

SENATE No. 2345

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to economic development reorganization.

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

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 3 the
2 following chapter:-

3 CHAPTER 3A.

4 THE MASSACHUSETTS SUNSET ACT.

5 Section 1. There is hereby established a procedure for the identification and elimination
6 of waste, duplication and inefficiency in state government agencies and authorities established
7 by statute, regulation or executive order to be known as the Massachusetts Sunset Act.

8 Section 2. As used in this chapter, the following words shall, unless the context clearly
9 requires otherwise, have the following meanings:

10 “Advisory committee”, a committee, council, commission or other entity created under
11 state law whose primary function is to advise a state agency.

12 “ Agency”, an agency as defined in section 1 of chapter 29.

13 " Authority", an authority as defined in section 1 of chapter 29.

14 "Commission", the Sunset Advisory Commission established in section 3.

15 Section 3.

16 There shall be a Sunset Advisory Commission consisting of 12 members, 5 members of
17 the senate, 4 of whom shall be appointed by the president of the senate and 1 of whom shall be
18 appointed by the minority leader of the senate; 1 public member appointed by the president of
19 the senate; 5 members of the house of representatives, 4 of whom shall be appointed by the
20 speaker of the house of representatives and 1 of whom shall be appointed by the minority leader
21 of the house; and 1 public member appointed by the speaker of the house of representatives. The
22 president of the senate and the speaker of the house may serve as legislative appointees.

23 An individual is not eligible for appointment as a public member if the individual or the
24 individual's spouse is:

25 employed by an agency, advisory committee or authority that the commission will review
26 during the term for which the individual would serve;

27 employed by, participating in the management of, or having, directly or indirectly, more
28 than a 10 per cent interest in a business entity or other organization regulated by an agency,
29 advisory committee or authority that the commission will review during the term for which the
30 individual would serve; or

31 required to register as an executive or legislative agent under section 41 of chapter 3.

32 A public member of the commission shall be removed if the member does not have the
33 qualifications required by subsection (b) for appointment to the commission at the time of

34 appointment or does not maintain the qualifications while serving on the commission; provided,
35 however that the validity of the commission's action shall be unaffected if taken when a ground
36 for removal of a public member from the commission exists.

37 Legislative members shall serve 2-year terms, conterminous with their service as elected
38 members of the legislature. If a legislative member ceases to be a member of the legislature, the
39 legislator's position shall be declared vacant, and the balance of the term filled by another
40 legislator appointed in the same manner as the previous appointee. If the president of the senate
41 or the speaker of the house serves on the commission, service continues until resignation from
42 the commission or until the individual ceases to hold the office. Public members shall serve 2-
43 year terms expiring January 1 of each odd-numbered year.

44 Members other than the president of the senate and the speaker of the house are subject to
45 the following restrictions:

46 after a public member serves 6 consecutive years on the commission, the individual shall
47 not be eligible for appointment to another term or part of a term until the expiration of 2 years;

48 a legislative member who serves a full term may not be appointed to an immediately
49 succeeding term; and

50 a public member may not serve more than 3 consecutive 2-year terms; provided,
51 however, that, for purposes of this prohibition, a member is considered to have served a term
52 only if the member has served more than half of the term.

53 The president of the senate and the speaker of the house shall make their appointments
54 before February 1 of each odd-numbered year.

55 If a legislative member ceases to be a member of the house from which the member was
56 appointed, the seat held by that member shall be considered vacant.

57 If a vacancy occurs, the appropriate appointing authority shall appoint a person to serve
58 for the remainder of the unexpired term in the same manner as the original appointment.

59 The commission shall have a chair and a vice-chair as presiding officers. The chair and
60 vice-chair positions must alternate every 2 years between the 2 membership groups appointed by
61 the president of the senate and the speaker of the house. The chair and vice-chair shall not be
62 from the same membership group. The president of the senate shall designate a presiding officer
63 from the president's appointed membership group and the speaker shall designate the other
64 presiding officer from the speaker's appointed membership group.

65 Seven members of the commission shall constitute a quorum. A final action or
66 recommendation may not be made unless approved by a recorded roll call vote of a majority of
67 members appointed by the president of the senate and the speaker of the house. All other actions
68 by the commission shall be decided by a majority of the members present and voting, so long as
69 a quorum is present.

70 Each member of the commission shall be entitled to reimbursement for actual and
71 necessary expenses incurred in performing commission duties. Each legislative member shall be
72 entitled to reimbursement from the appropriate fund of the member's respective body. Each
73 public member shall be entitled to reimbursement from funds appropriated to the commission.

74 Section 4.

75 The commission shall employ an executive director to act as the executive head of the
76 commission.

77 The executive director may employ persons necessary to carry out this chapter through
78 funds appropriated to the commission.

79 The chair and vice-chair of the commission may each employ a staff person to work for
80 them on activities related to the commission.

81 Section 5.

82 The commission shall adopt rules necessary to carry out this chapter.

83 Section 6.

84 Before July 1 of the odd-numbered year before the year in which an agency, advisory
85 committee or authority subject to this chapter is abolished, the agency, advisory committee or
86 authority shall report to the commission:

87 information regarding the application to the agency, advisory committee or authority of
88 the criteria set forth in section 10; and

89 any other information that the agency, advisory committee or authority considers
90 appropriate or that the commission requests.

91 Section 7.

92 Within 1 year of the appointment and qualification of the members of the commission,
93 and the organization of the commission staff, the commission shall assign sunset dates for each
94 agency, authority and advisory committee of the commonwealth, and shall notify the head of

95 such agency, authority and advisory committee of the date selected. The commission shall then
96 file legislation with the general court to implement the abolition schedule.

97 Before January 1 of the year in which an agency, advisory committee or authority subject
98 to this chapter is scheduled to be abolished, the commission shall:

99 review and take action necessary to verify the reports submitted by the agency, advisory
100 committee or authority under this chapter;

101 consult the house and senate committees on post audit and oversight, the state auditor,
102 the inspector general and the state comptroller, or their successors, on the application to the
103 agency, advisory committee or authority of the criteria in section 10;

104 conduct a review of the agency, advisory committee or authority based on the criteria in
105 section 10 and prepare a written report; and

106 review the implementation of commission recommendations contained in the reports
107 presented to the legislature during the preceding legislative session and the resulting legislation.

108 The written report prepared by the commission under clause (3) of subsection (b) shall be
109 a public record.

110 Section 8.

111 Before February 1 of the year in which an agency, advisory committee or authority
112 subject to this chapter and is to be abolished, the commission shall conduct public hearings
113 concerning, but not limited to, the application to the agency, advisory committee or authority of
114 the criteria in section 10.

115 The commission may hold the public hearings after the review of the agency, advisory
116 committee or authority is complete and available to the public.

117 Section 9.

118 At each regular legislative session, the commission shall present to the legislature and the
119 governor a report on the agencies, authorities and advisory committees reviewed.

120 In the report the commission shall include:

121 its findings under section 10;

122 its recommendations under this chapter; and

123 other information the commission considers necessary for a complete review of the
124 agency, advisory committee or authority.

125 Section 10. The commission and its staff shall consider the following criteria in
126 determining whether a public need exists for the continuation of a state agency, authority or
127 advisory committee or for the performance of the functions of the agency, authority or advisory
128 committee:

129 the efficiency and effectiveness with which the agency, authority or advisory committee
130 operates;

131 an identification of the mission, goals, and objectives intended for the agency, authority
132 or advisory committee and of the problem or need that the agency, authority or advisory
133 committee was intended to address; and

134 the extent to which the mission, goals and objectives have been achieved and the problem
135 or need has been addressed;

136

137 an identification of any activities of the agency, authority or advisory committee in
138 addition to those granted by statute and of the authority, agency or advisory committee for those
139 activities; and

140 the extent to which those activities are needed;

141 an assessment of authority of the agency, authority or advisory committee relating to
142 fees, inspections, enforcement and penalties;

143 whether less restrictive or alternative methods of performing a function that the agency,
144 authority or advisory committee performs could adequately protect or provide service to the
145 public;

146 the extent to which the jurisdiction of the agency, authority or advisory committee and
147 the programs administered by the agency, authority or advisory committee overlap or duplicate
148 those of other agencies, authorities or advisory committees, the extent to which the agency,
149 authority or advisory committee coordinates with those agencies, authorities or advisory
150 committees, and the extent to which the programs administered by the agency, authority or
151 advisory committee can be consolidated with the programs of other authorities, agencies or
152 advisory committees;

153 the promptness and effectiveness with which the agency, authority or advisory committee
154 addresses complaints concerning entities or other persons affected by the agency, authority or

155 advisory committee, including an assessment of the agency's, authority's or advisory
156 committee's administrative hearings process;

157 an assessment of the agency's, authority's or advisory committee's rulemaking process
158 and the extent to which the agency, authority or advisory committee has encouraged participation
159 by the public in making its rules and decisions and the extent to which the public participation
160 has resulted in rules that benefit the public;

161 the extent to which the agency, authority or advisory committee has complied with:

162 federal and state laws and applicable rules regarding equality of employment opportunity
163 and the rights and privacy of individuals; and

164 state law and applicable rules of any state agency, authority or advisory committee
165 regarding purchasing guidelines and programs for historically underutilized businesses;

166 the extent to which the agency, authority or advisory committee issues and enforces rules
167 relating to potential conflicts of interest of its employees and chapter 268A;

168 the extent to which the agency or authority complies with chapters 66 and 66A and
169 follows records management practices that enable the agency to respond efficiently to requests
170 for public information;

171 the effect of federal intervention or loss of federal funds if the agency, authority or
172 advisory committee is abolished;

173 the extent to which the authority has issued bonds or otherwise incurred similar long-term
174 obligations, the amount of outstanding bonded indebtedness for which the authority is

175 responsible and the sustainability of another authority assuming responsibility for such long-term
176 obligations; and

177 whether the authority is responsible for a retirement system for its employees, and the
178 extent of the authority's obligations and available funding under such retirement system and for
179 other post-employment benefits for retired employees.

180 Section 11. (a) In its report on an agency, authority or advisory committee, the
181 commission shall:

182 make recommendations on the abolition, continuation or reorganization of each affected
183 agency, authority or advisory committee, and on the need for performance of the functions of the
184 agency, authority or advisory committee;

185 make recommendations on the consolidation, transfer or reorganization of programs
186 within agencies or authorities not under review when the programs duplicate functions
187 performed in agencies or authorities under review; and

188 make recommendations to improve the operations of the agency, its policy body,
189 authority or advisory committee, including management recommendations that do not require a
190 change in the agency's or authority's enabling statute.

191 The commission shall include the estimated fiscal impact of its recommendations and
192 may recommend appropriation levels for certain programs to improve the operations of the
193 agency, authority or advisory committee, to be forwarded to the house and senate committees on
194 ways and means and the executive office for administration and finance.

195 The commission shall prepare drafts of legislation to carry out the commission's
196 recommendations under this section.

197 After the legislature acts on the report, the commission shall present to the secretary of
198 administration and finance, the commission's recommendations that do not require a statutory
199 change to be put into effect.

200 Section 12. In the 2-year period preceding the date scheduled for the abolition of a state
201 agency, authority or advisory committee under this chapter, the commission may exempt certain
202 agencies, authorities or advisory committees from the requirements of this chapter relating to
203 staff reports, hearings, and reviews.

204 The commission may only exempt an agency, authority or advisory committee that has
205 been inactive for a period of 2 years preceding the date the agency, authority or advisory
206 committee is scheduled for abolition or that has been rendered inactive by an action of the
207 legislature.

208 The commission's action in exempting an agency, authority or advisory committee under
209 this section must be done by an affirmative record vote and must be decided by a majority of all
210 members present and voting.

211 Section 13. During each legislative session, the staff of the commission shall monitor
212 legislation affecting agencies, authorities and advisory committees that have undergone sunset
213 review and shall periodically report to the members of the commission on proposed changes
214 which would modify prior recommendations of the commission.

215 Section 14. An advisory committee, the primary function of which is to advise a
216 particular agency or authority, shall be abolished on the date set for abolition of the agency or
217 authority unless the advisory committee shall have been expressly continued by law.

218 Section 15. (a) During the annual session immediately before the abolition of an agency,
219 authority or an advisory committee that is subject to this chapter, the legislature may continue the
220 agency, authority or advisory committee for a period not to exceed 12 years.

221 This chapter shall not prohibit the legislature from:

222 terminating a state agency, authority or advisory committee subject to this chapter at a
223 date earlier than that provided in this chapter; or

224 considering other legislation relative to a state agency, authority or advisory committee
225 subject to this chapter.

226 Section 16.

227 An agency, authority or advisory committee that is abolished in an odd-numbered year
228 may continue in existence until June 30 of the following year to conclude its business. Unless
229 the law provides otherwise, abolition does not reduce or otherwise limit the powers and authority
230 of the agency or authority during the concluding year. An agency or authority is terminated and
231 shall cease all activities at the expiration of the 1-year period. Unless the law provides
232 otherwise, all rules that have been adopted by the agency or authority expire at the expiration of
233 the 1-year period.

234 An un-obligated or unexpended appropriation of an abolished agency or advisory
235 committee shall lapse on September 1 of the year after abolition.

236 Except as provided by subsection (f) or as otherwise provided by law, all money in a
237 dedicated fund of an abolished state agency, authority or advisory committee on September 1 of
238 the year after abolition shall be transferred to the General Fund. The part of the law dedicating
239 the money to a specific fund of an abolished agency becomes void on September 1 of the year
240 after abolition.

241 Unless otherwise provided otherwise, an abolished state agency, authority or advisory
242 committee funded by the legislature may not spend or obligate any of the money appropriated
243 beyond 1 year from the date of abolition.

244 Unless the governor designates an appropriate agency as prescribed by subsection (f),
245 property and records in the custody of an abolished state agency, authority or advisory
246 committee on September 1 of the year after abolition shall be transferred to the state archives. If
247 the governor designates an appropriate agency, the property and records shall be transferred to
248 the designated agency.

249 The legislature recognizes the state's continuing obligation to pay bonded indebtedness
250 and all other obligations, including lease, contract, and other written obligations, incurred by an
251 agency or authority abolished under this chapter, and this chapter shall not impair or impede the
252 payment of bonded indebtedness and all other obligations, including lease, contract and other
253 written obligations, in accordance with their terms. If an abolished agency or authority has
254 outstanding bonded indebtedness or other outstanding obligations, including lease, contract or
255 other written obligations, the bonds and all other obligations, including lease, contract and other
256 written obligations shall remain valid and enforceable in accordance with their terms and subject
257 to all applicable terms and conditions of the laws and proceedings authorizing the bonds and all

258 other obligations, including lease, contract and other written obligations. The governor shall
259 designate an appropriate agency or authority that shall continue to carry out all covenants
260 contained in the bonds and in all other obligations, including lease, contract and other written
261 obligations, to complete the construction of projects or the performance of other obligations,
262 including lease, contract, and other written obligations. The designated agency or authority shall
263 provide payment from the sources of payment of the bond under the terms of the bonds and shall
264 provide payment from the sources of payment of all other obligations, including lease, contract
265 and other written obligations, under their terms, whether from taxes, revenues, or otherwise, until
266 the bonds and interest on the bonds are paid in full and all other obligations, including lease,
267 contract and other written obligations, are performed and paid in full. If the proceedings so
268 provide, all funds established by laws or proceedings authorizing the bonds or authorizing other
269 obligations, including lease, contract and other written obligations, shall remain with the
270 comptroller or the previously designated trustees. If the proceedings do not provide that the
271 funds remain with the comptroller or the previously designated trustees, the funds shall be
272 transferred to the designated agency or authority.

