation or
1421 change in ownership of the business; or

1422 (2) when providing assistance in connection with an employee owned business or an
1423 employee ownership project, the directors shall determine and incorporate in the minutes of a
1424 meeting of the directors that:

1425 (i) the business or person seeking assistance has taken or will take such actions as the
1426 directors deem necessary to ensure that the employee ownership project has a reasonable chance
1427 to succeed; and

1428 (ii) except with respect to assistance for prefeasibility and feasibility studies, that such
1429 business or person has made diligent efforts to obtain the financing necessary to institute or
1430 implement the employee ownership project from private financial institutions and public
1431 economic development agencies, and such financing is unavailable or has been offered on terms
1432 that would prevent the successful institution or implementation of the project.

1433 Section 10. The GCC shall be subject to sections 3K and 56 of chapter 23A.

1434 SECTION 59. Section 2 of chapter 40G of the General Laws, as appearing in the 2008
1435 Official Edition, is hereby amended by striking out, in lines 19 and 20, the words ‘eleven
1436 directors: the director of economic development, the secretary of administration, one’ and
1437 inserting in place thereof the following words:- 11 directors: the secretary of housing and
1438 economic development, who shall serve as chair, the secretary of administration and finance, 1.

1439 SECTION 60. The fifth paragraph of said section 2 of said chapter 40G, as so appearing,
1440 is hereby amended by striking out the fourth sentence.

1441 SECTION 61. Subsection (d) of section 3 of said chapter 40G, as so appearing, is hereby
1442 amended in by adding the following words:-

1443 provided, however, that the MTDC shall contract with another public authority for the
1444 performance by that authority of core administrative functions, as determined by the secretary of
1445 housing and economic development, which may include but shall not be limited to, human
1446 resources, financial management, information technology, legal, procurement and asset
1447 management, to minimize the administrative costs and expenses of the MTDC.

1448 SECTION 62. Subsection (d) of section 3 of said chapter 40G, as so appearing, is hereby
1449 amended in by adding the following words:-

1450 provided, however, that the MTDC shall contract with another public authority for the
1451 performance by that authority of core administrative functions, as determined by the secretary of
1452 housing and economic development, which may include but shall not be limited to, human
1453 resources, financial management, information technology, legal, procurement and asset
1454 management, to minimize the administrative costs and expenses of the MTDC.

1455 SECTION 63. Said chapter 40G, as so appearing, is hereby further amended by adding
1456 the following section:-

1457 Section 11. The MTDC shall be subject to sections 3K and 56 of chapter 23A.

1458 SECTION 64. Section 2 of chapter 40H of the General Laws, as so appearing, is hereby
1459 amended by striking out the second sentence in the definition of ‘eligible organization’.

1460 SECTION 65. Said section 2 of said chapter 40H, as so appearing, is hereby amended by
1461 striking out the definition of ‘Target Area’ and inserting in place thereof the following
1462 definition:-

1463 ‘Target area’, a contiguous geographic area in which the project is located and is: (i) an
1464 economic target area designated under section 3D of chapter 23A; (ii) the service area of
1465 community development corporation; or (iii) a zip code whose current unemployment rate
1466 exceeds the state unemployment rate by at least 25 per cent or whose mean household income is
1467 at or below 80 per cent of the state mean household income as of the most recent decennial
1468 census.

1469 SECTION 66. Chapter 40H of the General Laws is hereby further amended by inserting
1470 after section 2 the following section:-

1471 Section2A. (a) The director of housing and community development shall establish and
1472 maintain a list of organizations that have been certified as CDCs consistent with this chapter and
1473 develop a process for certifying said organizations; provided, however, that the organizations
1474 must be recertified at least once every 4 years. The process shall include an analysis of the
1475 organization’s governance and a determination of whether the organization’s constituency,
1476 including low and moderate income persons, is meaningfully represented on the board of
1477 directors of the organization. In making such determination, the director shall consider the
1478 following criteria: (a) the percentage, if any, of the board that is elected by the general
1479 membership; (b) the percentage of the board members who are residents of the service area; (c)
1480 the percentage of board members that are persons of low or moderate income; (d) the racial and
1481 ethnic composition of the board in comparison to the racial and ethnic composition of the

1482 community that the organization serves; (e) other mechanisms, including committees,
1483 membership meetings and others that the organization uses to ensure that the organization's
1484 constituency has a meaningful role in the governance and direction of the organization; and (f)
1485 other criteria as determined by the director of housing and community development.

1486 (b) The director of housing and community development shall file an annual report on
1487 December 15 with the speaker of the house of representatives, the president of the senate, the
1488 chairs of the house and senate committees on ways and means, the chairs of the joint committee
1489 on housing, and the chairs of the joint committee on community development and small business
1490 providing: (i) a list of certified CDCs in the commonwealth and (ii) a summary of programs,
1491 initiatives or partnerships operated by the executive office of housing and economic
1492 development, its agencies and quasi-public agencies organized under the executive office, that
1493 are designed to build the capacity of CDCs, provide training or technical assistance to CDC
1494 employees or board members, provide funding to support CDCs and their programs, projects and
1495 initiatives and otherwise help CDCs to engage local residents and businesses to work together to
1496 undertake programs, projects and activities which develop and improve urban, rural and
1497 suburban communities by creating and expanding economic opportunities for low and moderate
1498 income persons together with recommendations for action to enhance the ability of CDCs to
1499 advance those activities.

1500 SECTION 67. Section 3 of said chapter 40H, as so appearing, is hereby amended by
1501 striking out, in line 13, the words 'nine directors, four' and inserting in place thereof the
1502 following words:-

1503 9 directors, 1 of whom shall be the secretary of the housing and economic development,
1504 who shall serve as chair, 3.

1505 SECTION 68. Subsection (b) of said section 3 of said chapter 40H, as so appearing, is
1506 hereby amended by striking out the sixth sentence.

1507 SECTION 69. Chapter 40H of the General Laws is hereby amended by adding the
1508 following section:-

1509 Section 9. CEDAC shall be subject to sections 3K and 56 of chapter 23A.

1510 SECTION 70. The third paragraph of section 3 of chapter 40J of the General Laws, as so
1511 appearing, is hereby amended by striking out the first sentence and inserting in place thereof the
1512 following sentences:-

1513 The secretary of housing and economic development or the secretary's designee shall
1514 serve as chairperson. The board shall annually elect from among its members a vicechair and
1515 may designate a treasurer and a secretary, who need not be members of the board.

1516 SECTION 71. Subsection (a) of section 6A of said chapter 40J, as so appearing, is hereby
1517 amended by striking out, in line 16, the words 'undersecretary of business development' and
1518 inserting in place thereof the following words:-

1519 Secretary of housing and economic development.

1520 SECTION 72. Subsection (c) of section 6B of said chapter 40J, as so appearing, is hereby
1521 amended by striking out, in line 32, the words 'or his designee' and inserting in place thereof the
1522 following words:- , who shall serve as chair.

1523 SECTION 73. Said subsection (c) of said section 6B of said chapter 40J, as so appearing,
1524 is hereby further amended by striking out the second sentence.

1525 SECTION 74. The first paragraph of subsection (b) of section 6D of said chapter 40J, as
1526 so appearing, is hereby amended by striking out the third sentence and inserting in place thereof
1527 the following sentence:-

1528 The council shall consist of 9 members; 1 of whom shall be the secretary of health and
1529 human services, who shall serve as the chair; 1 of whom shall be the secretary of administration
1530 and finance, or the secretary's designee; 1 of whom shall be the executive director of the health
1531 care quality and cost council; 1 of whom shall be the director of the office of Medicaid; 1 of
1532 whom shall be the secretary of housing and economic development or the secretary's designee; 4
1533 of whom shall be appointed by the governor, of whom at least 1 shall be an expert in health
1534 information technology, 1 shall be an expert in law and health policy and 1 shall be an expert in
1535 health information privacy and security.

1536 SECTION 75. Chapter 40J of the General Laws is hereby amended by adding the
1537 following section:-

1538 Section 13. The corporation shall be subject to sections 3K and 56 of chapter 23A.

1539 SECTION 76. Section 1 of chapter 40Q of the General Laws, as so appearing, is hereby
1540 amended by striking out the definition of 'Base date' and inserting in place thereof the following
1541 definitions:-

1542 ‘Adjustment factor’, for each fiscal year of the term of a given development program, the
1543 product of the inflation factors for each fiscal year subsequent to the first fiscal year immediately
1544 following the base date.