273 Section 17.

274 The commission may issue a subpoena to compel the attendance of witnesses and the
275 production of books, records, papers and other objects necessary or proper for the purposes of
276 the commission proceedings. The process may be served on a witness at any place in the
277 commonwealth.

278 If a majority of the commission directs the issuance of a subpoena, the chairman shall
279 issue the subpoena in the name of the commission.

280 If the chairman is absent, the chairman’s designee may issue a subpoena or other process
281 in the same manner as the chairman.

282 If necessary to obtain compliance with a subpoena or other process, the commission may
283 issue attachments. The attachments may be addressed to and served by a constable, sheriff or
284 deputy sheriff in the commonwealth.

285 Testimony taken under subpoena must be reduced to writing and given under oath subject
286 to the penalties of perjury.

287 A witness who attends a commission proceeding under process shall be paid the same
288 fees and mileage paid witnesses in courts of the commonwealth.

289 Section 18.

290 The commission may request the assistance of agencies. When assistance is requested, an
291 agency or an agency officer shall reasonably assist the commission.

292 In carrying out its functions under this chapter, the commission or its designated staff
293 member may inspect the records, documents and files of any agency or authority.

294 Section 19.

295 A working paper, including all documentary or other information, prepared and
296 maintained by the commission staff in performing its duties under this chapter or other law to
297 conduct an evaluation and prepare a report is exempted from the public disclosure requirements
298 of chapter 66.

299 A record held by another entity that is considered to be confidential by law and that the
300 commission receives in connection with the performance of the commission's functions under
301 this chapter or another law remains confidential and is exempted from the public disclosure
302 requirements of chapter 66.

303 Section 20. If an employee is displaced because an agency, authority or advisory
304 committee is abolished, reorganized or continued, the head of the agency, authority or advisory
305 committee and the personnel administrator of the commonwealth shall make a reasonable effort
306 to relocate the displaced employee. Except as otherwise expressly provided, abolition of an
307 agency, authority or advisory committee shall not affect the rights and duties that matured,
308 penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were
309 begun before the effective date of abolition.

310 Section 21.

311 Each bill filed in the legislature that would create a new agency, authority or advisory
312 committee to an agency shall be reviewed by the commission.

313 The commission shall review the bill to determine whether:

314 the proposed functions of the agency, authority or committee could be administered by 1
315 or more existing agencies, authorities or advisory committees;

316 the form of regulation, if any, proposed by the bill is the least restrictive form of
317 regulation that will adequately protect the public;

318 the bill provides for adequate public input regarding any regulatory function proposed by
319 the bill; and

320 the bill provides for adequate protection against conflicts of interest within the agency,
321 authority or advisory committee.

322 On request, the commission shall forward a written comment on the legislation to the
323 author of the bill and to the presiding officer of the legislative committee to which the bill has
324 been referred.

325 Section 22. (a) The commission may accept from any source any grant, donation, gift or
326 other form of conveyance of land, money, other real or personal property or other item of value
327 made to the Commonwealth or the commission for carrying out the purpose of sections 1 to 22
328 inclusive.

329 SECTION 2. Subsection (a) of section 16G of chapter 6A of the General Laws, as
330 appearing in the 2008 Official Edition, is hereby amended by striking out, in line 2, the words “a
331 department” and inserting in place thereof the following words:- the Massachusetts office.

332 SECTION 3. Said section 16G of said chapter 6A, as so appearing, is hereby amended by
333 striking out subsections (i) and (j) and inserting in place thereof the following 2 subsections:-

334 (i) The secretary shall operate and administer an office of performance management and
335 oversight within the executive office. The secretary shall establish a performance measurement
336 system and report publicly on progress to improve the effectiveness of the commonwealth’s
337 economic development efforts. Performance measurements shall include both output measures,
338 such as numbers of inquiries and referrals, and outcome measures, such as jobs to be retained as
339 a result of agency operations. Performance measurements shall include at least the then-current
340 fiscal year and the previous 3 fiscal years. The system shall be applicable to the Massachusetts
341 office of business development and all divisions or offices within that office, private entities with

342 whom the office may contract to perform services on behalf of the office and agencies or
343 authorities subject to section 56 of chapter 23A.

344 Agencies to which the system applies shall file an annual report with the office of
345 performance management and oversight. The annual report, which shall be in a form and
346 manner prescribed by the secretary, shall include:

347 a secretary approved agency plan for the year including the goals set for the year and the
348 performance measurements by which to evaluate those goals and programs or initiatives; and

349 the agency's:

350 operations and accomplishments; and

351 performance on the goals and programs or initiative outlined in the agency's approved
352 plan;

353 receipts and expenditures during the agency's fiscal year;

354 assets and liabilities at the end of the agency's fiscal year;

355 audited financial reports;

356 the number, nature and amounts of investments made and grants awarded;

357 information detailing debt or equity investment;

358 the number, nature and amounts of any loans, real estate loans, working capital loans and
359 guarantees approved;

360 other forms of financing or financial assistance that the agency provided;

361 a report of patents or products resulting from funded activities; and
362 a description of technical assistance that the agency provided.

363 All information in the performance measurement system shall be a public record unless
364 otherwise exempted by law. The annual reports of each agency shall be published and made
365 available to the public not later than December 31. The report shall also be filed annually with
366 the clerks of the senate and house of representatives, the chairs of the house and senate
367 committees on ways and means and the house and senate chairs of the joint committee on
368 economic development and emerging technologies.

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

373 The office shall report regularly to the public on the progress the office and agencies
374 within the office are making towards achieving stated goals. The office shall be responsible for
375 reporting publicly and making all reports available on the internet.

376 The secretary shall use the performance measurements established in this section to
377 determine the quality of service of all private entities, including regional economic development
378 organizations that perform economic development services under contract with the office. The
379 results of such performance measures shall be criteria used in negotiating any such contracts.

380 SECTION 4. Subsection (k) of said section 16G of said chapter 6A, as so appearing, is
381 hereby amended by striking out the sixth sentence.

382 SECTION 5. Said section 16G of said chapter 6A, as so appearing, is hereby further
383 amended by adding the following subsection:-

384 (l) During the first year of each new gubernatorial administration, the secretary of
385 housing and economic development, with the assistance of a cabinet-level committee appointed
386 under this section, shall develop and implement a written comprehensive economic development
387 policy for the commonwealth and a strategic plan for implementing the policy. The strategic plan
388 shall include any major economic development initiatives and programs of secretariat and any
389 agencies subject to this section.

390 During the first year of each new gubernatorial administration, the governor shall appoint
391 a cabinet-level committee to assist the secretary in the development of the policy and plan. The
392 secretary shall be the chairperson of the committee and the secretaries of administration and
393 finance, labor and workforce development, energy and environmental affairs and transportation
394 shall serve as committee members. The governor may also appoint members of regional and
395 local economic development groups and members of the business community to serve on the
396 committee.

397 The committee shall review the published economic development policy and plan in
398 effect at the commencement of the governor's term of office. Once the policy and plan have been
399 adopted by the secretary and the committee and approved by the governor, it shall be published
400 in writing and on the official website of the commonwealth not later than December 31 of that
401 year and submitted to the house and senate for its consideration. The house and senate shall hold
402 public hearings on the policy and plan.

403 SECTION 6. Subsection (c) of section 12 of chapter 7A of the General Laws, as so
404 appearing, is hereby amended by adding the following paragraph:-

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

409 SECTION 7. Section 35J of chapter 10 of the General Laws, as so appearing, is hereby
410 amended by striking out, in lines 16 and 17, the words "Massachusetts International Trade
411 Council" and inserting in place thereof the following words:- Massachusetts trade office.

412 SECTION 8. Section 52 of said chapter 10, as so appearing, is hereby amended by
413 striking out, in line 1, the words "the treasurer" and inserting in place thereof the following
414 words:- travel and tourism established in chapter 23A.

415 SECTION 9. Chapter 10 of the General Laws is hereby amended by inserting after
416 section 56 the following section:-

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

419 SECTION 10. Section 9 of chapter 15A of the General Laws, as appearing in the 2008
420 Official Edition, is hereby amended by striking out, in lines 172 and 173, the words, "section
421 three of chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight" and
422 inserting in place thereof the following words:- section 2 of chapter 23K.

423 SECTION 11. Said section 9 of said chapter 15A, as so appearing, is hereby further
424 amended by striking out, in lines 182 to 185, inclusive, the words, “their affiliated building
425 authorities, or any other organization affiliated therewith, as defined in paragraph (e) of said
426 section three of said chapter six hundred and fourteen” and inserting in place thereof the
427 following words:- as defined in section 2 of chapter 23K, or their affiliated building authorities,
428 or any other organization affiliated with the institutions of higher learning.

429 SECTION 12. Section 10 of said chapter 15A, as so appearing, is hereby amended by
430 striking out the definition of “HEFA” and inserting in place thereof the following definition:- the
431 Health and Educational Facilities Authority, established by section 3 of chapter 23K.

432 SECTION 13. Section 12 of said chapter 15A, as so appearing, is hereby amended by
433 striking out, in lines 23 and 24, the words, “pursuant to chapter six hundred and fourteen of the
434 acts of nineteen hundred and sixty-eight” and inserting in place thereof the following words:-
435 under chapter 23K.

436 SECTION 14. Said section 12 of said chapter 15A, as so appearing, is hereby further
437 amended by striking out, in line 31, the words, “the provisions of said chapter six hundred and
438 fourteen” and inserting in place thereof the following words:- chapter 23K.

439 SECTION 15. Section 1 of chapter 23A of the General Laws, as so appearing, is hereby
440 amended by striking out, in lines 2 and 3, the words, “department of business and technology in
441 this chapter called the department, which shall be under the control of the director of business
442 and technology” and inserting in place thereof the following words:- Massachusetts office of
443 business development, in this chapter referred to as MOBD, which shall be under the control of
444 the director of business development,.

445 SECTION 16. Said section 1 of said chapter 23A, as so appearing, is hereby amended by
446 striking out subsection (b).

447 SECTION 17. Section 3A of said chapter 23A, as so appearing, is hereby amended by
448 inserting after the definition of “Facility” the following definition:-

449 “MOBD”, the Massachusetts office of business development created by section 1.

450 SECTION 18. Section 3I of said chapter 23A of the General Laws, as amended by
451 section 28 of chapter 25 of the acts of 2009, is hereby amended by striking out, in lines 2 and 33,
452 the words, “the department” and inserting in place thereof, in each instance, the following:-
453 Massachusetts office of business development.

454 SECTION 19. Said chapter 23A, as so appearing, is hereby amended by inserting after
455 section 3I the following 3 sections:

456 Section 3J. (a) The Massachusetts office of business development shall contract with
457 eligible regional economic development organizations, as defined in section 3K, which shall
458 serve as the primary points of contact in the various regions of the state for businesses seeking
459 assistance, services or information from the commonwealth. The contract and reimbursements
460 shall be designed to support regionally-based efforts to stimulate, encourage, facilitate and
461 nurture economic growth and prosperity in the commonwealth, including but not limited to,
462 activities related to the growth and retention of existing businesses and the attraction of new
463 businesses into the commonwealth. The contracts shall support a network of partnerships
464 between regional economic development organizations and the Massachusetts office of business
465 development in order to provide efficient and consistent response to businesses seeking
466 assistance from the commonwealth.

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

473 (b) Each contract shall include performance criteria specific to the contracting
474 organization developed under section 16G of chapter 6A and uniform standards for the use of
475 contract funds related to accounting procedures, personnel practices, purchasing procedures and
476 conflict of interest rules. As a condition to its receipt of funds, the contracting organization shall
477 agree to follow these standards and to perform the contracted services in conformity with conflict
478 of interest rules which shall include provisions requiring that in any matter where a person,
479 corporation or other business entity in which any partner is in any way interested such interest is
480 disclosed in advance and further, that no partner having such an interest may participate in a
481 decision relating to such person, corporation or other business entity. The contracting
482 organization shall also agree to a biennial audit and examination of its audited financial
483 statements conducted by the auditor of the commonwealth.

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

490 Section 3K. (a) (1) The Massachusetts office of business development shall award up to
491 12 contracts for regional business development services. Each contract shall specify the
492 municipalities which comprise the region to be served under that contract.

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

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

502 The applicant operates regionally and its service area or membership includes more than
503 6 contiguous cities or towns. The organization must describe the economic interdependency of
504 its contiguous member municipalities and articulate a comprehensive vision for recognition of
505 those municipalities as a self identified region with interrelated economic assets such as
506 industrial base, public infrastructure, research, educational and financial institutions and
507 environmental characteristics.

508 The governance structure and leadership of the applicant organization complies with the
509 standards established by the Massachusetts office of business development.

510 The applicant is engaged primarily in activities intended to promote job and business
511 retention, creation and attraction across all industry sectors within its identified region.

512 The applicant has a history of collaboration with the area business community, local
513 officials, economic development organizations, higher education institutions and other public
514 and private organizations within the identified region. The applicant must describe a plan for a
515 formal program encouraging participation in activities by a wide variety of organizations,
516 governments and businesses operating in the identified region.

517 The applicant has received or has commitments to receive substantial financial and in
518 kind support from private sources or member municipalities.

519 The applicant is capable of and agrees to provide services to the entire region identified
520 in the application.

521 (b) Preference in awarding contracts shall be given to organizations that have prior
522 experience furnishing advice and assistance to businesses within or seeking to locate to the
523 identified region, a working knowledge of the region, the region's industrial base, the region's
524 demographics and the region's strengths and weaknesses and prior experience and involvement
525 with regional governmental entities, including but not limited to, regional competitiveness
526 councils and regional employment boards.

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

530 act as the primary contact for businesses seeking assistance from state or local
531 governments, including those seeking to locate within the region or expand existing operations;

532 identify public funding sources for business activity and provide assistance in accessing
533 public tax incentive programs;

534 identify potential sites for business development and maintain an inventory of key
535 development parcels;

536 market the identified region in coordination with the Massachusetts marketing
537 partnership established under section 13A and in compliance with the marketing materials
538 developed by the partnership;

539 furnish advice and assistance to businesses and industrial prospects which may locate in
540 the region, existing businesses and industries, and persons seeking to establish new businesses or
541 industries, and engage in related activities;

542 establish and maintain a network of public and private expertise related to regional
543 assets, industry clusters, workforce and education opportunities and public tax and regulatory
544 incentive and capital access programs;

545 partner with the Massachusetts office of business development representative to the
546 region and representatives of quasi-public agencies and authorities engaged in economic
547 development activities to exchange information and jointly provide direct consultation with
548 businesses seeking to expand or locate to the region.

549 act as the primary contact for the region for a business seeking state assistance and
550 incentives in a location decision.

551 in partnership with the staff of the Massachusetts office of business development, assist
552 member municipalities with economic development efforts related to business attraction and
553 retention and with access to state economic development programs; and

554 submit an annual report to the Massachusetts office of business development on the
555 grantee's business development activities. The report shall include: a summary of the preceding
556 year's program activities, objectives and accomplishments; a description of how the grantee's
557 programs and marketing strategy aligns with the commonwealth's overall economic development
558 and strategies; an analysis of how the grantee's involvement in promotion activities has
559 generated prospective business expansion and relocation clients; and a summary of the grantee's
560 efforts to obtain funds from local, private, and federal sources.

561 (d) Contracts entered into under this section shall be for a term not greater than 3 years,
562 and may provide for the renewal of the contract at the discretion of the Massachusetts office of
563 business development, provided that the renewal shall be for a term not longer than 2 years.
564 Nothing in this subsection shall preclude a regional organization from re-applying to provide
565 services under a new contract.

566 (e) The Massachusetts office of business development shall develop a formula to
567 determine funding for contractual reimbursements. That formula shall reflect demographic and
568 economic indicators, including , but not limited to, population and the number of business
569 establishments operating in the region, as well as an assessment of regional needs and the
570 priorities of the statewide economic development plan created under section 16G of chapter 6A.
571 The formula shall also reflect the significant need for increased economic activity in regions
572 which include target areas as defined in section 2 of chapter 40H. Renewal contracts shall also

573 provide for additional payments to reward achievement in reporting in compliance with
574 performance measurements and to reward achievement of specific performance goals.

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

578 (g) If MOBD determines through the request for proposals process that no organization
579 meets the requirements set out in this section or a region is not served by any eligible regional
580 economic development organization, then MOBD shall provide services under sections 3J and
581 3K.

582 Section 3L.

583 (a) The Massachusetts office of business development shall provide initial assistance to a
584 business which contacts the office requesting service. The Massachusetts office of business
585 development shall provide the business with information about the various regional economic
586 development organizations with which it has contracted and continue to serve as primary contact
587 for that business until the business has established a relationship with a particular region. The
588 Massachusetts office of business development shall notify all regional economic development
589 organizations, on a nondiscriminatory basis, of business prospects that have expressed interest to
590 the Massachusetts office of business development in moving to the commonwealth.

591 (b) The Massachusetts office of business development shall coordinate activity among
592 regional economic development organizations and between economic development organizations
593 and the commonwealth's economic development agencies and initiatives (i) to ensure that
594 initiatives led by the commonwealth or quasi-public economic development agencies receive

595 information and advice from the regional economic development organizations, and (ii) to ensure
596 that initiatives led by the regional economic development organizations receive information and
597 advice from agencies within the executive branch and from quasi-public economic development
598 agencies.

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

602 SECTION 20. Section 4 of chapter 23A, as so appearing, is hereby amended by striking
603 out the words “department of economic development” and inserting in place thereof the
604 following words:- Massachusetts office of business development.

605 SECTION 21. Said section 4 of said chapter 23A, as so appearing, is hereby amended by
606 adding the following sentence: The Massachusetts office of business development shall locate
607 staff throughout the regions of the commonwealth in order to partner with the regional economic
608 development organizations and establish efficient and rapid access for businesses and regional
609 organizations to all state government and quasi-public business services.

610 SECTION 22. Section 5 of said chapter 23A, as so appearing, is hereby amended by
611 striking out, in line 9, the words “, in the department of economic development”.

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

614 SECTION 24. The first paragraph of said section 6 of said chapter 23A, as so appearing,
615 is hereby amended by adding the following sentence:

616 The director shall establish an advisory council that shall assist and advise the director on
617 matters related to the administration and evaluation of the regional business development
618 program created under section 3J.

619 SECTION 25. Section 10A of said chapter 23A, as so appearing, is hereby amended by
620 striking out, in line 20, the words, "Said department" and inserting in place thereof the
621 following:- The Massachusetts office of business development.

622 SECTION 26. Chapter 23A of the General Laws is hereby amended by striking out
623 sections 13A and 13B, as so appearing, and inserting in place thereof the following 2 sections:-

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

626 "Foreign offices", foreign offices for international trade within the trade office.

627 "Partnership", the Massachusetts marketing partnership created in this section.

628 "Tourism", the office of travel and tourism.

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

634 (a) The partnership shall consist of 11 partners who shall be: the secretary of housing and
635 economic development, who shall chair the partnership; the director of the Massachusetts office
636 of business development or the director's designee; the executive director of the Massachusetts

637 Convention Center Authority or the executive director's designee; the executive director of the
638 Massachusetts Port Authority or the executive director's designee; the executive director of the
639 Massachusetts Alliance for Economic Development, or its successor organization; and 6
640 individuals appointed by the governor for terms of 5 years, as follows: 2 persons employed by a
641 business that has a principal place of business in the commonwealth and that exports goods to
642 other countries, 1 of whom shall be selected from a list of 3 names submitted by the Associated
643 Industries of Massachusetts; 1 person who has significant experience with a public relations or
644 advertising firm doing business in the commonwealth; 1 person who shall be on the faculty of a
645 public or private business school in the commonwealth who is experienced in international
646 business; and 2 persons who shall represent a regional tourism council in the commonwealth
647 outside of Suffolk County, Middlesex County and Norfolk County. Of the initial partners
648 appointed by the governor, 3 shall serve a term of 2 years and 3 shall serve a term of 5 years.

649 At least 3 of the governor's 6 appointments shall reside outside of Suffolk County,
650 Middlesex County and Norfolk County. Not more than 6 of the partners shall be members of the
651 same political party. Each partner shall serve without compensation but may be reimbursed for
652 actual and necessary expenses reasonably incurred in the performance of the partner's duties,
653 including reimbursement for reasonable travel; provided, however that that such reimbursement
654 shall not exceed \$500 annually. A person appointed to fill a vacancy in the office of a partner
655 shall be appointed in a like manner and shall serve for only the unexpired term of the former
656 partner. A partner shall be eligible for reappointment and may be removed by the governor for
657 cause. The partnership shall annually elect 1 partner to serve as vice-chairperson.

658 (b) Eight partners shall constitute a quorum and the affirmative vote of a majority of
659 partners present at a duly called meeting, if a quorum is present, shall be necessary for an action

660 to be taken by the partnership. An action required or permitted to be taken at a meeting of the
661 partnership may be taken without a meeting if all of the partners consent, in writing, to the action
662 and that written consent is filed with the records of the minutes of the meetings of the
663 partnership. Such consent shall be treated for all purposes as a vote at a meeting. Each partner
664 shall make full disclosure, under subsection (c), of the partner's financial interest, if any, in
665 matters before the partnership by notifying the state ethics commission, in writing, and the
666 partner shall abstain from voting on a matter before the board in which the partner has a financial
667 interest, unless otherwise permitted under chapter 268A. (c) Chapters 268A and 268B shall
668 apply to all ex officio partners or the partners' designees and employees of the agencies within
669 the partnership. Chapters 268A and 268B shall apply to all other partners, except that the
670 agencies within the partnership may purchase from, sell to, borrow from, loan to, contract with
671 or otherwise deal with a person, corporation or other business entity in which any partner is in
672 any way interested or involved; provided, however, that such interest or involvement is disclosed
673 in advance to the partners of the partnership and recorded in its minutes; and provided, further,
674 that no partner having such an interest or involvement may participate in a decision of the
675 partnership relating to such person, corporation or other business entity. Employment by the
676 commonwealth or service in an agency or political subdivision of the commonwealth shall not be
677 deemed to be such an interest or involvement.

678 (d) The partnership shall bi-annually elect 1 of its partners as treasurer and 1 of its
679 partners as secretary. The secretary of the partnership shall keep a record of its proceedings and
680 shall be custodian of all books, documents and papers filed by the partnership and of its minute
681 book and seal. The secretary of the partnership shall cause copies to be made of all minutes and
682 other records and documents of the partnership and shall certify that such copies are true copies

683 and all persons dealing with the partnership may rely upon such certification. (e) Partners
684 and employees of the agencies within the partnership having access to its cash or negotiable
685 securities shall give bond to the partnership at its expense in such amounts and with such surety
686 as the partnership may prescribe. The persons required to give bond may be included in 1 or
687 more blanket or scheduled bonds. (f) Partners and officers who are not compensated
688 employees of the partnership shall not be liable to the commonwealth, the executive office of
689 housing and economic development or any other person as a result of their activities, whether
690 ministerial or discretionary, as such partners or officers except for willful dishonesty or
691 intentional violations of law. Neither members of the partnership nor a person executing bonds
692 or policies of insurance shall be personally liable on those bonds or policies or be subject to any
693 personal liability or accountability by reason of the issuance of those bonds or policies. The
694 partnership may purchase liability insurance for partners, officers and employees and may
695 indemnify the partners against claims of others.

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

699 (h) An action of the partnership may take effect immediately and need not be published
700 or posted unless otherwise provided by law. Meetings of the partnership shall be subject to
701 section 11A 1/2 of chapter 30A, except that said section 11A 1/2 shall not apply to any meeting
702 of partners in the partnership serving ex officio in the exercise of their duties as officers of the
703 commonwealth so long as no matter relating to the official business of the partnership is
704 discussed and decided at the meeting. The partnership shall be subject to all other sections of
705 said chapter 30A, and records pertaining to the administration of the partnership shall be subject

706 to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the partnership shall be
707 considered to be public funds for purposes of chapter 12A.

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

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

712 SECTION 27. Said chapter 23A is hereby amended by striking out section 13C, as
713 amended by section 29 of chapter 25 of the acts of 2009, and inserting in place thereof the
714 following section:-

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

716 (1) adopt and amend by-laws, regulations and procedures for the governance of its
717 affairs and the conduct of its business for the administration and enforcement of this sections
718 13A to 13Q, inclusive; provided, however, that regulations adopted by agencies within the
719 partnership shall be adopted under chapter 30A; (2) adopt an official seal and a functional
720 name;

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

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

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

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

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

734 (8) obtain insurance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

774 SECTION 28. Said chapter 23A, as appearing in the 2008 Official Edition, is hereby
775 amended by striking out sections 13D and 13E and inserting in place thereof the following 15
776 sections:-

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

790 The partnership shall be subject to section 5D of chapter 29 and subsection (f) of section 6B of
791 chapter 29.

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

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

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

811 The executive director of the office of travel and tourism shall be appointed by the
812 governor, and serve at the pleasure of the governor. The position of executive director of the
813 office of travel and tourism shall be classified under section 45 of chapter 30 and the executive
814 director of travel and tourism shall devote full time during business hours to the duties of the
815 office of travel and tourism and shall give to the state treasurer a bond for the faithful
816 performance of those duties.

817 The executive director of travel and tourism shall be the executive and administrative
818 head of travel and tourism and shall be responsible for administering and enforcing the laws
819 relative to travel and tourism and to any administrative unit of that office. Powers and duties
820 given to an administrative unit of travel and tourism by a general or special law shall be
821 exercised subject to the direction, control and supervision of the executive director of travel and
822 tourism.

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

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

832 may, subject to appropriation and the laws and regulations pertaining to the employment of
833 consultants, employ such consultants as the executive director may deem necessary.

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

841 The advisory commission shall have 28 members: 1 representative from each of the
842 following organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging
843 Association, the Massachusetts Camping Ground Association, the New England Bus
844 Association, the Massachusetts cultural council and the Massachusetts historical commission; 1
845 representative of a professional sports franchise located in the commonwealth, 2 representatives
846 of the Massachusetts Visitor Industry Council; the executive director or the executive director's
847 designee of each of the following regional tourism councils: the Berkshire Hills Visitors Bureau,
848 the Bristol County Convention and Visitors Bureau, the Cape Cod Chamber of Commerce, the
849 Franklin County Chamber of Commerce, the Greater Boston Convention and Visitors Bureau,
850 the Worcester County Convention and Visitors Bureau, the Martha's Vineyard Chamber of
851 Commerce, the Greater Merrimack Valley Convention and Visitors Bureau, the Mohawk Trail
852 Association, the North of Boston Convention and Visitors Bureau, the Greater Springfield
853 Convention and Visitors Bureau, the Plymouth County Development Council, Inc., the
854 Nantucket Island Chamber of Commerce, the MetroWest Tourism and Visitor's Bureau and the

855 following individuals, who shall not serve as chair: the commissioner of conservation and
856 recreation or the commissioner's designee, the administrator of the highway division or the
857 administrator's designee, the Massachusetts state coordinator of the United States National Park
858 Service, and the house and senate chairs of the joint committee on tourism, arts and cultural
859 development.

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

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

869 Section 13J. The following offices shall be within the office of travel and tourism: the
870 Massachusetts film office, which shall be the official and lead agency to facilitate motion picture
871 production and development within the commonwealth; the Massachusetts sports partnership,
872 which shall be the official and lead agency to facilitate and attract major sports events and
873 championships in the commonwealth; and the Massachusetts cultural council established under
874 section 52 of chapter 10.

875 Section 13K. There shall be within the partnership a Massachusetts trade office, which
876 shall be under the supervision and control of an executive director. The executive director shall

877 be appointed by the governor, and serve at the pleasure of the governor. The executive director
878 shall devote his full time during business hours to the duties of the Massachusetts trade office.
879 The executive director of the trade office shall be the executive and administrative head of the
880 office and shall be responsible for administering and enforcing the laws relative to the office and
881 to any administrative unit of the office.

882 The executive director shall also serve as the Massachusetts trade representative. The
883 purpose of the Massachusetts trade representative shall be to: (1) serve as the commonwealth's
884 official point of contact with the federal government on matters related to international trade; (2)
885 work with the executive office of housing and economic development and other appropriate state
886 agencies to analyze proposed and enacted international trade agreements and provide an
887 assessment of the impact of those agreements on the commonwealth's economy; (3) serve as the
888 designated recipient of federal requests for the commonwealth to agree to be bound by
889 investment, procurement, services or any other provisions of international trade agreements,
890 including those which may infringe upon state law or regulatory authority reserved to the
891 commonwealth; (4) serve as a liaison to the general court on matters of international trade policy
892 oversight including, but not limited to, reporting to members of the general court on a regular
893 basis on the status of ongoing international trade negotiations, international trade litigation, and
894 dispute settlement proceedings with implications for existing state laws, state regulatory
895 authority and international trade policy on the commonwealth's economy.