1545 ‘Base date’, the last assessment date of the real property tax immediately preceding the
1546 creation of the district.

1547 SECTION 77. Section 1 of said chapter 40Q, as so appearing, is hereby amended, in lines
1548 31 and 32, by striking out clause (8) and inserting in place thereof the following clause:- (8) the
1549 duration of the program which shall not exceed the longer of (i) 30 years from the date of
1550 designation of the district or (ii) 30 years from project stabilization, as defined in the
1551 development program.

1552 SECTION 78. Said section 1 of said chapter 40Q, as so appearing, is hereby further
1553 amended by striking out the definition of ‘Inflation factor’ and inserting in place thereof the
1554 following definition:-

1555 ‘Inflation factor", a ratio: (1) the numerator of which shall be the total assessed value of
1556 all parcels of residential, commercial and industrial real estate that are assessed at full and fair
1557 cash value for the current fiscal year minus the new growth adjustment factor for the current
1558 fiscal year attributable to the residential, commercial and industrial real estate as determined by
1559 the commissioner of revenue under paragraph (f) of section 21C of chapter 59; and (2) the
1560 denominator of which shall be the total assessed value for the preceding fiscal year of all the
1561 parcels included in the numerator; provided, however, the ratio shall not be less than 1; provided,
1562 further, that if the proposed Invested Revenue District does not include residential property, the

1563 assessed value attributable to residential property shall not be included in either the numerator or
1564 the denominator in calculating the inflation factor.

1565 SECTION 79. Said section 1 of said chapter 40Q, as so appearing, is hereby further
1566 amended by striking out, in line 59, the word 'and'.

1567 SECTION 80. Said section 1 of said chapter 40Q, as so appearing, is hereby further
1568 amended by inserting at the end of the definition of 'invested revenue district development
1569 program' the following clause:- and (8) if applicable, a statement of the city or town electing that
1570 the original assessed value not be increased by the adjustment factor.

1571 SECTION 81. Said section 1 of said chapter 40Q, as so appearing, is hereby further
1572 amended by striking out the definition of 'Original assessed value' and inserting in place thereof
1573 the following definition:-

1574 'Original assessed value", the aggregate assessed value of the invested revenue district as
1575 of the base date; provided, however, that if the city or town has not included an election
1576 statement in its investment district development program, the original assessed value in any year
1577 shall be equal to the original assessed value as of the base date multiplied by the adjustment
1578 factor for that fiscal year.

1579 SECTION 82. The General Laws are hereby amended by inserting after chapter 40T the
1580 following chapter:-

1581 CHAPTER 40U.

1582 Housing Development Incentive Program.

1583 Section 1. As used in this section, the following words shall, unless the context clearly
1584 requires otherwise, have the following meanings:-

1585 ‘Certified housing development project’, a housing development project that has been
1586 approved by the department for participation in the housing development incentive program.

1587 ‘Department’, the department of housing and community development as established by
1588 chapter 23B.

1589 ‘Gateway municipality’, shall have the same meaning as in section 3A of chapter 23A.

1590 ‘Housing development incentive program’ or ‘HDIP’, a program designed to promote
1591 increased residential growth, expanded diversity of housing supply, neighborhood stabilization,
1592 and economic development within housing development zones in gateway municipalities.

1593 ‘Housing development zone,’ or ‘HD zone’, a zone designated by a gateway municipality
1594 which shall be characterized by a need for multi-unit market rate residential properties.

1595 ‘Housing development project,’ a multi-unit residential rehabilitation project that is
1596 located in a gateway municipality and once rehabilitated, shall contain at least 20% market rate
1597 units.

1598 ‘Market rate residential unit’, a residential unit with no other subsidy, except credits
1599 granted under this program, and priced for households above 110% of the municipality’s
1600 household median income.

1601 ‘Sponsors’, shall have the same definition as in section 25 of chapter 23B.

‘Qualified substantial rehabilitation expenditure,’ the cost of substantial rehabilitation meeting the following criteria: (i) an initial certification by department that the structure meets the definition of certified housing development project; (ii) a second certification by the department, to be issued prior to construction, certifying that if completed as proposed, the rehabilitation work will meet the standards required for a certified rehabilitation; and (iii) a final certification by the department, issued when the property is leased or sold by the taxpayer.

‘Substantial rehabilitation’ and ‘substantially rehabilitated’, the needed major redevelopment, repair and renovation of a property, excluding the purchase of the property, as determined by the department of housing and community development.

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

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

Section 4. (a) A project may be eligible to be a certified housing development project under this program provided the project proposed:

1624 contains two or more residential units; provided, however, the project may be a mixed-
1625 use development that includes commercial uses in addition to residential units;

1626 contains no more than 50 market rate residential units;

1627 is located in a designated or proposed HD zone;

1628 will contain at least 20% market rate units upon completion of the rehabilitation, to be
1629 sold or leased;

1630 has received from the municipality a property tax exemption pursuant to section 5M of
1631 chapter 59; and

1632 is a substantial rehabilitation of an existing property.

1633 (b) The department may from time to time approve one or more housing development
1634 projects, located in HD zones designated under section 2 of this chapter, as certified projects, and
1635 take any and all actions necessary or appropriate thereto, upon compliance with the following:

1636 (i) receipt of a project proposal therefor requesting such designation from the
1637 municipality, submitted in a timely manner, in such form and with such information as is
1638 prescribed by the department, supported by independently verifiable information and signed
1639 under the penalties of perjury by a person authorized to bind the sponsors;

1640 (ii) receipt of an executed agreement by the municipality which contains a tax
1641 exemption pursuant to section 5M of chapter 59 and section 4 of this chapter, said municipality
1642 having found, based on the information submitted with said project proposal and such additional
1643 investigation as the municipality shall make, and incorporate in a formal written determination,
1644 that the project as described in the proposal and all documentation submitted therewith:

1645 is consistent with and can reasonably be expected to benefit significantly from the
1646 gateway municipality's plans relative to the project property tax exemption;

1647 together with all other projects previously certified and located in the same project HDIP
1648 zone, will not overburden the municipality's supporting resources; and

1649 together with the municipal resources committed thereto, will, if certified, have a
1650 reasonable chance of increasing residential growth, diversity of housing supply, and supporting
1651 economic development, and promoting neighborhood stabilization in one of the municipality's
1652 housing development zones of the municipality as advanced in said proposal;

1653 (iii) receipt with such written approval by the municipality of a request for a
1654 designation of the project as a certified project for a specified number of years, which shall be
1655 not less than five years and not more than twenty years.

1656 (c) The department shall evaluate and either grant or deny any project proposal within
1657 ninety days from the date of its receipt of a complete project proposal and failure to do so by the
1658 department will result in approval of such project for a term of twenty years. Approval of a
1659 project because of the department's failure to act within ninety days shall not constitute approval
1660 by the department of any tax incentives provided under chapter 62 or 63.

1661 (d) The department may impose a fee for the processing of applications for the
1662 certification of any project under the provisions of this section.

1663 (e) A certified project shall retain its certification for the period specified by the
1664 department in its certification decision unless such certification is revoked prior to the expiration
1665 of the specified period. The certification of a project may be revoked only by the department and

1666 only upon: (i) the petition of the municipality that approved the project proposal, if the petition
1667 satisfies the authorization requirements for a municipal application, or the petition of the director
1668 of the department; and (ii) the independent investigation and determination of the department
1669 that representations made by the sponsors in its project proposal are materially at variance with
1670 the conduct of the sponsors subsequent to the certification and such variance is found to frustrate
1671 the public purposes that such certification was intended to advance. The department shall review
1672 such certified project at least once every 2 years. Upon such a revocation, the commonwealth,
1673 and the municipality, shall have causes of action against the sponsors for the value of any
1674 economic benefit received by the sponsors prior to or subsequent to such revocation.

1675 Under this section, revocation shall take effect on the first day of the tax year in which
1676 the department determines that a material variance commenced. The commissioner of revenue
1677 may, as of the effective date of the revocation, disallow any credits, exemptions or other tax
1678 benefits allowed by the original certification under this section. The commissioner shall issue
1679 regulations to recapture the value of any credits, exemptions or other tax benefits allowed by the
1680 certification under this section.

1681 Annually, on or before the first Wednesday in December, the department shall file a
1682 report detailing its findings of the review of all certified projects that it evaluated in the prior
1683 fiscal year to the commissioner of revenue and to the joint committee on taxation and the joint
1684 committee on housing and community development.

1685 Section 5. (a) The department may award to a sponsor of a certified project tax credits
1686 available under section 6(q) of chapter 62 and section 38BB of chapter 63 not to exceed ten per

1687 cent of the cost of qualified substantial rehabilitation expenditures of the market rate units in the
1688 project. The amount and duration of the credit awarded shall be based on the following factors:

1689 the need for residential development and diversity of housing supply in the gateway
1690 municipality;

1691 the extent to which the project will encourage residential development, expansion of
1692 diversity of housing supply, support neighborhood stabilization, and promote economic
1693 development in the zone; and

1694 the percentage of market rate units contained in the project.

1695 (b) The department may, limit any incentive or credit available to a project pursuant to
1696 section 6(q) of chapter 62 and section 38BB of chapter 63 to a dollar amount or in any other
1697 manner deemed appropriate by the department.

1698 SECTION 83. Section 92 of chapter 41 of the General Laws, as appearing in the 2008
1699 Official Edition, is hereby amended by striking out, in line 13, the words ‘two thousand five
1700 hundred dollars’ and inserting in place thereof the following figure:- \$7,000.

1701 SECTION 84. Said section 92 of said chapter 41, as so appearing, is hereby further
1702 amended by striking out, in lines 14 and 15, the words ‘two thousand five hundred dollars’, and
1703 inserting in place thereof the following figure:- \$7,000.

1704 SECTION 85. The General Laws are hereby amended by inserting after chapter 43D the
1705 following chapter:-

1706 CHAPTER 43E.

1707 EXPEDITED STATE PERMITTING

1708 Section 1. As used in this chapter, the following words shall, unless the context clearly
1709 requires otherwise, have the following meanings:—

1710 ‘Growth district’, a district designated from time to time by the secretary of housing and
1711 economic development, with the approval of the secretary of energy and environmental affairs,
1712 to participate in the growth district initiative.

1713 ‘Growth district initiative’, a program established by the executive office of housing and
1714 economic development and section 2C of chapter 303 of the acts of 2008 to provide for
1715 commercial and residential transportation and infrastructure development, improvements and
1716 various capital investment projects.

1717 ‘Issuing authority’, a state agency, commission, department or other state entity that is
1718 responsible for issuing permits, granting approvals or otherwise involved in land use
1719 development including redevelopment of existing buildings and structures.

1720 ‘Permit’, a permit, formal determination, order of conditions, license, certificate,
1721 authorization, registration, or other approval or determination with respect to the use or
1722 development of land, buildings, or structures required by any issuing authority. ‘Permit’ shall not
1723 include the decision of an agency to dispose of property under its management or control or
1724 permits granted by the Massachusetts Water Resources Authority, or permits or approvals issued
1725 by the department of public utilities or the Energy Facilities Siting Board pursuant to chapter
1726 40A and chapter 164, or requests for variances or waivers from state laws or regulations.

1727 ‘Priority development site’, shall have the same meaning as in chapter 43D.

1728 ‘Project’, shall have the same meaning as in section 62 of chapter 30.

1729 ‘Site’, a privately or publicly owned property that is commercially or industrially zoned.

1730 Section 2. (a) Issuing authorities shall complete permit reviews and final decisions within
1731 180 days, or 210 days for permit processes requiring a public comment period, subject to the
1732 extension herein, for projects that are in: (i) priority development sites designated pursuant to
1733 chapter 43D; (ii) located within a growth district as defined in this chapter; (iii) provided the
1734 applicant has received a certificate indicating the completion of the process under sections 61 to
1735 62H, inclusive, of chapter 30; and (iv) provided the project or any portion thereof is not in a
1736 wetland as defined by section 40 of chapter 131, tidelands as defined by section 1 of chapter 91,
1737 priority habitat as delineated by the division of fisheries and wildlife pursuant to chapter 131A,
1738 or an area of critical environmental concern as designated by the secretary of energy and
1739 environmental affairs.

1740 (b) The time period to complete reviews and issue permit decisions shall begin the day
1741 after the issuance of the notice that the application materials necessary for the permit are
1742 complete. The issuing authority shall notify the applicant in writing within 20 business days
1743 from receipt of the completed form of additional information needed or requirements that it may
1744 have. The issuing authority may provide for pre-application conferences to facilitate this process.

1745 (c) The resubmission of the application or the submission of such additional information
1746 required by the issuing authority shall commence a new 30-day period for review of the
1747 additional information.

1748 Section 3. Failure by any issuing authority to take final action on a permit or approval
1749 within the 180-day or 210-day period or extended time, if applicable, shall be considered a grant

1750 of the permit requested of that authority. In that event, within 3 days after the date of expiration
1751 of the time period, the applicant shall file a notice with the issuing authority, attaching the
1752 application, setting forth the facts giving rise to the grant and stating that notice of the grant has
1753 been mailed, by certified mail, to all parties to the proceedings and all persons entitled to notice
1754 of hearing in connection with the application.

1755 Section 4. The grant shall not occur where: (1) the issuing authority has made a timely
1756 determination that the application is not complete in accordance with its requirements and
1757 notified the applicant as set forth herein and the applicant has not made a timely response to
1758 complete the application; (2) the issuing authority has determined that the final application
1759 contained false or misleading information; or (3) the issuing authority has determined that
1760 substantial changes to the project affect the information required to process the permit
1761 application have occurred since the filing of the application.

1762 Section 5. The 180 or 210 day time period may be waived or extended for good cause
1763 upon written request of the applicant with the consent of the issuing authority or upon written
1764 request of the issuing authority with the consent of the applicant. The 180 or 210 day time period
1765 shall be extended without consent of the applicant when the issuing authority determines either:
1766 (1) that action by another federal, state or municipal government agency is required before the
1767 issuing authority may act; (2) that judicial proceedings affect the ability of the issuing authority
1768 or applicant to proceed with the application; or (3) that enforcement proceedings that could result
1769 in revocation of an existing permit for that facility or activity and denial of the application have
1770 been commenced. In those circumstances, the issuing authority shall provide written notification
1771 to the applicant and send a copy to the secretary. When the reason for the extension is no longer
1772 applicable, the issuing authority shall immediately notify the applicant, and shall complete its

1773 decision within the time period specified in this section, beginning the day after the notice is
1774 issued. An issuing authority may not use lack of time for review as a basis for denial of a permit
1775 if the applicant has provided a complete application and met all other obligations in accordance
1776 with this chapter.

1777 Section 6. In instances where there is grant pursuant to section 3 and an administrative or
1778 judicial appeal of such grant, the commencement of the time period for such appeal shall be the
1779 date in which the applicant files notice of the grant in accordance with section 3. The 180 or 210
1780 day timeline does not apply to an administrative appeal following the issuance of a permit.

1781 Section 7. Nothing in this chapter shall be construed to alter the substantive jurisdictional
1782 authority of issuing authorities. Nothing in this chapter shall be construed to in any way modify
1783 any requirement of the State Implementation Plan or other requirement of law that is necessary
1784 to retain federal delegation to, or assumption by, the commonwealth of the authority to
1785 implement a federal law or program.

1786 Section 8. The secretary of housing and economic development shall promulgate rules
1787 and regulations to implement this chapter with the approval of the secretary of energy and
1788 environmental affairs. Any agency issuing permits under this chapter is also authorized to issue
1789 rules and regulations to tailor this chapter to the specific permits issued by such agency.