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

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

909 Section 13L. There shall be within the trade office 1 or more foreign offices for
910 international trade. The foreign offices may be located in any country that the executive director
911 of the trade office determines to be best suited as the location for the furthering of foreign trade
912 opportunities for the businesses of the commonwealth. The foreign offices shall encourage and
913 further trade between foreign businesses and businesses in the commonwealth. The foreign
914 offices shall also promote investment opportunities in the commonwealth for foreign businesses
915 in order to encourage the location and establishment of such businesses within the
916 commonwealth. For the purposes of furthering foreign trade and investment, the foreign offices,
917 subject to appropriation and approval by the executive director of the trade office, may contract
918 for such advertising and other communication services as may be necessary. The foreign offices
919 shall maintain an updated list of businesses in the commonwealth and foreign businesses which
920 are or might become active in the import or export of their products and services. The executive
921 director shall consult with Massachusetts office of business development and the regional
922 economic development designated pursuant to section 3J in order to ensure that the businesses

923 and assets of all regions of the commonwealth are included in such lists. The foreign office may
924 also provide additional information and assistance to businesses in the commonwealth that desire
925 to export their goods and services.

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

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

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

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

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

948 Section 13P. The executive director of the trade office and the director of any foreign
949 office shall annually file a financial report with the clerks of the house and senate and the joint
950 legislative committee on economic development and emerging technologies on the operation and
951 activities of the office. The report shall include a complete evaluation of the results of the
952 activities of the foreign offices and its effects on the business economy of the commonwealth,
953 especially in the areas of the export of goods and services and in the location of foreign
954 businesses in the commonwealth.

955 Section 13Q. The trade office shall contract with the Massachusetts export center to
956 provide technical assistance to companies operating in the commonwealth that export products to
957 other countries.

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

961 SECTION 29. Section 14 of said chapter 23A, as so appearing, is hereby amended by
962 inserting after the word "Bureau", in line 11, the words:- , the MetroWest Tourism and Visitor's
963 Bureau.

964 SECTION 30. Said section 14 of said chapter 23A, as so appearing, is hereby amended
965 by striking out, in lines 17 and 18, the words "director of economic development" and inserting
966 in place thereof the following words:- executive director of tourism.

967 SECTION 31. Said section 14 of said chapter 23A, as so appearing, is hereby further
968 amended by striking out, in lines 55 and 56, the words “, subject to approval by the director of
969 economic development” and inserting in place thereof the following words:- of tourism.

970 SECTION 32. Sections 15 to 28, inclusive, of chapter 23A of the General Laws are
971 hereby repealed.

972 SECTION 33. Sections 39A to 39D, inclusive, of said chapter 23A are hereby repealed.

973 SECTION 34. Sections 46 to 55, inclusive, of said chapter 23A are hereby repealed.

974 SECTION 35. Chapter 23A of the General Laws, as appearing in the 2008 Official
975 Edition, is hereby amended by striking out section 56 and inserting in place thereof the following
976 section:-

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

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

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

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

998 SECTION 36. Subsection (a) of section 57 of said chapter 23A, as so appearing, is
999 hereby further amended by striking out the definition of “small business” and inserting in place
1000 thereof the following definition:-

1001 “Small business”, a business entity, including its affiliates, that: (i) is independently
1002 owned and operated; (ii) has a principal place of business in the commonwealth; and (iii) if in a
1003 manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade
1004 industry, employs fewer than 100 full-time employees or, if in any other industry, receives less
1005 than \$7,000,000 in annual receipts; provided, however, that for purposes of this definition, the
1006 industry of a business shall be primarily classified according to the Table of Small Business Size
1007 Standards of the Small Business Administration, including all exceptions to such standards as set
1008 forth in said table.

1009 SECTION 37. Said section 57 of said chapter 23A, as so appearing, is hereby amended
1010 by striking out subsection (i) and inserting in place thereof the following 2 subsections:-

1011 (i) No loan or loans in an aggregate principal amount in excess of \$500,000 shall be
1012 provided to a borrower under the program and no small business borrower under the program
1013 shall be provided a loan under the program for passive real estate purposes.

1014 an agreement in such form as the agency or its agent may prescribe, which agreement
1015 shall contain the terms and provisions set forth in subsections (a) to (i), inclusive and such other
1016 terms and provisions as the agency or its agent may deem necessary or appropriate.

1017 SECTION 38. Said chapter 23A is hereby amended by striking out section 58, as so
1018 appearing, and inserting in place thereof the following section:-

1019 Section 58. The agency is hereby authorized to:

1020 (a) enter into a contract, after a competitive bidding process, with an organization to act
1021 as the agent of the agency with respect to the administration of the program; provided, however,
1022 that the contract shall: (1) be for a period of 2 years with such provisions for extension or
1023 renewal of the contract as the agency may agree to with the administering agent; and (2) provide
1024 for compensation and reimbursement of the agent on terms the agency may deem appropriate for
1025 the administration of the program, for any expenses incurred by the administering agent in
1026 connection with its services as agent and for such other services as the agency may deem
1027 appropriate including, but not limited to, the use of the premises, personnel and personal
1028 property of the administering agent; provided, however, that the administering agent shall submit
1029 annually to the agency for review and approval by the agency a prospective budget for the
1030 operations of the program, which once approved shall define the terms under which the

1031 administering agent shall be compensated for its services; provided, further that no organization
1032 shall be selected as the agent of the agency unless the organization:

1033 (i) is licensed to do business in, and maintains its primary headquarters in, the
1034 commonwealth; and

1035 (ii) has a demonstrated history of lending in participation with community banks;

1036 (b) conduct an annual review and assessment of the performance of the administering
1037 agent in its capacity as agent for the agency; provided, however, that the annual review shall be
1038 based on whether the administering agent has satisfactorily met the terms and conditions of the
1039 contract and on the program's effectiveness in achieving its intended goals; provided further, that
1040 the contract between the agency and the administering agent shall be subject to the performance
1041 management system developed under section 16G of chapter 6A; provided further, that the
1042 agency shall require the administering agent to annually submit, within 90 days of the end of
1043 program's fiscal year, financial statements of the program audited in accordance with generally
1044 accepted accounting principles by a certified public accountant, which financial statements will
1045 contain such footnotes or other disclosures of the administration of the program as the certified
1046 public accountant preparing the same deems appropriate under generally accepted accounting
1047 principles; provided further, that the agency shall have the right, at the agency's expense, to have
1048 representatives or agents of the agency audit the books and records along with supporting
1049 documentation used to prepare an annual report under this subsection; and provided further, that
1050 the annual report submitted by the administering agent shall be a public record;

1051 (c) within 45 days of the end of each of fiscal quarter for the program, the administering
1052 agent shall submit to the agency a quarterly report, which shall include the names of all

1053 participating financial institutions, a detailed listing of all outstanding loans made under the
1054 program, including a statement, for each loan, of the amount and per cent contribution of the
1055 borrower, financial institution and program to the loan loss reserves funded by the program; an
1056 accounting of all claims made on the loss reserves during such quarter; an accounting of the
1057 capital access fund and the loss reserves at the end of such quarter; of all credited accrued
1058 earnings or interest in the capital access fund and in the loss reserves during such quarter; and
1059 interim accounting of those costs and expenses for which the administering agent has been
1060 reimbursed; provided, however, that the quarterly report submitted by the administering agent
1061 shall be a public record;

1062 (d) make and publish rules and regulations respecting the implementation of the small
1063 business capital access program established by this section and any other rules and regulations
1064 necessary to fulfill the purposes of this section; and

1065 (e) do any and all things necessary or convenient to carry out its purposes and exercise
1066 the powers expressly given and granted in this section.

1067 SECTION 39. Said chapter 23A is hereby amended by striking out section 61, as so
1068 appearing, and inserting in place thereof the following section:-

1069 Section 61. The Massachusetts office of business development may:

1070 (a) enter into a contract, after a competitive bidding process, with an organization to act
1071 as the agent of the agency with respect to the administration of the program; provided, however,
1072 that said contract shall: (1) be for a period of 2 years with such provisions for extension or
1073 renewal of the contract as the agency may agree to with the administering agent; and (2) provide
1074 for compensation and reimbursement of the agent on terms the agency may deem appropriate for

1075 the administration of the program, for any expenses incurred by the administering agent in
1076 connection with its services as agent and for such other services as the agency may deem
1077 appropriate including, but not limited to, the use of the premises, personnel and personal
1078 property of the administering agent; provided, however, that the administering agent shall
1079 annually submit to the agency for review and approval by the agency a prospective budget for
1080 the operations of the program, which once approved shall define the terms under which the
1081 administering agent shall be compensated for its services; provided, further that no organization
1082 shall be selected as the agent of the agency unless the organization:

1083 (i) is licensed to do business in, and maintains its primary headquarters in, the
1084 commonwealth; and

1085 (ii) has a demonstrated history of lending in participation with community banks;

1086 (b) conduct an annual review and assessment of the performance of the administering
1087 agent in its capacity as agent for the agency; provided, however, that the annual review shall be
1088 based on whether the administering agent has satisfactorily met the terms and conditions of the
1089 contract and on the program's effectiveness in achieving its intended goals; provided further, that
1090 the contract between the agency and the administering agent shall be subject to the performance
1091 management system developed under section 16G of chapter 6A; provided further, that the
1092 agency shall require the administering agent to annually submit, within 90 days of the end of
1093 program's fiscal year, financial statements of the program audited in accordance with generally
1094 accepted accounting principles by a certified public accountant, which financial statements will
1095 contain such footnotes or other disclosures of the administration of the program as the certified
1096 public accountant preparing the same deems appropriate under generally accepted accounting

1097 principles; provided, further, that the agency shall have the right, at the agency's expense, to
1098 have representatives or agents of the agency audit the books and records along with supporting
1099 documentation used to prepare an annual report under this subsection; and provided, further, that
1100 the annual report submitted by the administering agent shall be a public record;

1101 (c) Within 45 days of the end of each fiscal quarter for the program, the administering
1102 agent shall submit to the agency a quarterly report, which quarterly report shall include the
1103 names of all participating financial institutions, a detailed listing of all outstanding loans made
1104 under the program, including a statement, for each loan, of the amount and per cent contribution
1105 of the borrower, financial institution, and program to the loan loss reserves funded by the
1106 program; an accounting of all claims made on the loss reserves during such quarter; an
1107 accounting of the capital access fund and the loss reserves at the end of such quarter; of all
1108 credited accrued earnings or interest in the capital access fund and in the loss reserves during
1109 such quarter; and interim accounting of those costs and expenses for which the administering
1110 agent has been reimbursed; provided, however, that the quarterly report submitted by the
1111 administering agent shall be a public record;

1112 (d) make and publish rules and regulations respecting the implementation of the
1113 redevelopment access to capital program and any other rules and regulations necessary to fulfill
1114 the purposes of this section; and

1115 (e) do any and all things necessary or convenient to carry out its purposes and exercise
1116 the powers expressly given and granted in this section.

1117 SECTION 40. Said chapter 23A is hereby amended by striking out section 62, as so
1118 appearing, and inserting in place thereof the following section:-

1119 Section 62. There shall be a 10 person interagency permitting board within the
1120 Massachusetts office of business development. The members of the board shall be comprised of
1121 the state permit ombudsman who will serve as the chair of the interagency permitting board, the
1122 secretary of housing and economic development, the secretary of transportation, the secretary of
1123 energy and environmental affairs, the secretary of public safety and security, the director of the
1124 department of housing and community development, the director of business development, the
1125 director of the department of workforce development, the director of the office of consumer
1126 affairs and business regulation, and the executive director of the Massachusetts Development
1127 Finance Agency; or their designees. Six members shall be a quorum for the transaction of
1128 business. The chair shall communicate with municipal officials responsible for local review
1129 procedures to determine the municipal perspective on the proposed project, and to facilitate
1130 communication between the municipality and state agencies. The interagency permitting board
1131 shall consult with each regional office of the Massachusetts office of business development as
1132 well as each regional planning agency, and regional economic development organizations with
1133 which the Massachusetts office of business development has contracted under this chapter in
1134 order to better serve local businesses. At the direction of the chair, the board shall meet no fewer
1135 than 8 times a year, and shall monitor the development of priority development sites under
1136 chapter 43D and investigate ways in which to expedite priority development site projects. The
1137 board shall evaluate state agency permit procedures and recommend changes for improved
1138 efficiency. The board shall administer the technical assistance grants program established in
1139 subsection (b) of section 3 of chapter 43D. The secretary of housing and economic development
1140 shall work with the chair of the interagency permitting board and senior staff members to

1141 develop a recommended format for an application form and procedure which shall be used by all
1142 executive offices when possible.

1143 SECTION 41. Sections 8 to 15, inclusive, of chapter 23D of the General Laws are
1144 hereby repealed.

1145 SECTION 42. Said chapter 23D is hereby further amended by striking out section 16 and
1146 inserting in place thereof the following section:

1147 Section 16. There shall be established within the Massachusetts Growth Capital
1148 Corporation a separate fund to be known as the Employee-Ownership Revolving Loan Fund, the
1149 proceeds of which shall be used to provide low interest long term loans to individuals for the
1150 purchase of such individual's ownership interest in an employee-owned business. The fund shall
1151 consist of all monies designated for that fund by the board of directors of the Massachusetts
1152 Growth Capital Corporation in consultation with the director of the industrial services program.

1153 Said board shall administer the employee-ownership revolving loan fund program. The
1154 application process, and the terms and conditions of approving such loans shall be determined by
1155 the board in consultation with the director. Said Employee-Ownership Revolving Loan Fund
1156 shall be subject to the reporting and auditing requirements of section 56 of chapter 23A.

1157 SECTION 43. Paragraph (b) of section 20 of said chapter 23D is hereby amended by
1158 striking out, in line 10, the word, "trustees" and inserting in place thereof the following word:-
1159 directors.

1160 SECTION 44. Chapter 23F of the General Laws is hereby repealed.

1161 SECTION 45. Section 1 of chapter 23G, as appearing in the 2008 Official Edition, is
1162 hereby amended by inserting after the definition of “governing body” the following definition:-

1163 “Hospital”, a nonprofit hospital within the commonwealth licensed by the department of
1164 public health; a nonprofit health maintenance organization within the commonwealth licensed by
1165 the commissioner of insurance; or an affiliated nonprofit corporation which is organized and
1166 operated for the benefit of, to perform 1 or more of the functions of or to carry out 1 or more of
1167 the purposes of 1 or more licensed nonprofit hospitals or health maintenance organizations,
1168 including operation of a nursing home, comprehensive gerontology facility or congregate care
1169 facility.

1170 SECTION 46. Said section 1 of said chapter 23G, as so appearing, is hereby further
1171 amended by striking out the definition of “Institution” and inserting in place thereof the
1172 following definition:-

1173 "Institution", a hospital or a nonprofit corporation organized to operate a facility or
1174 facilities that provide cultural or educational services; provided, however, that nothing in this
1175 definition shall be construed to limit the power or authority of the Agency to provide financing to
1176 a person which is otherwise authorized.

1177 SECTION 47. Subsection (b) of section 2 of said chapter 23G, as so appearing, is hereby
1178 amended by striking out, in line 12, the words “director of economic development” and inserting
1179 in place thereof the following words:- secretary of housing and economic development.

1180 SECTION 48. Said subsection (b) of said section 2 of said chapter 23G, as so appearing,
1181 is hereby further amended by striking out the sixth sentence and inserting in place thereof the

1182 following sentence:- The secretary of housing and economic development shall serve as
1183 chairperson.

1184 SECTION 49. Clause (16) of section 3 of chapter 23G, as so appearing, is hereby
1185 amended by adding the following words:- ; provided, further, that the authority shall publish and
1186 disseminate through its website each fiscal year a schedule of fees or a methodology for
1187 determining fees to be charged to institutions under this chapter, which shall result in similar
1188 charges for similarly-situated projects, regardless of the size of the participating institution.

1189 SECTION 50. Section 3 of said chapter 23G, as so appearing, is further amended by
1190 inserting, after clause (33) the following clause:

1191 (34) to make loans, including working capital and contract based loans, provide
1192 guarantees, loan insurance or reinsurance or otherwise provide financing or credit enhancing
1193 devices for the operation of companies which have a principal place of business in the
1194 commonwealth, including but not limited to loans to lending institutions under terms and
1195 conditions requiring the proceeds of such loans to be used by such lending institutions for the
1196 making of loans for the operation of companies.

1197 SECTION 51. Said chapter 23G is hereby amended by striking out section 27, as so
1198 appearing, and inserting in place thereof the following section:-

1199 Section 27. (a) There is hereby established and placed within the agency the Emerging
1200 Technology Fund, referred to in this section and section 28 as the fund, to which shall be
1201 credited appropriations, bond proceeds or other monies authorized by the general court and
1202 specifically designated to be credited to the fund, such additional funds as are subject to the
1203 direction and control of the agency, pension funds, federal grants or loans or private investment

1204 capital which may properly be applied in furtherance of the objectives of the fund, proceeds from
1205 the sale of qualified investments secured or held by the fund, fees and charges imposed relative
1206 to the making of qualified investments, as the same shall be defined and approved under rules
1207 approved by the advisory committee created under section 28 for the fund, secured or held by the
1208 fund, and other monies which may be available to the agency or the advisory committee for the
1209 purposes of the fund from another source or sources. The agency shall hold the fund in an
1210 account or accounts separate from other funds or accounts and shall manage the fund on behalf
1211 of the advisory committee, under rules and policies established by the advisory committee.

1212 (b) The agency, on behalf of the advisory committee, shall invest and reinvest the fund
1213 and the income of the fund, except as provided in this section, as follows:

1214 (1) in the making of qualified investments, under rules approved by the advisory
1215 committee;

1216 (2) in defraying the ordinary and necessary expenses of administration and operation
1217 associated with the fund;

1218 (3) in the investment of funds not required for immediate disbursement in the purchase
1219 of such securities as may be lawful investments for fiduciaries in the commonwealth;

1220 (4) for the payment of binding obligations associated with such qualified investments
1221 which are secured by the fund as the obligations become payable; and

1222 (5) for the payment of principal or interest on qualified investments secured by the fund
1223 or the payment of a redemption premium required to be paid when such qualified investments
1224 are redeemed prior to maturity; provided, however, that monies in the fund shall not be

1225 withdrawn at any time in such an amount as would reduce the amount of the fund to less than the
1226 minimum requirement established jointly by the agency and advisory committee, except for the
1227 purpose of paying binding obligations associated with qualified investments which are secured
1228 by the fund as the obligations become payable.

1229 (c) The fund shall be held and applied by the agency, on behalf of the advisory
1230 committee, to make qualified investments designed to advance the following public purposes:

1231 (1) to stimulate increased financing for new, renovated or improved manufacturing,
1232 research and development and related facilities and financing for the operations of emerging
1233 technology companies in the commonwealth by leveraging private financing for highly,
1234 productive state-of-the-art facilities or for the operations of emerging technology companies,
1235 which will lead to increased and more rewarding employment opportunities in the
1236 commonwealth by providing financing related such facilities including, without limitation,
1237 financing of the construction or expansion of such facilities, including specialized real estate
1238 improvements and specialized equipment for those facilities; and financing for the operations of
1239 emerging technology companies; and

1240 (2) to make matching grants to universities, colleges, public instrumentalities, companies
1241 and other entities to induce the federal government, industry and other grant-funding sources to
1242 fund advanced research and development activities in new and emerging technologies and new
1243 application of existing technologies in the commonwealth, so as to serve to increase and
1244 strengthen the commercial and industrial base of the commonwealth and the economic
1245 development and employment opportunities related to the commercial and industrial base;

1246 (3) to provide bridge financing to universities, colleges, public instrumentalities,
1247 companies and other entities in anticipation of the receipt of grants of the type described in
1248 clause (2) awarded or to be awarded by the federal government, industry or other sources;

1249 (4) to provide low or no interest equipment loans targeted to companies within the
1250 defense technology and homeland security sector particularly those that are seeking to become
1251 more competitive against out-of-state companies;

1252 (5) to make grants to the Massachusetts Technology Transfer Center, established by
1253 section 45 of chapter 75, to fund activities that facilitate the transfer of technology from the
1254 commonwealth's research institutions to the commonwealth's emerging technology industries,
1255 for productive use by such industries and to make targeted investments in proof of concept
1256 funding for emerging technologies; and

1257 (6) to provide matching grants in the field of marine science technology for companies in
1258 the commonwealth that receive small business innovation research or small business technology
1259 transfer grants from the small business administration. The matching award amount shall be the
1260 lesser of \$20,000 or 15 per cent of the small business innovation research or small business
1261 technology transfer grant. There shall be a maximum of \$60,000 available per company,
1262 including affiliates, per calendar year allocated on a competitive basis, contingent upon the
1263 availability of funds. The matching funds shall be used for product development and
1264 commercialization.

1265 The agency shall make no such qualified investment under clause (1) of subsection (b)
1266 unless the advisory committee finds that, to the extent possible, said qualified investment is such
1267 that a definite benefit to the economy of the commonwealth may reasonably be expected as a

1268 result. In addition, the agency shall make no such qualified investment under said clause (1) of
1269 said subsection (b) unless such qualified investment is in conformity with rules approved by the
1270 advisory committee.

1271 Said rules shall define which industries within the commonwealth shall be considered
1272 emerging technology industries for purposes of this section, provided that “emerging technology
1273 industries” shall include industries employing new or state-of-the-art technology in
1274 biotechnology, marine science technology, pharmaceuticals, defense and homeland security-
1275 related technologies, advanced materials, electronics, nanotechnology, environmental, medical
1276 device, information technology, plastics and polymers, telecommunications industries involved
1277 in the research and development of state-of-the-art medication delivery devices or any other
1278 technological field or industry which the advisory committee has classified or shall classify as an
1279 emerging technology. Said rules shall also set the terms and conditions for investments which are
1280 to constitute qualified investments, which may include, without limitation, loans, working capital
1281 and contract based loans, guarantees, loan insurance or reinsurance, equity investments, grants
1282 made only under clauses (2) and (5) of subsection (c), or other financing or credit enhancing
1283 devices, as made by the agency directly or on its own behalf or in conjunction with other public
1284 instrumentalities, or private institutions, or the federal government; provided, however, that said
1285 rules and regulations shall provide that each such qualified investment made under clause (1) of
1286 said subsection (c) shall involve a transaction with the participation of at least 2 at-risk private
1287 parties.

1288 Said rules shall, in addition, set forth the terms, procedures, standards and conditions
1289 which the agency shall employ to identify qualified applications, process applications, make
1290 investment determinations, safeguard the fund, advance the objective of increasing employment

1291 opportunities, oversee the progress of qualified investments and secure the participation of other
1292 public instrumentalities, private institutions, or the federal government in such qualified
1293 investments; provided, however, that said rules shall provide that each recipient of a qualified
1294 investment shall be required to pay a fee as a condition of such receipt, which fee may take the
1295 form of points, an interest rate premium or a contribution of warrants or other form of equity or
1296 consideration to the fund as prescribed by the advisory committee; and provided, further, that
1297 said rules shall provide for negotiated agreements between the agency and each recipient of a
1298 qualified investment regarding the terms and conditions by which the fund's support of a
1299 recipient could be reduced or withdrawn.

1300 (d) The agency or the advisory committee may solicit investments by private institutions
1301 or investors in the activities of the fund and may reach agreements with such private institutions
1302 or investors regarding the terms of such investments including, without limitation, the rights of
1303 such investors to participate in the income or appropriation of the fund. To help secure
1304 investments by private institutions or investors in the activities of the fund, the advisory
1305 committee may develop a proposal relative to the creation of a separate investment entity which
1306 would allow for the commingling of the resources of the fund with the maximum participation
1307 by such private institutions or investors in a manner which is consistent with the public purpose
1308 of the fund and under terms and conditions calculated to protect and preserve the assets of the
1309 fund; provided, however, that if the creation or operation of such a separate entity as proposed by
1310 the advisory committee would require additional or clarifying amendments to the enabling act of
1311 the agency, said proposal shall include proposed statutory language.

1312 (e) Copies of the approved rules, and modifications to the rules, shall be submitted to the
1313 chairs of the house and senate committees on ways and means and the joint committee on

1314 economic development and emerging technologies and the clerks of the house of representatives
1315 and senate.

1316 (f) Qualified investment transactions undertaken by the agency on behalf of the advisory
1317 committee under this section shall not, except as specified in this section, be subject to chapter
1318 175, and shall be payable solely from the Emerging Technology Fund, established by this section
1319 and shall not constitute a debt or pledge of the faith and credit of the commonwealth, the agency
1320 or any subdivision of the commonwealth.

1321 (g) The agency, on behalf of the advisory committee, shall not make an expenditure from
1322 or commitment of the assets of the fund, including, without limitation, the making of qualified
1323 investments secured by the fund, if making such a qualified investment would reduce the
1324 amount of the fund below the minimum requirement established by law, unless the agency, at the
1325 time of making of such qualified investment, deposits in the fund from the proceeds of that
1326 qualified investment or from any fees and charges imposed relative to the making of qualified
1327 investments, or otherwise, an amount which, together with the amount in the fund, shall not be
1328 less than the minimum requirement; provided, however, that at no time shall the minimum
1329 requirement of the fund be less than the maximum amount of principal and interest becoming
1330 due in the current and succeeding fiscal year of the agency on all outstanding bonds and other
1331 obligations which are secured by the fund or such greater amount as may be set forth in the rules
1332 governing the fund.

1333 SECTION 52. Said chapter 23G is hereby amended by striking out Section 28, as so
1334 appearing, and inserting in place thereof the following section:-

1335 Section 28. (a) There is hereby established an advisory committee relative to the fund
1336 consisting of the director of the Massachusetts office of business development, the director of the
1337 John Adams Innovation Institute, the president of the Massachusetts Technology Development
1338 Corporation, and 6 other persons, 3 of whom shall be appointed by the governor and 3 of whom
1339 shall be appointed by the board of the agency; provided, however, that the director of the
1340 Massachusetts office of business development may designate another person to act in the
1341 director's place for a particular purpose, including the right to attend and vote at a meeting of the
1342 advisory committee; provided, further, that at least 1 member appointed by the governor shall be
1343 a representative of an emerging technology industry, at least 1 member appointed by the
1344 governor shall have knowledge of financing of emerging technology companies, and at least 1
1345 member shall have knowledge of technology transfer and commercialization activities at
1346 research institutions; and provided, further, that at least 1 member appointed by the board of the
1347 agency shall be a representative of an emerging technology industry, and at least 1 member
1348 appointed by the board of the agency shall have knowledge of financing of emerging technology
1349 companies and 1 member appointed by the board of the agency shall be a member of the
1350 agency's board of directors. The executive director of the Massachusetts Technology Transfer
1351 Center shall serve as an ex-officio member of the advisory committee.

1352 Each appointed member of the advisory committee shall serve for a term of 3 years or
1353 until such member's successor is appointed; provided, however, that of those initially appointed,
1354 1 of each the governor's appointees and the board of the agency's appointees shall serve for a
1355 term of 1 year, 1 of each of the governor's appointees and the board of the agency's appointees
1356 shall serve for a term of 2 years, and 1 of each the governor's appointees and the board of the
1357 agency's appointees shall serve for a term of 3 years. A person appointed to fill a vacancy on the

1358 advisory committee shall be appointed in a like manner and shall be eligible for reappointment.
1359 A member of the advisory committee appointed by the governor may be removed by the
1360 governor for cause. A member of the advisory committee appointed by the board of the agency
1361 may be removed by the board of the agency for cause.

1362 (b) The members shall annually elect a chairman and vice chairman and shall adopt by-
1363 laws governing the affairs of the advisory committee. Five members of the advisory committee
1364 shall constitute a quorum and the affirmative vote of a majority of the members present and
1365 eligible to vote at a meeting shall be necessary for an action to be taken by the advisory
1366 committee; provided, however, that no vacancy in the membership of the advisory committee
1367 shall impair the right of a quorum to exercise the powers of the advisory committee.

1368 (c) The members shall serve without compensation, but each member shall be entitled to
1369 reimbursement for actual and necessary expenses incurred in the performance of official duties.

1370 (d) The advisory committee may meet as often as the members shall decide; provided,
1371 however, that it shall meet at least once in each calendar quarter and its approval shall be
1372 necessary for an expenditure from or commitment of the assets of the fund or entry into contracts
1373 of the type specified in the last sentence of subsection (a).

1374 (e) The advisory committee may, by majority vote, elect, in its discretion, to delegate
1375 some or all of the board's approval rights to the board or the staff of the agency; provided, that,
1376 any such delegation may be revoked at any time by majority vote of the advisory committee.

1377 (f) The agency shall manage the qualified investments made from the fund on behalf of
1378 the advisory committee including, without limitation, the closing, servicing, monitoring,
1379 underwriting, and where appropriate, the enforcement of rights with respect to such management

1380 and shall provide such staff and supporting assistance as deemed appropriate by the board of
1381 directors of the agency to enable the advisory committee to discharge its duties in a manner
1382 consistent with its public purpose. Subsection (d), subsections (f) to (i), inclusive, and subsection
1383 (l) of section 2 of this chapter shall also apply to the members and affairs of the advisory
1384 committee created under this section.

1385 (g) The advisory committee and the agency are encouraged to award 1 or more contracts
1386 with regard to the management of the fund, which may provide performance-based incentives,
1387 with regard to such management.

1388 SECTION 53. Chapter 23G of the General Laws is hereby amended by adding the
1389 following section:-

1390 Section 44. The agency shall be subject to section 16G of chapter 6A and section
1391 56 of chapter 23A.

1392 SECTION 54. Clause (7) of subsection (a) of section 4 of chapter 23I of the General
1393 Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word
1394 “document”, in line 35, the following words:- ; provided, however, that the center shall contract
1395 with another public authority for the performance of core administrative functions by that
1396 authority, as determined by the secretary of housing and economic development which may
1397 include but shall not be limited to, human resources, financial management, information
1398 technology, legal, procurement and asset management, to minimize the administrative costs and
1399 expenses of the center.