1790 SECTION 86. Clause sixteenth of section 5 of chapter 59 of the General Laws, as
1791 appearing in the 2008 Official Edition, is hereby amended by striking out paragraph (3) and
1792 inserting in place thereof the following paragraph:-

1793 (3) In the case of (i) a manufacturing corporation or a research and development
1794 corporation, as defined in section 42B of chapter 63, or (ii) a limited liability company that; (a)

1795 has its usual place of business in the commonwealth; (b) is engaged in manufacturing in the
1796 commonwealth and whose sole member is a manufacturing corporation as defined in section 42B
1797 of chapter 63 or is engaged in research and development in the commonwealth and whose sole
1798 member is a research and development corporation as defined in said section 42B; and (c) is a
1799 disregarded entity, as defined in paragraph 2 of section 30 of chapter 63, all property owned by
1800 the corporation or the limited liability company other than real estate, poles and underground
1801 conduits, wires and pipes; provided, however, that no property, except property entitled to a
1802 pollution control abatement under clause forty-fourth or a cogeneration facility, shall be exempt
1803 from taxation if it is used in the manufacture or generation of electricity and it has not received a
1804 manufacturing classification effective on or before January 1, 1996. For the purposes of this
1805 section, a cogeneration facility shall be an electrical generating unit having power production
1806 capacity which, together with any other power generation facilities located at the same site, is not
1807 greater than 30 megawatts and which produces electric energy and steam or other form of useful
1808 energy utilized for industrial, commercial, heating or cooling purposes. For purposes of this
1809 paragraph, in determining whether the sole member of a limited liability company treated as a
1810 disregarded entity is a manufacturing corporation or a research and development corporation, the
1811 attributes and activities of the limited liability company shall be taken into account by the
1812 member along with the member's other attributes and activities. This clause as it applies to a
1813 research and development corporation, as defined in section 42B of said chapter 63, and as it
1814 applies to a limited liability company that is a disregarded entity and whose sole member is a
1815 manufacturing corporation or a research and development corporation shall take effect only upon
1816 its acceptance by the city or town in which the real estate, poles and underground conduits, wires
1817 and pipes are located.

1818 SECTION 87. Said section 5 of said chapter 59, as so appearing, is hereby amended by
1819 striking out clause Fifty-first and inserting in place thereof the following clause:

1820 Fifty-first, the value of a parcel of real property which is included within an executed
1821 agreement under clause (v) of section 59, clause (v) of subsection (a) of section 60 or clause (iv)
1822 of subsection (a) of section 60A of chapter 40, and the value of 2981 personal property situated
1823 on that parcel, but taxes on real and personal property eligible for exemption under this clause
1824 shall be assessed only on that portion of the value of the property that is not exempt under
1825 section 59, section 60 or section 60A of chapter 40, and this exemption shall be for a term not
1826 longer than the period specified for the exemption in the agreement. The amount of the
1827 exemption under this clause for a parcel of real property shall be the exemption percentage
1828 adopted under clause (iii) of section 59, subsection (a) of section 60 or of section 60A of said
1829 chapter 40 multiplied by the amount by which the parcel's value exceeds the product of its
1830 assessed value for the last fiscal year before it became eligible for exemption under this clause
1831 multiplied by the adjustment factor determined under said section 59, section 60 or section 60A
1832 of said chapter 40. The amount of the exemption under this clause for personal property shall be
1833 the exemption percentage adopted under clause (iii) of section 59, subsection (a) of section 60 or
1834 of section 60A of said chapter 40 multiplied by the fair cash valuation of the personal property.
1835 Taxes on property eligible for exemption under this clause shall be assessed only on that portion
1836 of the value of the property that is not exempt under this clause.

1837 SECTION 88. Chapter 59 of the General Laws is hereby amended by inserting after
1838 section 5L the following section:-

1839 Section 5M. A gateway municipality, as defined in section 1 of chapter 40U, may, by
1840 vote of its legislative body, subject to the charter of the municipality, establish an exemption in
1841 an amount not less than between 50 and not more than 100 percent of the incremental value of
1842 the market rate units contained in a certified housing development project within a housing
1843 development zone pursuant to chapter 40U, for a period of not less than 5 years and not more
1844 than 20 years. For the purposes of this section, market rate is defined as in section 1 of chapter
1845 40U. Such exemption shall be approved by the department of housing and community
1846 development, established in chapter 23B. The department shall promulgate applicable rules and
1847 regulations to carry out the provisions of this section.

1848 SECTION 89. Subsection (c) of section 4 of chapter 62 of the General Laws, as so
1849 appearing, is hereby amended by inserting after ‘(b)’ the following language:-

1850 ‘-; excepting Part C taxable income derived from the sale of investments which (1) are in
1851 a corporation which is domiciled in the commonwealth with a date of incorporation on or after
1852 January 1, 2011 which has less than \$50 million in assets at the time of investment and (2) are
1853 held for 3 years or more, which shall be taxed at a rate of 3 per cent. In order to qualify for the 3
1854 per cent rate, such investments shall be made within 5 years of the date of incorporation.

1855 The provisions of this section shall not be deemed severable. If any of its provisions
1856 shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the
1857 remaining provisions shall be held to be invalid or unconstitutional.

1858 SECTION 90. Subsection (g) of section 6 of chapter 62 , as most recently amended by
1859 section 21 of chapter 166 of the Acts of 2009, is hereby amended by striking out the third
1860 sentence of paragraph (1) and inserting in place thereof the following sentences:-

1861 If such property is disposed of or ceases to be in qualified use within the meaning of
1862 section 31A or ceases to be used exclusively in a certified project before the end of the certified
1863 project's certification period, or if a certified project's certification is revoked, the recapture
1864 provisions of subsection (e) of section 31A shall apply. If such property is disposed of after the
1865 certified project's certification period but before the end of such property's useful life, the
1866 recapture provisions of subsection (e) of section 31A shall apply. The expiration of a certified
1867 project's certification shall not require the application of the recapture provisions of subsection
1868 (e) of section 31A.

1869 SECTION 91. Said subsection (g) of said section 6 of said chapter 62 is hereby further
1870 amended by striking out in the second paragraph the phrase 'and not more than \$5,000,000 for
1871 certified manufacturing retention projects' and inserting in place thereof the following:- and not
1872 more than \$10,000,000 for certified manufacturing retention and job growth projects.

1873 SECTION 92. Said subsection (g) of said section 6 of said chapter 62, inserted by section
1874 21 of chapter 166 of the acts of 2009, is hereby amended by striking out the figure '\$25,000,000'
1875 wherever it appears and replacing it with the figure '\$20,000,000'.

1876 SECTION 93. Section 6 of chapter 62 of the General Laws, as appearing in the 2008
1877 Official Edition, is hereby amended by inserting after subsection (p) the following section: -

1878 (q) (1) A credit shall be allowed against the tax liability imposed by this chapter, to the
1879 extent awarded by the department of housing and community development (DHCD) established
1880 in chapter 23B, for a certified housing development project, as defined in chapter 40U, in an
1881 amount up to 25 per cent of the cost of qualified substantial rehabilitation expenditures of the
1882 market rate units within the projects, as defined in section 1 of chapter 40U. The credit under this

1883 subsection shall be allowed for the taxable year in which DHCD gives the commissioner written
1884 notification of completion of the certified housing development project.

1885 (2) Taxpayers eligible for the this credit may, with prior notice to and in accordance with
1886 regulations adopted by the commissioner of revenue, transfer the credits, in whole or in part, to
1887 any individual or entity, and the transferee shall be entitled to apply the credits against the tax
1888 with the same effect as if the transferee had incurred the qualified rehabilitation expenditures
1889 itself. If the sponsor of the certified housing development project is a partnership or a limited
1890 liability company taxed as a partnership, the credit, if transferred must be transferred by the
1891 partnership or the limited liability company. If the credits allowed to a partnership, a limited
1892 liability company taxed as a partnership or multiple owners of property are not transferred they
1893 shall be passed through to the persons designated as partners, members or owners, respectively,
1894 pro rata or pursuant to an executed agreement among the persons designated as partners,
1895 members or owners documenting an alternative distribution method without regard to their
1896 sharing of other tax or economic attributes of the entity. Credits passed through to individual
1897 partners and members are not transferable.

1898 (3) If the credit allowable for any taxable year exceeds the taxpayer's tax liability for that
1899 tax year , the taxpayer may carry forward and apply in any subsequent taxable year, the portion,
1900 as reduced from year to year , of those credits which exceed the tax for the taxable year;
1901 provided, however, that in no event shall the taxpayer apply the credit to the tax for any taxable
1902 year beginning more than five years after the taxable year in which DHCD gives the
1903 Commissioner written notification of completion of the certified housing development project If
1904 the credit is transferred by the taxpayer, the carry over provisions applicable to the transferee
1905 apply.

1906 A transferee shall use the credit in the year it is transferred. If the credit allowable for any
1907 taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry
1908 forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of
1909 those credits which exceed the tax for the taxable year; provided, however, that in no event shall
1910 the transferee apply the credit to the tax for any taxable year beginning more than five years after
1911 the taxable year in which DHCD gives the commissioner written notification of completion of
1912 the certified housing development project.

1913 (4) For any certified housing development project, qualified rehabilitation expenditures
1914 applicable to this credit shall be treated for purposes of this subsection as made on the date that
1915 DHCD gives the Commissioner written notification of completion of the certified housing
1916 development project.