1400 SECTION 55. Subsection (d) of section 6 of said chapter 23I, as so appearing, is hereby
1401 amended by inserting after the figure “75”, in line 82, the following words:- to fund activities

1402 that facilitate the transfer of technology from the commonwealth’s research institutions to the
1403 commonwealth’s life science industries, for productive use by such industries and to make
1404 targeted investments in proof of concept funding for emerging technologies.

1405 SECTION 56. Section 12 of said chapter 23I, as so appearing, is hereby amended by
1406 striking out, in line 9, the word “and” and inserting in place thereof the following words:- the
1407 executive director of the Massachusetts Technology Transfer Center and.

1408 SECTION 57. Chapter 23I of the General Laws is hereby amended by adding the
1409 following section:

1410 Section 18. The center shall be subject to section 16G of chapter 6A and section 56 of
1411 chapter 23A.

1412 SECTION 58. Section 2 of chapter 23J of the General Laws, as so appearing, is hereby
1413 amended by striking out, in line 62, the words “his designee shall serve as chairperson” and
1414 inserting in place thereof the following words:- the secretary’s designee and the secretary of
1415 housing and economic development, or the secretary’s designee shall serve as co-chairs.

1416 SECTION 59. Clause (7) of subsection (a) of section 3 of said chapter 23J, as so
1417 appearing, is hereby amended in by inserting after the word “chapter;”, in line 30, the following
1418 words:- provided, however, that the center shall contract with another public authority for the
1419 performance of core administrative functions by that authority, as determined by the secretary of
1420 housing and economic development which may include but shall not be limited to, human
1421 resources, financial management, information technology, legal, procurement and asset
1422 management, to minimize the administrative costs and expenses of the center.

1423 SECTION 60. Chapter 23J of the General Laws is hereby amended by adding the
1424 following section:-

1425 Section 9. The center shall be subject to section 16G of chapter 6A and section 56 of
1426 chapter 23A.

1427 SECTION 61. The General Laws are hereby amended by inserting after chapter 23J the
1428 following chapter:-

1429 CHAPTER 23K

1430 The Health and Educational Facilities Authority

1431 Section 1. This chapter may be referred to and cited as the "Health and Educational
1432 Facilities Authority Act."

1433 Section 2. In this chapter, the following words shall, unless the context clearly requires
1434 otherwise, have the following meanings:

1435 "Authority", the Health and Educational Facilities Authority created by section 3.

1436 "Bonds" or "revenue bonds", revenue bonds of the authority issued under this chapter,
1437 including revenue refunding bonds, notwithstanding that the same may be secured by any
1438 federally guaranteed security, whether acquired by the authority or by a participating institution,
1439 or by mortgage, the full faith and credit or by any other lawfully pledged security of 1 or more
1440 participating institutions.

1441 "Cost", as applied to a project or any portion thereof financed under this chapter
1442 embraces all or any part of the cost of construction, acquisition, alteration, enlargement,

1443 reconstruction and remodeling of a project including all lands, structures, real or personal
1444 property, rights, rights of way, air rights, franchises, easements and interests acquired or used for
1445 or in connection with a project, the cost of demolishing or removing any buildings or structures
1446 on land so acquired, including the cost of acquiring any lands to which such buildings or
1447 structures may be moved, the cost of all machinery and equipment, financing charges, interest
1448 prior to, during and for a period after completion of such construction and acquisition,
1449 reasonably required amounts to make the project operational, provisions for reserves for
1450 principal and interest and for extensions, enlargements, additions, replacements, renovations and
1451 improvements, the cost of architectural, engineering, financial and legal services, plans,
1452 specifications, studies, surveys, estimates of cost and of revenues, administrative expenses,
1453 expenses necessary or incident to determining the feasibility or practicability of constructing the
1454 project and such other expenses as may be necessary or incident to the construction and
1455 acquisition of the project, the financing of such construction and acquisition and the placing of
1456 the project in operation.

1457 "Cultural institution", a nonprofit cultural or scientific institution within the
1458 commonwealth with respect to which the authority finds that the institution is a major regional
1459 resource, that it provides educational services to candidates for academic degrees for credit at
1460 other institutions or resources for research by scholars holding academic degrees or other
1461 education at an advanced level, and that it has demonstrated broad community support through
1462 giving for capital or current purposes.

1463 "Federally guaranteed security", any security, investment or evidence of indebtedness
1464 which is either directly or indirectly, insured or guaranteed, in whole or in part, as to the

1465 repayment of principal or interest or both by the United States or any instrumentality of the
1466 United States.

1467 "Federally insured project loan", a loan to finance or refinance the cost of a project for an
1468 institution which is either directly or indirectly, insured or guaranteed, in whole or in part, as to
1469 the repayment of the principal or interest or both by the United States or an instrumentality of the
1470 United States, or a commitment by the United States or an instrumentality of the United States to
1471 so insure or guarantee such a loan.

1472 "Hospital", a nonprofit hospital within the commonwealth licensed by the department of
1473 public health; or a nonprofit health maintenance organization within the commonwealth licensed
1474 by the commissioner of insurance; or an affiliated nonprofit corporation which is organized and
1475 operated for the benefit of, to perform 1 or more of the functions of, or to carry out 1 or more of
1476 the purposes of 1 or more licensed nonprofit hospitals or health maintenance organizations,
1477 including operation of a nursing home, comprehensive gerontology facility or congregate care
1478 facility; or any other nonprofit charitable institution in the commonwealth not otherwise eligible
1479 to participate under this chapter; provided, however, that such other nonprofit charitable
1480 institution may only undertake the financing and construction or acquisition of a project or
1481 undertake the refunding or refinancing of obligations or of a mortgage or of advances to the
1482 extent that such projects, obligations, mortgages, or advances consist of or result from the
1483 purchase of energy or from energy conservation or related projects of such other nonprofit
1484 charitable institution; and provided further, that such other nonprofit charitable institution
1485 participates in or is a member of a group power purchasing program organized and administered
1486 by or on behalf of the authority.

1487 "Institution", a hospital or a nonprofit corporation organized to operate a facility or
1488 facilities that provide cultural or educational services, including but not limited to an institution
1489 for higher education, a school for the developmentally disabled, or a cultural institution.

1490 "Institution for higher education", a public or a private, nonprofit educational institution
1491 within the commonwealth authorized by law to provide a program of education beyond the high
1492 school level, or any organization affiliated therewith; provided, that for the purposes of this
1493 definition an "organization affiliated" with such educational institution shall be any organization
1494 or association, in any form, the activities of which are a part of the activities of such educational
1495 institution and are subject to regulation by the trustees or other governing body of such
1496 educational institution, or any research foundation, teaching hospital and associated clinics, or
1497 other research or educational organization the operation of which in conjunction with such
1498 educational institution is approved by the trustees or other governing body of such educational
1499 institution, or any other entity whose activities are approved by the trustees or other governing
1500 body of such educational institution as furthering the purposes of the educational institution, or,
1501 in the case of a public institution for higher education, the advisory committee on education
1502 policy established under section 2 of chapter 15A.

1503 "Participating cultural institution", a cultural institution which, under this chapter,
1504 undertakes the financing and construction or acquisition of a project or undertakes the refunding
1505 of refinancing of obligations or of a mortgage or of advances as provided in this chapter.

1506 "Participating hospital", a hospital which, under this chapter, undertakes the financing
1507 and construction or acquisition of a project or undertakes the refunding or refinancing of
1508 obligations or of a mortgage or of advances as provided in this chapter.

1509 "Participating institution", a participating hospital or other participating nonprofit
1510 corporation organized to operate a facility or facilities that provide cultural or educational
1511 services, including but not limited to a participating institution for higher education, a
1512 participating school for the developmentally disabled, or a participating cultural institution.

1513 "Participating institution for higher education", an institution for higher education which,
1514 under this chapter, undertakes the financing and construction or acquisition of a project or
1515 undertakes the refunding or refinancing of obligations or of a mortgage or of advances as
1516 provided in this chapter.

1517 "Participating school for the developmentally disabled", a school for the
1518 developmentally disabled which, under this chapter, undertakes the financing and construction or
1519 acquisition of a project or undertakes the refunding or refinancing of obligations.

1520 "Project", in the case of a participating institution for higher education, participating
1521 institution for the developmentally disabled or other participating institution that offers
1522 residences to students, a structure or structures suitable for use as a dormitory or other multi-unit
1523 housing facility for students, faculty, officers or employees, a dining hall, student union,
1524 administration building, academic building, library, laboratory, research facility, classroom,
1525 athletic facility, health care facility, maintenance facility, storage or utility facility and other
1526 structures or facilities related to any of those structures or required or useful for the instruction of
1527 students or the conducting of research or the operation of an institution for higher education or
1528 participating institution for the handicapped or other participating institution, including parking
1529 and other facilities or structures essential or convenient for the orderly conduct of such institution
1530 for higher education or participating institution for the developmentally disabled or other

1531 participating institution; provided, however, that “project” shall also include landscaping, site
1532 preparation, furniture, equipment and machinery and other similar items necessary or convenient
1533 for the operation of a particular facility or structure in the manner for which its use is intended as
1534 well as any furnishings, equipment, machinery and other similar items necessary or convenient
1535 for the operation of an institution of higher education or participating institution for the
1536 handicapped or other participating institution, whether or not such items are related to a
1537 particular facility or structure financed under this chapter; provided, however, that “project” shall
1538 not include such items as books, fuel, supplies or other items the cost of which are customarily
1539 deemed to result in a current operating charge, and shall not include any facility used or to be
1540 used for sectarian instruction or as a place of religious worship nor any facility which is used or
1541 to be used primarily in connection with any part of the program of a school or department of
1542 divinity for any religious denomination; provided, further, that “project” shall include, in the case
1543 of a participating hospital, a structure or structures suitable for use as a hospital, clinic,
1544 comprehensive gerontology facility, nursing home, or other health care facility, laboratory,
1545 laundry, nurses or interns residence or other multi-unit housing facility for staff, employees,
1546 patients or relatives of patients admitted for treatment in such hospital, or for the aged, doctors
1547 office building, administration building, research facility, maintenance, storage or utility facility
1548 and other structures or facilities related to any of the foregoing or required or useful for the
1549 operation of a hospital, including parking and other facilities or structures essential or convenient
1550 for the orderly conduct of such hospital, and shall also include landscaping, site preparation,
1551 furniture, equipment and machinery and other similar items necessary or convenient for the
1552 operation of a particular facility or structure in the manner for which its use is intended and shall
1553 further include any furnishings, equipment, machinery and other similar items necessary or

1554 convenient for the operation of a hospital, whether or not such items are related to a particular
1555 facility or structure financed under this chapter, and may also include the issuance of tax exempt
1556 debt instruments for working capital and for the providing of such items as fuel, supplies or other
1557 items the cost of which are customarily deemed to result in a current operating charge; and in the
1558 case of a particular cultural institution, a structure or structures suitable for its purposes, whether
1559 or not to be used to provide educational services, or research resources; provided, further, that
1560 “project” shall also include supporting facilities, landscaping, site preparation, furniture,
1561 equipment, machinery and other related items and shall further include any furnishings,
1562 equipment, machinery and other similar items necessary or convenient for the operation of a
1563 cultural institution, whether or not such items are related to a particular facility or structure
1564 financed under this chapter, but shall not include books, works of art, or other items for display
1565 or exhibition, or items the cost of which are customarily deemed to result in a current operating
1566 charge; provided, further, that "project" may include any combination of 1 or more of the
1567 foregoing undertaken jointly by 1 or more participating institutions with each other or with other
1568 parties; and, notwithstanding anything in this definition to the contrary, "project" may also
1569 include any capital or operating expenditure which may legally be made by any participating
1570 institution and the thing produced or acquired by such expenditure.

1571 "School for the developmentally disabled", a nonprofit primary, secondary or post-
1572 secondary school within the commonwealth which: (i) serves students, at least 70 per cent of
1573 whom are developmentally disabled, as determined by 1 or more appropriate educational,
1574 rehabilitation, medical or mental health authorities; (ii) is accredited by a recognized accrediting
1575 body; and (iii) is determined by the authority to be a major resource of benefit to the
1576 developmentally disabled.

1577 Section 3. (a) There is hereby created a body politic and corporate to be known as the
1578 "Health and Educational Facilities Authority". The authority is constituted a public
1579 instrumentality and the exercise by the authority of the powers conferred by this chapter shall be
1580 deemed and held to be the performance of an essential public function. The authority shall
1581 consist of 9 members, to be appointed by the governor, who shall be residents of the
1582 commonwealth, 1 of whom shall be the secretary of housing and economic development and not
1583 more than 5 of whom shall be members of the same political party. At least 2 of the members
1584 shall be trustees, directors, officers or employees of institutions for higher education, at least 2
1585 shall be trustees, directors, officers or employees of hospitals, at least 1 shall be a person having
1586 a favorable reputation for skill, knowledge and experience in the field of state and municipal
1587 finance, either as a partner, officer or employee of an investment banking firm which originates
1588 and purchases state and municipal securities, or as an officer or employee of an insurance
1589 company or bank whose duties relate to the purchase of state and municipal securities as an
1590 investment and to the management and control of a state and municipal securities portfolio, and
1591 at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in
1592 the building construction field. Upon the expiration of the term of any member, a successor shall
1593 be appointed for a term of 7 years. The governor shall fill any vacancy for the remainder of the
1594 unexpired term. Any member of the authority may be removed by the governor for misfeasance,
1595 malfeasance or willful neglect of duty or other cause after notice and a public hearing unless
1596 such notice and hearing shall be expressly waived in writing.

1597 (b) The secretary of the executive office of housing and economic development shall
1598 serve as the chairman of the authority. The authority shall annually elect 1 of its members as
1599 vice chairman. It may appoint an executive director and assistant executive director, who shall

1600 not be members of the authority, who shall serve at the pleasure of the authority. They shall
1601 receive such compensation as shall be fixed by the authority.

1602 (c) The executive director or assistant executive director or other person designated by
1603 resolution of the authority shall keep a record of the proceedings of the authority and shall be
1604 custodian of all books, documents and papers filed with the authority, the minute book or journal
1605 of the authority, and its official seal. The executive director or assistant executive director or
1606 other person may cause copies to be made of all minutes and other records and documents of the
1607 authority and may give certificates under the official seal of the authority to the effect that such
1608 copies are true copies, and all persons dealing with the authority may rely upon such certificates.

1609 (d) Five members of the authority shall constitute a quorum. The affirmative vote of a
1610 majority of all the members of the authority shall be necessary for any action taken by the
1611 authority. A vacancy in the membership of the authority shall not impair the right of a quorum to
1612 exercise all the rights and perform all the duties of the authority. An action taken by the authority
1613 under this chapter may be authorized by resolution at a regular or special meeting, and each such
1614 resolution shall take effect immediately and need not be published or posted.

1615 (e) Before the authority issues revenue bonds under this chapter, the chairman, vice
1616 chairman, executive director and assistant executive director and any other member of the
1617 authority authorized by resolution of the authority to handle funds or sign checks of the authority
1618 shall execute a surety bond in the penal sum of \$50,000, or in lieu thereof the chairman shall
1619 obtain a blanket position bond covering the executive director and every member and other
1620 employee of the authority in the penal sum of \$50,000. Each such bond shall be conditioned
1621 upon the faithful performance of the duties of the principal or the members, executive director

1622 and other employees, as the case may be, shall be executed, by a surety company authorized to
1623 transact business in the commonwealth as surety, shall be approved by the attorney general and
1624 shall be filed in the office of the state secretary. The cost of each such bond shall be paid by the
1625 authority.

1626 (f) The members of the authority shall receive no compensation for the performance of
1627 their duties under this chapter but each member shall be paid the member's necessary expenses
1628 incurred while engaged in the performance of the member's duties.

1629 (g) A member, officer, agent or employee of the authority who, directly or indirectly, has
1630 a financial interest in a property to be included in, or a contract for property or materials to be
1631 furnished or used in connection with, a project of the authority, shall be punished by a fine of not
1632 less than \$50 nor more than \$1,000, or by imprisonment for not more than 1 month, or both.

1633 (h) Members of the authority shall be considered state employees for the purposes of
1634 chapters 268A and 268B; provided, however, that notwithstanding subsection (g) or any other
1635 law to the contrary, it shall not be or constitute a conflict of interest or violation of paragraph (g)
1636 or any other law for a trustee, director, officer or employee of a participating institution or for a
1637 person having the required favorable reputation for skill, knowledge and experience in state and
1638 municipal finance or for a person having the required favorable reputation for skill, knowledge
1639 and experience in the building construction field to serve as a member of the authority; provided,
1640 further, that;

1641 (1) in each case to which this subsection is applicable, such trustee, director,
1642 officer or employee of such participating institution abstains from discussion, deliberation, action

1643 and vote by the authority in specific respect to an undertaking under this chapter in which such
1644 participating institution has an interest;

1645 (2) such person having the required favorable reputation for skill, knowledge and
1646 experience in state and municipal finance abstains from discussion, deliberation, action and vote
1647 by the authority in specific respect to any sale, purchase or ownership of bonds of the authority
1648 in which the investment banking firm or insurance company or bank of which such person is a
1649 partner, officer or employee has a past, current or future interest; or

1650 (3) such person having the required favorable reputation for skill, knowledge and
1651 experience in the building construction field abstains from discussion, deliberation, action and
1652 vote by the authority in specific respect to construction or acquisition of a project of the authority
1653 in which a partnership, firm, joint venture, sole proprietorship or corporation of which such
1654 person is an owner, venturer, participant, partner, officer or employee who has a past, current or
1655 future interest.

1656 Section 4. The purpose of the authority shall be to assist institutions in the acquisition,
1657 construction, financing and refinancing of projects. For that purpose the authority may:

1658 (a) adopt by-laws for the regulation of its affairs and the conduct of its business;

1659 (b) adopt an official seal and alter the same at its pleasure;

1660 (c) maintain an office at such place or places as it may designate;

1661 (d) sue and be sued in its own name, plead and be impleaded;

1662 (e) determine the location and character of a project to be financed under this chapter, and
1663 construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as

1664 lessee or lessor, and regulate the same, enter into contracts for any or all of such purposes, enter
1665 into contracts for the management and operation of a project, and designate a participating
1666 institution as its agent to determine the location and character of a project undertaken by such
1667 participating institution under this chapter and, as the agent of the authority, construct,
1668 reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or
1669 lessor, and regulate the same, and, as the agent of the authority, enter into contracts for any or all
1670 of such purposes, including contracts for the management and operation of such project;

1671 (f) issue bonds, bond anticipation notes and other obligations of the authority for any of
1672 its corporate purposes, and fund or refund bonds, bond anticipation notes and other obligations as
1673 provided in this chapter;

1674 (g) generally, fix and revise and charge and collect rates, rents, fees and charges for the
1675 use of and for the services furnished or to be furnished by a project or any portion of a project
1676 and contract with any person, partnership, association or corporation or other body public or
1677 private in respect thereof and designate a participating institution as its agent to fix, revise,
1678 charge and collect such rates, rents, fees and charges and make such contracts;

1679 (h) establish rules and regulations for the use of a project or any portion of a project and
1680 designate a participating institution as its agent to establish rules and regulations for the use of a
1681 project in which such participating institution is participating;

1682 (i) require, at the expense directly or indirectly of an institution intending to participate in
1683 a project, a report on the financial feasibility of such project to be financed; provided, however,
1684 that the report of an independent accountant or accounting firm or financial expert employed or
1685 selected by such institution with the approval of the authority shall be deemed to satisfy the

1686 requirement of such report, if such independent accountant, accounting firm or financial expert
1687 has demonstrated capability of preparing such financial feasibility reports; and provided, further,
1688 that the authority shall not unreasonably or arbitrarily withhold such approval and may
1689 promulgate regulations stipulating the form and content of such report;

1690 (j) employ and fix the compensation of consulting engineers, architects, attorneys,
1691 accountants, construction and financial experts, superintendents, managers, and other employees
1692 and agents as may be necessary in its judgment;

1693 (k) receive and accept from any public agency loans or grants for, or in aid of, the
1694 construction of a project or any portion of a project, and to receive and accept loans, grants, aid
1695 or contributions from any source of either money, property, labor or other things of value to be
1696 held, used and applied only for the purposes for which such loans, grants, aid and contributions
1697 are made;

1698 (l) mortgage a project and the site of the project for the benefit of the holders of revenue
1699 bonds issued to finance that project; provided, however, that the authority shall not mortgage any
1700 project undertaken on behalf of a public institution for higher education or the site of that project,
1701 and shall not convey that project or site except under section 7;

1702 (m) make loans to a participating institution for the cost of a project under an agreement
1703 between the authority and 1 or more participating institutions; provided, however, that no such
1704 loan shall exceed the total cost of the project as determined by the participating institution and
1705 approved by the authority;

1706 (n) make loans to participating institutions to refund outstanding obligations, mortgages
1707 or advances issued, made or given by the institutions for the cost of a project;

1708 (o) charge to and equitably apportion among participating institutions its administrative
1709 costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;
1710 provided that the authority shall contract with another public authority for the performance of
1711 core administrative functions by that authority, as determined by the secretary of housing and
1712 economic development which may include but shall not be limited to, human resources, financial
1713 management, information technology, legal, procurement and asset management, to minimize
1714 the administrative costs and expenses apportioned to participating institutions under this clause;
1715 provided further, that if the authority fails to contract with another public authority as required in
1716 this subsection, the authority may not recover its administrative costs and expenses from
1717 participating institutions; provided, further, that the authority shall publish and disseminate
1718 through its website each fiscal year a schedule of fees or a methodology for determining fees to
1719 be charged under this clause, which shall result in similar charges for similarly-situated projects,
1720 regardless of the size of the participating institution;

1721 (p) acquire and enter into commitments to acquire a federally guaranteed security and
1722 pledge or otherwise use the federally guaranteed security in such manner as the authority shall
1723 approve to secure or otherwise provide a source of repayment on any of its bonds or to enter into
1724 an appropriate agreement with 1 or more participating institutions whereby the authority may
1725 make a loan to any such institution for the purpose of enabling such institution to fund or refund,
1726 directly or indirectly, the cost of acquiring or entering into commitments to acquire a federally
1727 guaranteed security; provided, however, that the federally guaranteed security is evidence of a
1728 federally insured project loan or, if not such evidence, that the authority determines that the
1729 federally guaranteed security has been issued to pass through a federally insured project loan;

1730 (q) issue electric rate reduction bonds, as defined in section 1H of chapter 164, for the
1731 benefit of any electric company, as defined in section 1 of said chapter 164, that is determined to
1732 be eligible for said bond financing by the department of energy resources under said chapter 164;
1733 provided, however, that such electric rate reduction bonds shall constitute bonds as defined in
1734 section 2; provided, further, that such an electric company shall be deemed to be a participating
1735 institution as defined in section 2; and provided further, that the financing or refinancing of
1736 transition costs or the acquiring of transition property as provided for in section 1H of said
1737 chapter 164 shall be deemed to be a project as defined in section 2; and

1738 (r) do all things necessary or convenient to carry out the purpose of this chapter.

1739 In carrying out the purposes of this chapter, the authority may undertake joint projects for
1740 2 or more participating institutions for higher education or 2 or more participating hospitals, or
1741 for any combination of participating institutions for higher education and participating hospitals,
1742 and, thereupon, all other provisions of this chapter shall apply to and for the benefit of the
1743 authority and the participants in such joint projects.

1744 The authority shall not undertake a project on behalf of a public institution for higher
1745 education except upon written request made by the advisory committee on education policy
1746 established under section 2 of chapter 15A.

1747 Section 5. All expenses incurred in carrying out this chapter shall be payable solely from
1748 funds provided under the authority of this chapter and no liability or obligation shall be incurred
1749 by the authority under this chapter beyond the extent to which moneys shall have been provided
1750 under this chapter.

1751 Section 6. The authority may, directly or by and through a participating institution, as its
1752 agent, acquire by purchase solely from funds provided under the authority of this chapter, or by
1753 gift or devise, and take title to such lands, structures, property, real or personal, rights, rights-of-
1754 way, air rights, franchises, easements and other interests in lands, including lands lying under
1755 water and riparian rights, which are located within the commonwealth as the authority may deem
1756 necessary or convenient for the acquisition, construction or operation of a project, upon such
1757 terms and at such prices as may be considered by the authority to be reasonable and can be
1758 agreed upon between the authority and the owner in the name of the authority or in the name of 1
1759 or more participating institutions as its agent.

1760 Section 7. When the principal of and interest on revenue bonds of the authority issued to
1761 finance the cost of a particular project for 1 or more participating institutions, including revenue
1762 refunding bonds issued to refund and refinance the revenue bonds, have been fully paid and
1763 retired or when adequate provision has been made to fully pay and retire the revenue bonds, and
1764 all other conditions of the resolution or trust agreement authorizing and securing the revenue
1765 bonds have been satisfied and the lien of the resolution or trust agreement has been released in
1766 accordance with the resolution or trust agreement, the authority shall promptly do such things
1767 and execute such deeds and conveyances as are necessary and required to convey title to the
1768 project to the participating institutions, all to the extent that title to the project is not, at the time,
1769 vested in the participating institutions.

1770 Section 8. The authority may issue negotiable notes for a corporate purpose and may
1771 renew notes by issuing new notes, whether the notes to be renewed have or have not matured.
1772 The authority may issue notes partly to renew notes or to discharge other obligations then
1773 outstanding and partly for any other purpose. The notes may be authorized, sold, executed and

1774 delivered in the same manner as bonds. A resolution authorizing notes of the authority or an
1775 issue of notes by the authority may contain provisions which the authority is authorized to
1776 include in a resolution authorizing revenue bonds of the authority or an issue of bonds by the
1777 authority, and the authority may include in a note any terms, covenants or conditions which it is
1778 authorized to include in any bonds. A resolution may delegate to the executive director, assistant
1779 executive director, or any member of the authority or any combination of them, the power to
1780 determine any of the details of the notes and to award the notes to a purchaser. All the notes
1781 shall be payable solely from the revenues of the authority, subject only to any contractual rights
1782 of the holders of any of its notes or other obligations then outstanding.

1783 Section 9. (a) The authority may issue revenue bonds for any corporate purpose and all
1784 the revenue bonds, notes, bond anticipation notes or other obligations of the authority issued
1785 under this chapter shall be negotiable for all purposes notwithstanding their payment from a
1786 limited source and notwithstanding any general or special law to the contrary. In anticipation of
1787 the sale of revenue bonds the authority may issue negotiable bond anticipation notes and may
1788 renew the notes from time to time, but the maximum maturity of a bond anticipation note,
1789 including renewals of that note, shall not exceed 5 years from the date of issue of the original
1790 note. Bond anticipation notes shall be paid from revenues of the authority available for that
1791 purpose and not otherwise pledged, or from the proceeds of sale of the revenue bonds of the
1792 authority in anticipation of which they were issued. The notes shall be issued in the same manner
1793 as the revenue bonds. The notes and the resolution authorizing those notes may contain any
1794 provisions, conditions or limitations which a bond resolution of the authority may contain.

1795 (b) The revenue bonds and notes of every issue shall be payable solely out of revenues to
1796 the authority, subject only to any agreements with the holders of particular revenue bonds or

1797 notes pledging any particular revenues and subject to any agreements with any participating
1798 institution. Notwithstanding that revenue bonds and notes may be payable from a special fund,
1799 they shall be and be deemed to be, for all purposes, negotiable instruments, subject only to the
1800 provisions of the revenue bonds and notes for registration.

1801 (c) The revenue bonds may be issued as serial bonds or as term bonds, or the authority, in
1802 its discretion, may issue bonds of both types. The revenue bonds shall be authorized by
1803 resolution of the members of the authority and shall bear such date or dates, mature at such time
1804 or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates,
1805 payable at such time or times, be in such denominations, be in such form, either coupon or
1806 registered, carry such registration privileges, be executed in such manner, be payable in lawful
1807 money of the United States of America at such place or places, and be subject to such terms of
1808 redemption, as such resolution or resolutions may provide. Such resolution or resolutions may
1809 delegate to the executive director, assistant executive director or any member of the authority or
1810 any combination of them, the power to determine any of the matters set forth in this section and
1811 the power to award the bonds to a purchaser or purchasers at public sale or to negotiate a sale to
1812 a purchaser or purchasers provided in the latter case that the bonds are to be reoffered to the
1813 public. The revenue bonds or notes may be sold at public or private sale for such price or prices
1814 as the authority shall determine. Pending preparation of the definitive bonds, the authority may
1815 issue interim receipts or certificates which shall be exchanged for such definitive bonds.