1917 (5) The total amount of credits that may be authorized by DHCD in a calendar year
1918 pursuant to this subsection and section 38BB of chapter 63 shall not exceed \$5,000,000 and shall
1919 include: (1) credits granted during the year pursuant to this subsection or said section 38BB of
1920 said chapter 63; (2) carry forwards of credits from prior years pursuant to this subsection or said
1921 section 38BB of said chapter 63, to the extent that such credit carry forwards are estimated by the
1922 commissioner to offset tax liabilities during the year. Any portion of the \$5,000,000 annual cap
1923 not awarded by the DHCD in a calendar year shall not be applied to awards in a subsequent
1924 year. The DHDC shall provide the commissioner of revenue with any documentation that the
1925 commissioner deems necessary to confirm compliance with the annual cap and the commissioner
1926 shall provide a report confirming compliance with the annual cap to the secretary of
1927 administration and finance and the secretary of housing and economic development.(6) The

1928 commissioner, in consultation with the DHDC, shall prescribe regulations necessary to carry out
1929 this subsection.

1930 SECTION 94. Subsection (b) of section 6J of said chapter 62, as so appearing, is hereby
1931 amended by striking out, in lines 36 and 37, the words ‘for the 6 year period beginning January
1932 1, 2006, and ending December 31, 2011’ and inserting in place thereof the following words:-
1933 ‘through December 31, 2015.

1934 SECTION 95. Section 30 of chapter 63 of the General Laws, as so appearing, is hereby
1935 amended by striking out, in lines 97 and 98, the sentence ‘Losses sustained in any taxable year
1936 may be carried forward for not more than five years and may not be carried back.’ and inserting
1937 in place thereof the following sentence:-

1938 Losses sustained in any taxable year prior to January 1, 2008, may be carried forward for
1939 not more than 5 years and may not be carried back. Losses sustained in any taxable year
1940 beginning on January 1, 2008 may be carried forward for not more than 20 years and may not be
1941 carried back. Said net operating loss carry-forward shall be applicable to any company subject to
1942 Massachusetts corporate excise taxation, excepting losses sustained prior to January 1, 2012, by
1943 utility corporations subject to tax under section 52A of chapter 63, and financial institutions
1944 subject to tax under sections 1, 2, and 2a of chapter 63.

1945 SECTION 96. Subsection (a) of section 38N of chapter 63 of the General Laws, inserted
1946 by section 23 of chapter 166 of the acts of 2009, is hereby amended by striking out the figure
1947 ‘\$25,000,000’ wherever it appears and replacing it with the figure ‘\$20,000,000’.

1948 SECTION 97. Said subsection (a) of said section 38N of said chapter 63 is hereby further
1949 amended by striking out the last sentence of third paragraph and inserting in place thereof the
1950 following sentences:-

1951 If such property is disposed of or ceases to be in qualified use within the meaning of
1952 section 31A or ceases to be used exclusively in a certified project before the end of the certified
1953 project's certification period, or if a certified project's certification is revoked, the recapture
1954 provisions of subsection (e) of section 31A shall apply. If such property is disposed of after the
1955 certified project's certification period but before the end of such property's useful life, the
1956 recapture provisions of subsection (e) of section 31A shall apply. The expiration of a certified
1957 project's certification shall not require the application of the recapture provisions of subsection
1958 (e) of section 31A.

1959 SECTION 98. Said section 38N of said chapter 63 is hereby further amended by striking
1960 out in the second paragraph the phrase 'and not more than \$5,000,000 for certified
1961 manufacturing retention projects' and inserting in place thereof the following:- and not more
1962 than \$10,000,000 for certified manufacturing retention and job growth projects.

1963 SECTION 99. Subsection (b) of section 38R of chapter 63 of the General Laws, as
1964 appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 35 and 36, the
1965 words 'for the 6 year period beginning January 1, 2006, and ending December 31, 2011' and
1966 inserting in its place thereof the following words:- 'through December 31, 2015,'.

1967 SECTION 100. Said chapter 63 is hereby amended by inserting after section 38AA the
1968 following section: -

1969 Section 38BB. (1) A credit shall be allowed against the tax liability imposed by this
1970 chapter, to the extent awarded by the department of housing and community development
1971 (DHCD) established in chapter 23B, for a certified housing development project, as defined in
1972 chapter 40U, in an amount up to 25 per cent of the cost of qualified substantial rehabilitation
1973 expenditures of the market rate units within the project, as defined in section (1) of chapter 40U.
1974 The credit under this section shall be allowed for the taxable year in which DHCD gives the
1975 commissioner written notification of completion of the certified housing development project.

1976 (2) Taxpayers eligible for the this credit may, with prior notice to and in accordance with
1977 regulations adopted by the commissioner transfer the credits, in whole or in part, to any
1978 individual or entity, and the transferee shall be entitled to apply the credits against the tax with
1979 the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself.

1980 (3) If the credit allowable for any taxable year exceeds the taxpayer's tax liability for that
1981 tax year, the taxpayer may carry forward and apply in any subsequent taxable year, the portion of
1982 the, as reduced from year to year , of those credits which exceed the tax for the taxable year;
1983 provided, however, that in no event shall the taxpayer apply the credit to the tax for any taxable
1984 year beginning more than five years after the taxable year in which DHCD gives the
1985 commissioner written notification of completion of the certified housing development project. If
1986 the credit is transferred by the taxpayer, the carry over provisions applicable to the transferee
1987 apply.

1988 A transferee shall use the credit in the year it is transferred. If the credit allowable for any
1989 taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry
1990 forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of

1991 those credits which exceed the tax for the taxable year; provided, however, that in no event shall
1992 the transferee apply the credit to the tax for any taxable year beginning more than five years after
1993 the taxable year in which DHCD gives the commissioner written notification of completion of
1994 the certified housing development project.

1995 (4) For any certified housing development project, qualified rehabilitation expenditures
1996 applicable to this credit shall be treated for purposes of this section as made on the date that
1997 DHCD gives the Commissioner written notification of completion of the certified housing
1998 development project.

1999 (5) The total amount of credits that may be authorized by the DHCD in a calendar year
2000 pursuant to this section and subsection (q) of section (6) of chapter 62 shall not exceed
2001 \$5,000,000 and shall include: (1) credits granted during the year pursuant to this section or said
2002 subsection (q) of section (6) of chapter 62; (2) carry forwards of credits from prior years pursuant
2003 to this section or said subsection (q) of section (6) of chapter 62, to the extent that such credit
2004 carry forwards are estimated by the commissioner to offset tax liabilities during the year. Any
2005 portion of the \$5,000,000 annual cap not awarded by the DHCD in a calendar year shall not be
2006 applied to awards in a subsequent year. The DHCD shall provide the commissioner of revenue
2007 with any documentation that the commissioner deems necessary to confirm compliance with the
2008 annual cap and the commissioner shall provide a report confirming compliance with the annual
2009 cap to the secretary of administration and finance and the secretary of housing and economic
2010 development.

2011 (6) The commissioner, in consultation with the DHCD, shall prescribe regulations
2012 necessary to carry out this section.

2013 SECTION 101. Subsection (c) of section 45 of chapter 75 of the General Laws, as so
2014 appearing, is hereby amended by striking out, in line 15, the words, ‘director of business and
2015 technology’ and inserting in place thereof the following words:- secretary of housing and
2016 economic development.

2017 SECTION 102. Said subsection (c) of said section 45 of said chapter 75, as so appearing,
2018 is hereby further amended by striking out, in line 19, the words, ‘department of business
2019 technology’ and inserting in place thereof the following words:- Massachusetts office of
2020 business development.

2021 SECTION 103. Subsection (d) of said section 45 of said chapter 75, as so appearing, is
2022 hereby amended by striking out, in lines 25 to 27, inclusive, the words ‘director of business and
2023 technology, or his designee, the director of science and technology within the department of
2024 business and technology and 7’ and inserting in place thereof the following words:- secretary of
2025 housing and economic development, who shall serve as chair, the executive director of the
2026 Massachusetts development finance agency, the president of the Massachusetts life sciences
2027 center, the executive director of the Massachusetts clean energy center, the director of the John
2028 Adams Innovation Institute, the president of the Massachusetts Technology development
2029 corporation and 8.

2030 SECTION 104. Chapter 75 of the General Laws is hereby amended by inserting after
2031 section 45 the following section:-

2032 Section 45A. The center shall be subject to sections 3K and 56 of chapter 23A.

2033 SECTION 105. Chapter 111N of the General Laws is hereby repealed.

2034 SECTION 106. The second paragraph of section 14 of chapter 167 of the General Laws,
2035 as so appearing, is hereby amended by striking out, in line 22, the words ‘8, 29 and 30’ and
2036 inserting in place thereof the following words:- 8, 29, 30 and 30A.

2037 SECTION 107. Section 2 of chapter 167F of the General Laws, as so appearing, is hereby
2038 amended by inserting after paragraph 30 the following paragraph:

2039 30A. To participate in the activities of the Massachusetts Growth Capital Corporation
2040 created under chapter 40F by making capital available to the corporation by making an
2041 investment or deposit in or grant to said corporation, an affiliate or subsidiary of said corporation
2042 or any fund managed by said corporation.

2043 SECTION 108. Paragraph 13 of said section 2 of said chapter 167F, as so appearing, is
2044 hereby amended by striking out the first sentence and inserting in place thereof the following
2045 sentence:

2046 To act as trustee for the holders of a bond issued by the Massachusetts Industrial Finance
2047 Agency, under chapter 23A or by any industrial development authority of a city or town under
2048 chapter 40D or by the Massachusetts Health and Educational 3050 Facilities Authority, under
2049 chapter 23K.

2050 SECTION 109. The first paragraph of section 168 of chapter 175 of the General Laws, as
2051 so appearing, is hereby amended by inserting after the sixth sentence the following sentence:-

2052 Any insurance policy procured under this section shall contain the following disclosure
2053 notice to the policyholder: This policy is insured by a company which is not admitted to transact
2054 insurance in the commonwealth, is not supervised by the commissioner of insurance and, in the

2055 event of an insolvency of such company, a loss shall not be paid by the Massachusetts Insurers
2056 Insolvency Fund under chapter 175D. The commissioner may by regulation amend the foregoing
2057 disclosure notice.

2058 SECTION 110. Said section 168 of said chapter 175, as so appearing, is hereby further
2059 amended by striking out, in line 61, the word ‘or’.

2060 SECTION 111. Said section 168 of said chapter 175, as so appearing, is hereby further
2061 amended by inserting after the figure ‘20A’ the following words:- or (c) such company is an
2062 eligible alien unauthorized insurer as defined in section 168A.

2063 SECTION 112. Said chapter 175 of the General Laws is hereby further amended by
2064 inserting after section 168 the following section:

2065 Section 168A. (a) As used in this section ‘eligible alien unauthorized insurer’ shall mean
2066 a company formed under the laws of any government or state other than the United States or 1 of
2067 its states or its territories that has filed an application with the commissioner pursuant to
2068 subsection (c)(4) of this section, which application has been approved by the commissioner.

2069 (b) Notwithstanding any general or specific law to the contrary, a special broker licensed
2070 by the commissioner pursuant to section 168 of this chapter may procure insurance from any
2071 company formed under the laws of any government or state other than the United States or one
2072 of its states or its territories that is not authorized to transact business in the commonwealth if:

2073 (1) such company has been determined by the commissioner to be an eligible alien unauthorized
2074 insurer pursuant to clause (4) of subsection (c); (2) the special broker has executed and filed an
2075 affidavit with the commissioner within 20 days after procuring such insurance stating that the
2076 full amount or type of insurance cannot be obtained from among companies admitted to transact

2077 insurance in the commonwealth after a diligent effort has been made to do so and that the
2078 amount of insurance procured in such company is only the excess over the amount so procurable
2079 from admitted companies; (3) the procured policy contains the disclosure notice required by
2080 section 168; and (4) all other requirements of this section and section 168 that are not
2081 inconsistent with this subsection have been met. Insurance procured under this section shall be
2082 valid and enforceable as to all parties. Nothing in this section shall be deemed to amend or
2083 modify any of the provisions of, or any of the exemptions specified in, section 168 that are
2084 inconsistent with this section.

2085 (c) No company shall be determined to be an eligible alien unauthorized insurer unless it:
2086 (1) has provided satisfactory evidence to the commissioner of its good reputation and financial
2087 integrity; (2) has capital and surplus or its equivalent under the laws of its domiciliary
2088 jurisdiction in an amount not less than \$20,000,000; (3) has in force a United States trust fund of
2089 not less than the greater of: (i) \$5,400,000; or (ii) a percentage of its United States surplus lines
2090 gross liabilities arising from business written on or after January 1, 1998, excluding aviation, wet
2091 marine, transportation insurance and direct procurement placements, such percentage to equal to
2092 the percentage and subject to any cap employed by the International Insurers Department of the
2093 National Association of Insurance Commissioners, as of December 31 next preceding the date of
2094 determination, where: (A) the liabilities are maintained in an irrevocable trust account in the
2095 United States in a qualified financial institution, on behalf of United States policyholders
2096 consisting of cash, securities, letters of credit or other investments of substantially the same
2097 character and quality as those which are eligible investments pursuant to this chapter for the
2098 capital and statutory reserves of admitted insurers to write like kinds of insurance in the
2099 commonwealth; provided, however, that the trust fund, which shall be included in any

2100 calculation of capital and surplus or its equivalent, shall satisfy the requirements of the Standard
2101 Form Trust Agreement required for listing with the International Insurers Department of the
2102 National Association of Insurance Commissioners; (B) the company may request approval from
2103 the commissioner to use the trust fund to pay valid surplus lines claims; provided, however, that
2104 the balance of the trust fund shall never be less than the minimum amount required by this
2105 subsection; and (C) in calculating the trust fund amount required by this subsection, credit shall
2106 be given for surplus lines deposits separately required and maintained for a particular state or
2107 territory of the United States, not to exceed the amount of the company's loss and loss adjustment
2108 reserves in that particular state or territory; and (4) has submitted to the commissioner an
2109 application evidencing the company's compliance with the requirements of this section that has
2110 been approved by the commissioner.

2111 (d) The application required by clause (4) subsection (c) shall be on forms issued or
2112 approved by the commissioner and shall include the following information regarding the alien
2113 unauthorized insurer applicant: (1) evidence that the unauthorized alien insurer has been listed by
2114 the International Insurers Department of the National Association of Insurance Commissioners;
2115 (2) a certified audited financial statement of the eligible a lien unauthorized insurer reflecting
2116 information as of a date not more than 12 months prior to the submission of the application
2117 evidencing compliance with the capital and surplus requirements of clause (2) of subsection (c)
2118 and an actuarial opinion as to the adequacy of and methodology used to determine the insurer's
2119 loss reserves; (3) a copy, certified by the trustee, of the United States trust agreement required by
2120 clause (3) of subsection (c) prepared in accordance with the National Association of Insurance
2121 Commissioner's Standard Form Trust Agreement for Alien Excess or Surplus Lines Insurers; (4)
2122 a copy, certified by the trustee, of the most recent quarterly statement of account or list of assets

2123 in the trust account required by clause (3) of subsection (c) evidencing that the alien
2124 unauthorized insurer has in force, as of the end of the most recent quarter, assets in the amounts
2125 required by said (clause (3) of said subsection (c); (5) a certified copy of the eligible alien
2126 unauthorized insurer's current license or certificate of authority issued by its domiciliary
2127 jurisdiction indicating that the company is authorized to insure the types of risks in its
2128 domiciliary jurisdiction that it proposes to insure in the commonwealth; (6) a Certificate of Good
2129 Standing or substantially similar documentation issued by the eligible alien unauthorized
2130 insurer's domiciliary jurisdiction; (7) biographical affidavits, on forms promulgated by the
2131 National Association of Insurance Commissioners or approved by the commissioner for all
2132 executive officers, directors and senior management personnel of the eligible alien unauthorized
2133 insurer, prepared not more than 12 months prior to the submission date of the application
2134 required by clause (4) of subsection (c); and (8) such additional information as the commissioner
2135 may require in order to determine that the eligible alien unauthorized insurer complies with the
2136 requirements of this section.

2137 (e) The commissioner may refuse to approve an application pursuant to this section if the
2138 commissioner is of the opinion that such refusal will be in the public interest. In reviewing an
2139 application, the commissioner may consider such factors as: (1) the length of time the insurer has
2140 been authorized in its domiciliary jurisdiction and elsewhere; (2) the unavailability of the
2141 particular coverages from authorized insurers or unauthorized insurers meeting the requirements
2142 of this section and section; (3) the size of the company as measured by its assets, capital and
2143 surplus, reserves, premium writings, insurance in force or other appropriate criteria; (4) the kinds
2144 of business the company writes, its net exposure and the extent to which the company's business
2145 is diversified among several lines of insurance and geographic locations; and (5) the past and

2146 projected trend in the size of the company's capital and surplus considering such factors as
2147 premium growth, operating history, loss and expense ratios or other appropriate criteria.

2148 (f) The commissioner may revoke a company's status as an eligible alien unauthorized
2149 insurer in accordance with the terms and conditions of section 5 the commissioner has
2150 determined that the insurer:(1) is in unsound financial condition or has acted in an untrustworthy
2151 manner; (2) no longer meets the standards set forth in subsection (c); (3) has willfully violated
2152 the laws of the commonwealth; or (4) does not conduct a proper claims practice.

2153 SECTION 113. Section 21 of chapter 218 of the General Laws, as so appearing, is
2154 hereby amended by striking out, in lines 6 and 35, the words ‘two thousand dollars’ and inserting
2155 in place thereof the following figure:- \$7,000.

2156 SECTION 114. Section 22 of said chapter 218, as so appearing, is hereby amended by
2157 adding the following paragraph:-

2158 The entry fee shall be \$75 for a party that has filed 5 statements of claim in a small
2159 claims session of the court during the calendar year, \$150 for a party that has previously filed 10
2160 statements of claim in a small claims session of the court during the calendar year and \$240 for a
2161 party that has previously filed 100 statements of claim in a small claims session of the court
2162 during the calendar year.

2163 SECTION 115. Chapter 465 of the acts of 1956 is hereby amended by inserting after
2164 section 21 the following section:

2165 Section 21A. The authority shall be subject to sections 3K and 56 of chapter 23A of the
2166 General Laws.

2167 SECTION 116. Section 3 of Chapter 614 of the acts of 1968, as amended, is hereby
2168 further amended by adding before the definition of ‘Authority’, the following definition:-

2169 ‘Agency’, the Massachusetts Development Finance Agency created by chapter 23G, as
2170 amended.

2171 SECTION 117. Subsection (a) of section 4 of chapter 614 of the acts of 1968, as
2172 amended, is hereby further amended by striking out every sentence after the second sentence and
2173 inserting in place thereof the following sentences:-

2174 Said authority shall be governed by the board of the Massachusetts Development Finance
2175 Agency as established by section 2 of chapter 23G, as amended, and the board members of the
2176 Agency shall serve as trustees for any existing Authority trust.

2177 SECTION 118XRR. Section 4 of chapter 614 of the acts of 1968 is hereby repealed.

2178 SECTION 119. Subsection (b) of section 4 of chapter of chapter 614 of the acts of 1968,
2179 as amended is hereby further amended by inserting after the last sentence the following sentence:

2180 The executive director, assistant executive director, and any other employees of the
2181 Authority who act as trustees for any trust established under the authority granted by this chapter
2182 shall not approve matters in their capacity as trustees without first receiving approval from the
2183 board.

2184 SECTION 120. Chapter 614 of the acts of 1968, as amended, is hereby further amended
2185 by striking the word ‘authority’ wherever it appears and inserting in place thereof the word
2186 ‘Agency’.

SECTION 121. Section 33 of chapter 190 of the acts of 1982 is hereby amended by striking out the second paragraph, as appearing in chapter 23 of the acts of 1998, and inserting in place thereof the following paragraph:

The authority shall consist of 13 members, 9 of whom shall be appointed by the governor, 1 of whom shall be the secretary of housing and economic development or the secretary's designee, who shall serve as chair, 1 of whom shall be appointed from a list of 3 nominees recommended by the Massachusetts Visitors Industry Council, 1 of whom shall be appointed from a list of 3 nominees recommended by the Massachusetts Lodging Association, 1 of whom shall be a resident of the city of Cambridge and 1 of whom shall be a resident of Hampden county. Two persons shall be appointed by the mayor of the city of Boston, 1 of whom shall be a resident of South Boston. The remaining 2 persons shall be the secretary of administration and finance or the secretary's designee and the collector treasurer of the city of Boston or the collector treasurer's designee, both of whom shall serve ex officio and shall have the right to exercise or vote on matters before the authority. Three of the members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2000 and 3 members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2001 and 3 members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2003. The term of each such member shall be designated by the governor and shall continue until the member's successor is duly appointed and qualified. The members appointed by the mayor shall continue in office for a term expiring December 31, 1999, and shall continue until their successors are duly appointed and qualified. The successor of each such member shall be appointed for a term of 6 years and until his successor is duly appointed and qualified, except that a person appointed to fill a

2210 vacancy shall serve only for the unexpired term and until the appointee's successor is duly
2211 appointed and qualified. Each member of the authority shall be eligible for reappointment. Each
2212 member of the authority shall serve at the pleasure of the governor, if appointed by the governor,
2213 and each member of the authority may be removed by the governor, if appointed by the
2214 governor, or by the mayor, if appointed by the mayor. Each member of the authority before
2215 entering upon such member's duties shall take an oath before the governor to administer the
2216 duties of the member's office faithfully and impartially, and a record of such oaths shall be filed
2217 in the office of the secretary of the commonwealth. Members of the authority shall serve without
2218 compensation, but service as a member of the authority shall be credited to such member's years
2219 in service for pension and retirement purposes.

2220 SECTION 122. Section 6 of chapter 528 of the acts of 1990, as amended by section 302
2221 of chapter 159 of the acts of 2000, is hereby further amended by striking out 'July 1, 2010' and
2222 inserting in place thereof the following words:- July 1, 2020.

2223 SECTION 123. Sections 3A, 20A and 25 of chapter 175 of the acts of 1998 are hereby
2224 repealed.

2225 SECTION 124. Notwithstanding any general or special law to the contrary, the term the
2226 'Massachusetts Health and Educational Facilities Authority' or 'HEFA', wherever either appears
2227 in a general or special law, except as they appear in this act, shall mean the 'Massachusetts
2228 Development Finance Agency'; provided, however, that such change of reference shall not
2229 restrict or limit in any manner the exercise by the Massachusetts Development Finance Agency
2230 of its rights, powers, duties or purposes, or to its ownership and holding of properties and assets
2231 under chapter 23G or any other provision of law applicable to the Massachusetts Development

2232 Finance Agency, including without limitation the power of the Massachusetts Development
2233 Finance Agency to issue bonds under said chapter 23G or under any such other provision.

2234 SECTION 125. (a) On October 1, 2010, the Massachusetts Health and Educational
2235 Facilities Authority, as established by section 4 of chapter 614 of the acts of 1956, shall be
2236 dissolved, without any further action, and the rights, powers and duties, and properties of the
2237 Authority shall on and after such date be exercised, performed, owned and held by the
2238 Massachusetts Development Finance Agency as established by chapter 23G, as amended. All
2239 real estate, property rights, personal property, funds, moneys, revenues, receipts, contract rights,
2240 trust agreements, any rights or interests of the Authority in any trusts or trust property, or other
2241 intangible assets, equipment or other ownership, possessory, or security interests or mortgages of
2242 any kind whatsoever, or any portion thereof held by the Authority, including, without limitation,
2243 funds previously appropriated by the commonwealth for the Authority, shall be deemed for
2244 record notice and otherwise, as applicable, to belong to the Agency on the same basis and with
2245 the same interest as previously held by the Authority, as applicable. Any and all obligations and
2246 liabilities of said Authority shall become obligations and liabilities of the Agency. Any
2247 resolution taken by or commitment made by the Authority with respect to any financing,
2248 including loans, bond issuances, guarantees and insurance and any other action made by the
2249 Authority shall become resolutions of the Agency.

2250 All duly existing contracts, leases, trusts, or obligations of the Authority that are in force
2251 immediately before the effective date of the dissolution of the Authority shall be deemed to be
2252 the obligations of the Agency. No existing right or remedy under this section shall be lost,
2253 impaired or affected by this act. The Agency shall have authority to exercise all rights and enjoy
2254 all interests conferred upon the Authority by the contracts, leases or obligations. In the case of

2255 collective bargaining agreements, any obligations under the agreements shall expire on the stated
2256 date of expiration of such agreements.

2257 The transfer of the assets, liabilities, obligations and debt of the Authority to the Agency
2258 under this act shall be effective upon dissolution of the Authority and shall bind all persons with
2259 or without notice and without any further action or documentation. Without derogating from the
2260 foregoing, the Agency may, from time to time, execute and record and file for registration with
2261 any registry of deeds or the land court or with the secretary of the commonwealth, as appropriate,
2262 a certificate confirming the Agency's ownership of any interest in real or personal property
2263 formerly held by the Authority and transferred pursuant to the provisions of this act and
2264 establishing and confirming the limits of property so transferred.

2265 This act shall not limit or impair the rights, remedies, or defenses of the commonwealth,
2266 the Agency, or the Authority in or to any action or proceeding, including, without limitation, any
2267 brought under chapter 258 of the General Laws. Actions and proceedings against or on behalf of
2268 the Authority shall continue unabated and, from and after the date of dissolution of the
2269 Authority, may be completed against or by the Agency.

2270 Notwithstanding the foregoing, no existing rights of the holders of the bonds issued by
2271 the Authority shall be impaired, and the Agency as successor in interest to the Authority shall
2272 maintain the covenants of the trust indentures pertaining to such bonds so long as such bonds
2273 shall remain outstanding.

2274 All orders, rules and regulations duly made and all approvals duly granted by the
2275 Authority, which are in force immediately before the effective date of this act, shall continue in

2276 force and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded
2277 or canceled, in accordance with law, by the Agency.

2278 All books, papers, records, documents, equipment, buildings, facilities, cash and other
2279 property and assets, both personal and real, including all such property and assets held in trust,
2280 which on October first, two thousand and ten are in the custody of the Authority shall be
2281 transferred to the Agency.

2282 SECTION 126. Notwithstanding any general or special law to the contrary, as of the
2283 effective date of this act, the Massachusetts Development Finance Agency shall develop and
2284 implement a transfer plan, subject to the approval of the secretary of administration and finance,
2285 providing for the orderly transfer of personnel, all assets, liabilities, obligations, debts listed,
2286 including but not limited to those listed in section 125 of this act, from the Authority to the
2287 Agency, consistent with the provisions contained in section 125 of this act. The transfer shall be
2288 complete by October 1, 2010.

2289 SECTION 127. (a) For the purposes of this section, the following words shall, unless the
2290 context clearly requires otherwise, have the following meanings:

2291 ‘Approval’, any permit, certificate, order excluding an enforcement order, license,
2292 certification, determination, exemption, variance, waiver, building permit, or other approval or
2293 determination of rights from any municipal, regional or state governmental entity, including any
2294 agency, department, commission or other instrumentality thereof, concerning the use or
2295 development of real property, including, but not limited to, certificates, licenses, certifications,
2296 determinations, exemptions, variances, waivers, building permits, or other approvals or
2297 determination of rights issued or made pursuant to chapter 21, chapter 21A excepting section 16,

2298 chapter 21D, sections 61 to 62H, inclusive, of chapter 30, chapters 30A, 40, 40A to 40C,
2299 inclusive, 40R, 41, 43D, section 21 of chapter 81, chapter 91, 131, 131A or 143, section 4 or 5 of
2300 chapter 249, or chapter 258 of the General Laws, or chapter 665 of the acts of 1956; or any local
2301 bylaw or ordinance.

2302 'Development', the division of a parcel of land into two or more parcels, the construction,
2303 reconstruction, conversion, structural alteration, relocation or enlargement of any building or
2304 other structure or facility, or of any grading, soil removal or relocation, excavation or landfill or
2305 any use or change in the use of any building or other structure or land or extension of the use of
2306 land.

2307 'Tolling Period', means the period beginning January 1, 2008 and continuing through
2308 January 1, 2011.

2309 (b) Notwithstanding any general or special law to the contrary, for any approval in effect
2310 or in existence during the tolling period, in addition to the lawful term of the approval, the
2311 approval shall be extended for a period of 3 years; provided, however, that nothing in this section
2312 shall be deemed to extend: (i) any permit or approval issued by the government of the United
2313 States or any agency or instrumentality thereof, or to any permit or approval by whatever
2314 authority issued of which the duration of effect or the date or terms of its expiration are specified
2315 or determined by or pursuant to law or regulation of the federal government or any of its
2316 agencies or instrumentalities; (ii) any permit, license, privilege or approval issued by the division
2317 of fisheries and wildlife pursuant to chapter 131 for hunting, fishing or aquaculture; (iii) or any
2318 permit or approval granted to a project receiving funds from the commonwealth's infrastructure
2319 investment incentive program.

2320 (c) Nothing in this section shall affect the ability of any municipal, regional or state
2321 governmental entity, including any agency, department, commission, or other instrumentality
2322 thereof to revoke or modify a specific permit or approval, or extension thereof pursuant to this
2323 section, when that specific permit or approval or the law or regulation under which the permit or
2324 approval was issued contains language authorizing the modification or revocation of the permit
2325 or approval.

2326 (d) If any approval tolled pursuant to this section is based upon the connection to a
2327 sanitary sewer system, the approval's extension shall be contingent upon the availability of
2328 sufficient capacity, on the part of the treatment facility, to accommodate the development whose
2329 approval has been extended. If sufficient capacity is not available, those permit holders whose
2330 approvals have been extended shall have priority with regard to the further allocation of
2331 gallonage over those approval holders who have not received approval of a hookup before the
2332 effective date of this section. Priority regarding the distribution of further gallonage to any
2333 permit holder who has received the extension of an approval pursuant to this Act shall be
2334 allocated in order of the granting of the original approval of the connection.

2335 (e) In the case when an owner or petitioner sells or otherwise transfers a property or
2336 project, in order for the permit to receive an extension, all commitments made by the original
2337 owner or petitioner, under the terms of the permit, must be upheld by the new owner or
2338 petitioner. If the new owner or petitioner does not meet or abide by those commitments then the
2339 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.

SECTION 128. Notwithstanding any general or special law to the contrary, the executive office of energy and environmental affairs, in consultation with the executive office of housing and economic development, shall conduct a study on the costs and benefits of recent electricity market reforms. The study shall include, but not be limited to: (i) an analysis of the economic and reliability implications of administrative, regulatory and legislative mandates as they pertain to electricity; (ii) the extent to which these mandates impact the rates paid by residential, commercial and industrial customers in the commonwealth and contribute to the bill savings realized by these customers; (iii) the extent to which these mandates contribute to economic development in the state.

The study shall be completed with stakeholder input, including representatives from the energy and economic sectors in the commonwealth.

The study shall be completed and submitted to the joint committee on telecommunications, utilities and energy and the joint committee on economic development and emerging technologies no later than December 31, 2010.

Notwithstanding any general or special law to the contrary, the comptroller shall promptly transfer \$15,000,000 of the Emerging Technology Fund, established pursuant to chapter 141 of the acts of 2003, to the Growth Capital Corporation, established pursuant to chapter 40F of the General Laws.

2361 SECTION 129. Sections 1 to 32, 38 to 75, 82, 85, 87 to 88, 90 to 99, 101 to 112, 115 to
2362 117, and 119 to 128 shall take effect upon passage

2363 SECTION 130. Sections 33 to 37 and section 118 shall take effect October 1, 2010.

2364 SECTION 131. Sections 76 to 81 shall apply only to districts created on or after the
2365 effective date of this act.

2366 SECTION 132. Sections 83, 84, 113 and 114 of this act shall take effect not later than
2367 December 31, 2010; provided, however, that said sections shall take effect earlier upon
2368 certification and 30 day notice from the chief justice for administration and management that the
2369 trial courts have the capacity to track the number of statements of claim filed by any party during
2370 a calendar year in a small claims session of the court, in either the district court or the Boston
2371 municipal court; and provided further that if the capacity does not exist as of October 31, 2010,
2372 the chief justice for administration and management shall file a report with the president of the
2373 senate and the speaker of the house of representative detailing the status of such efforts and
2374 estimating when such capacity will exist.

2375 SECTION 133. Section 86 and section 89 shall be effective for tax years beginning on or
2376 after January 1, 2011.

2377 SECTION 134. Section 100 shall take effect upon enactment and shall apply to qualified
2378 substantial rehabilitation expenditures incurred on or after its effective date, provided however,
2379 that sections 3 and 5 of the Act shall take effect on January 1, 2011.”; and by striking out the title
2380 and inserting in place thereof the following title: “An Act relative to business and job growth in
2381 the Commonwealth.”.