1816 (d) A resolution authorizing a revenue bond or an issue of revenue bonds may contain
1817 provisions, which shall be a part of the contract with the holders of the revenue bonds to be
1818 authorized, as to:

1819 (1) pledging all or any part of the revenues of a project, a revenue producing contract
1820 made by the authority with an individual, partnership, corporation or association or other body,
1821 public or private, or a federally guaranteed security and moneys received therefrom whether the
1822 security is acquired by the authority or a participating institution to secure the payment of the
1823 revenue bonds or of any particular issue of revenue bonds, subject to such agreements with
1824 bondholders as may then exist; (2) the rentals, fees and other charges to be charged, and the
1825 amounts to be raised in each year by those rentals, fees and charges, and the use and disposition
1826 of the revenues; (3) the establishment and setting aside of reserves or sinking funds, and the
1827 regulation and disposition of those reserves or sinking funds; (4) limitations on the right of the
1828 authority or its agent to restrict and regulate the use of the project; (5) limitations on the purpose
1829 to which the proceeds of sale of any issue of revenue bonds then or thereafter to be issued may
1830 be applied, including as authorized purposes, all costs and expenses necessary or incidental to the
1831 issuance of bonds, to the acquisition of or commitment to acquire a federally guaranteed security
1832 and to the issuance and obtaining of a federally insured mortgage note and pledging such
1833 proceeds to secure the payment of the revenue bonds or an issue of the revenue bonds; (6)
1834 limitations on the issuance of additional bonds, the terms upon which additional bonds may be
1835 issued and secured and the refunding of outstanding bonds; (7) the procedure, if any, by which
1836 the terms of a contract with bondholders may be amended or abrogated, the amount of bonds the
1837 holders of which must consent thereto, and the manner in which such consent may be given; (8)
1838 limitations on the amount of moneys derived from the project to be expended for operating,
1839 administrative or other expenses of the authority; (9) defining the acts or omissions to act which
1840 shall constitute a default in the duties of the authority to holders of its obligations and providing
1841 the rights and remedies of such holders in the event of a default; (10) the duties, obligations and

1842 liabilities of any trustee or paying agent; and (11) the mortgaging of a project and the site of the
1843 project for the purpose of securing the bondholders.

1844 (e) Neither the members of the authority nor a person executing the revenue bonds or
1845 notes shall be liable personally on the revenue bonds or notes or be subject to any personal
1846 liability or accountability due to the issuance of the bonds or notes.

1847 (f) The authority shall have power out of any funds available for the authority to
1848 purchase its bonds or notes. The authority may hold, pledge, cancel or resell those bonds or
1849 notes, subject to and in accordance with agreements with bondholders.

1850 Section 10. In the discretion of the authority a revenue bond issued under this chapter
1851 may be secured by a trust agreement by and between the authority and a corporate trustee, which
1852 may be a trust company or bank having the powers of a trust company under section 1A of
1853 chapter 172 or a savings bank under section 2 of chapter 167F within the commonwealth. The
1854 trust agreement or the resolution allowing the authority to issue those revenue bonds may pledge
1855 or assign the revenues to be received or proceeds of a contract pledged and may convey or
1856 mortgage the project or a portion of the project. A trust agreement or resolution allowing the
1857 authority to issue the revenue bonds may contain provisions for protecting and enforcing the
1858 rights and remedies of the bondholders as may be reasonable and proper and not in violation of
1859 law, including particularly provisions that are specifically authorized by this chapter to be
1860 included in a resolution of the authority authorizing revenue bonds of the authority. A bank, trust
1861 company or savings bank incorporated under the laws of the commonwealth which may act as
1862 depository of the proceeds of bonds or of revenues or other moneys may furnish the
1863 indemnifying bonds or pledge the securities as may be required by the authority. A trust

1864 agreement may set forth the rights and remedies of the bondholders and of the trustee, and may
1865 restrict the individual right of action by bondholders. A trust agreement or resolution may also
1866 contain other provisions as the authority may deem reasonable and proper for the security of the
1867 bondholders. All expenses incurred in carrying out the trust agreement or resolution may be
1868 treated as a part of the cost of the operation of a project.

1869 Section 11. Revenue bonds issued under this chapter shall not be deemed to constitute a
1870 debt or liability of the commonwealth or of any political subdivision of the commonwealth or a
1871 pledge of the faith and credit of the commonwealth or of any political subdivision of the
1872 commonwealth, but shall be payable solely from the funds provided for payment of those funds
1873 from revenues. A revenue bond shall contain on its face a statement to the effect that neither the
1874 commonwealth nor the authority shall be obligated to pay the revenue bond or the interest on the
1875 revenue bond except from revenues of the project or the portion of the project for which they are
1876 issued and that neither the faith and credit nor the taxing power of the commonwealth or of a
1877 political subdivision of the commonwealth is pledged to the payment of the principal of or the
1878 interest on the bond. The issuance of revenue bonds under this chapter shall not directly or
1879 indirectly or contingently obligate the commonwealth or a political subdivision of the
1880 commonwealth to levy or to pledge any form of taxation or to make an appropriation for their
1881 payment.

1882 Section 12. (a) The authority may fix, revise, charge and collect rates, rents, fees and
1883 charges for the use of and for the services furnished or to be furnished by each project and the
1884 authority may contract with any person, partnership, association or corporation, or other body,
1885 public or private, for those purposes.

1886 (b) The rates, rents, fees and charges shall be fixed and adjusted in respect of the
1887 aggregate of rates, rents, fees and charges from a project so as to provide funds sufficient with
1888 other revenues, if any: (1) to pay the cost of maintaining, repairing and operating the project and
1889 each and every portion thereof, to the extent that the payment of a cost has not otherwise been
1890 adequately provided for; (2) to pay the principal of and the interest on outstanding revenue bonds
1891 of the authority issued in respect of that project as the same shall become due and payable; and
1892 (3) to create and maintain reserves required or provided for in any resolution authorizing, or trust
1893 agreement securing, those revenue bonds of the authority.

1894 (c) The rates, rents, fees and charges shall not be subject to supervision or regulation by
1895 any department, commission, board, body, bureau or agency of this commonwealth other than
1896 the authority, except as provided in section 13.

1897 (d) A sufficient amount of the revenues derived in respect of a project, except the part of
1898 those revenues as may be necessary to pay the cost of maintenance, repair and operation and to
1899 provide reserves and for renewals, replacements, extensions, enlargements and improvements as
1900 may be provided for in the resolution authorizing the authority to issue revenue bonds of the
1901 authority or in the trust agreement securing the revenue bonds, shall be set aside at such regular
1902 intervals as may be provided in the resolution or trust agreement in a sinking or other similar
1903 fund which is hereby pledged to, and charged with, the payment of the principal of and the
1904 interest on the revenue bonds as the payment of the principal of and interest on the revenue
1905 bonds shall become due, and the redemption price or the purchase price of bonds retired by call
1906 or purchase as provided in the resolution or trust agreement. A pledge shall be valid and binding
1907 from the time when the pledge is made; the rates, rents, fees and charges and other revenues or
1908 other moneys so pledged and thereafter received by the authority shall immediately be subject to

1909 the lien of the pledge without any physical delivery of the lien or further act, and the lien of any
1910 such pledge shall be valid and binding as against all parties having claims of any kind in tort,
1911 contract or otherwise against the authority, irrespective of whether such parties have notice of the
1912 lien.

1913 (e) Neither the resolution nor a trust agreement by which a pledge is created need be filed
1914 or recorded except in the records of the authority. The use and disposition of moneys to the credit
1915 of such sinking or other similar fund shall be subject to the resolution authorizing the authority to
1916 issue the bonds or of the trust agreement.

1917 (f) Except as may otherwise be provided in a resolution or a trust agreement, a sinking or
1918 other similar fund shall be a fund for all the revenue bonds issued to finance a project at 1 or
1919 more participating institutions, without distinction or priority of one over another; provided,
1920 however, that the authority in a resolution or trust agreement may provide that the sinking or
1921 other similar fund shall be the fund for a particular project at an institution and for the revenue
1922 bonds issued to finance a particular project and may, additionally, permit and provide for the
1923 authority to issue revenue bonds having a subordinate lien in respect of the security authorized in
1924 this section to other revenue bonds of the authority and, in such case, the authority may create
1925 separate or other similar funds in respect of the subordinate lien bonds.

1926 Section 13. In the case of a project for a public institution for higher education, an
1927 establishment or revision of rules and regulations for the use of that institution and the fixing or
1928 revising of rates, rents, fees or other charges by the authority shall require the approval of the
1929 trustees. The trustees shall exercise their powers so that the aggregate of the rates, rents, fees and
1930 charges from the project with other revenues, if any, shall be sufficient: (1) to pay the cost of

1931 maintaining, repairing and operating the project and each and every portion of the project, to the
1932 extent that the payment of the cost has not otherwise been adequately provided for; (2) to pay the
1933 principal of and the interest on outstanding revenue bonds of the authority issued in respect of
1934 such project as the principal of and the interest on those bonds shall become due and payable;
1935 and (3) to create and maintain reserves required or provided for in any resolution authorizing, or
1936 trust agreement securing, such revenue bonds of the authority. Upon a failure of the trustees to
1937 exercise those powers, the authority may establish or revise such rules and regulations and fix or
1938 revise such rates, rents, fees or other charges without the approval of the trustees; provided,
1939 however, that in that case the trustees may propose alternative rules and regulations or scale of
1940 rates, rents, fees or other charges which shall then be adopted by the authority if they will
1941 produce sufficient aggregate revenues to meet the requirements. The rates, rents, fees or other
1942 charges shall not, except as expressly provided in this section with respect to the trustee, be
1943 subject to supervision or regulation of a department, division, commission, board, bureau or
1944 agency of the commonwealth or a political subdivision of the commonwealth.

1945 For the purpose of this section, the term "trustees" shall mean: (1) the advisory committee
1946 on education policy established in section 2 of chapter 15A, in the case of any state college, as
1947 listed in section 19 of chapter 73, or in the case of any community college, as defined in section
1948 10 of chapter 15A; or (2) the trustees of the public institution of higher education, or said
1949 advisory committee on education policy if authorized by the trustees, in the case of a public
1950 university.

1951 Section 14. Money received under the authority of this chapter, whether as proceeds from
1952 the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely
1953 as provided in this chapter. An officer with whom, or a bank or trust company with which, such

1954 money shall be deposited shall act as trustee of that money and shall hold and apply that money
1955 for the purposes provided in this chapter, subject to such regulations as this chapter and the
1956 resolution authorizing the bonds of an issue or the trust agreement securing those bonds may
1957 provide.

1958 Section 15. Any holder of revenue bonds, notes, bond anticipation notes, other notes or
1959 other obligations of the authority issued under this chapter or any of the coupons appertaining
1960 thereto, and the trustee or trustees under any trust agreement, except to the extent the rights
1961 herein given may be restricted by any resolution authorizing the issuance of, or any such trust
1962 agreement securing, such bonds or other obligations, may, either at law or in equity, by suit,
1963 action, mandamus or other proceedings, protect and enforce any and all rights under the laws of
1964 the commonwealth or granted hereunder or under such resolution or trust agreement, and may
1965 enforce and compel the performance of all duties required by this chapter or by such resolution
1966 or trust agreement to be performed by the authority or any officer, employee or agent thereof,
1967 including the fixing, charging and collecting of the rates, rents, fees and charges herein
1968 authorized and required by the provisions of such resolution or trust agreement to be fixed,
1969 established and collected.

1970 Section 16. The exercise of the powers granted by this chapter shall be for the benefit of
1971 the people of this commonwealth, for the increase of their commerce, welfare and prosperity,
1972 and for the improvement of their health and living conditions. The operation and maintenance of
1973 a project by the authority or its agent shall constitute the performance of an essential public
1974 function. Neither the authority nor its agent shall be required to pay a tax or assessment: (a)
1975 upon or in respect of a project or a property acquired or used by the authority or its agent under
1976 this chapter; or (b) upon the income from a project or a property acquired or used by the

1977 authority or its agent. The income from a bond issued or transferred under this chapter, including
1978 any profit made on the sale of the bond, shall at all times be free from taxation of every kind by
1979 the commonwealth and by the municipalities and other political subdivisions in the
1980 commonwealth.

1981 Section 17. (a) The authority may issue revenue bonds for the purpose of refunding
1982 outstanding revenue bonds of the authority, including the payment of a redemption premium on
1983 the bonds and any interest accrued or to accrue to the earliest or any subsequent date of
1984 redemption, purchase or maturity of the revenue bonds, and, if deemed advisable by the
1985 authority, for the additional purpose of paying all or any part of the cost of constructing and
1986 acquiring additions, improvements, extensions or enlargements of a project or any portion of a
1987 project.

1988 (b) The proceeds of revenue bonds issued to refund outstanding revenue bonds may, in
1989 the discretion of the authority, be applied to the purchase or retirement at maturity or redemption
1990 of such outstanding revenue bonds either on their earliest or any subsequent redemption date or
1991 upon the purchase or at the maturity of the bonds and may, pending such application, be placed
1992 in escrow to be applied to the purchase or retirement at maturity or redemption on a date as may
1993 be determined by the authority.

1994 (c) Escrowed proceeds, pending such use, may be invested and reinvested in direct
1995 obligations of the United States, or in certificates of deposit or time deposits secured by direct
1996 obligations of the United States, maturing at a time as shall be appropriate to assure the prompt
1997 payment, as to principal, interest and redemption premium, if any, of the outstanding revenue
1998 bonds to be so refunded. The interest, income and profits, if any, earned or realized on such an

1999 investment may also be applied to the payment of the outstanding revenue bonds to be so
2000 refunded. After the terms of the escrow have been fully satisfied and carried out, a balance of
2001 such proceeds and interest, income and profits, if any, earned or realized on the investments may
2002 be returned to the authority for use by it in any lawful manner.

2003 (d) The portion of the proceeds of a revenue bond issued for the additional purpose of
2004 paying all or any part of the cost of constructing and acquiring additions, improvements,
2005 extensions or enlargements of a project may be invested and reinvested in direct obligations of
2006 the United States, or in certificates of deposit or time deposits secured by direct obligations of
2007 the United States, maturing not later than the time when such proceeds will be needed to pay all
2008 or any part of such cost. The interest, income and profits, if any, earned or realized on such an
2009 investment may be applied to the payment of all or any part of such cost or may be used by the
2010 authority in any lawful manner.

2011 (e) All such revenue bonds shall be subject to this chapter in the same manner and to the
2012 same extent as other revenue bonds issued under this chapter.

2013 Section 18. Bonds issued by the authority under this chapter are hereby made securities in
2014 which all public officers and public bodies of the commonwealth and its political subdivisions,
2015 all insurance companies, trust companies, savings banks, co-operative banks, banking
2016 associations, investment companies, executors, administrators, trustees and other fiduciaries may
2017 properly and legally invest funds, including capital in their control or belonging to them. Such
2018 bonds are hereby made securities which may properly and legally be deposited with and received
2019 by any commonwealth or municipal officer or any agency or political subdivision of the

2020 commonwealth for any purpose for which the deposit of bonds or obligations of the
2021 commonwealth is now or may hereafter be authorized by law.

2022 Section 19. The authority shall be subject to section 16G of chapter 6A and section 56 of
2023 chapter 23A.

2024 Section 20. (a) The authority may take such action as it deems appropriate to enable its
2025 employees to come within the provisions and obtain the benefits of the federal social security act.
2026 If the employees of the authority shall come within the provisions of said social security act,
2027 their employment shall be included in the term "employment" as used in sections 1 to 7,
2028 inclusive, of chapter 151A.

2029 (b) Sections 26 to 29, inclusive, and sections 44A to 44M, inclusive, of chapter 149 and
2030 sections 39F to 39S, inclusive, of chapter 30 shall apply to the authority to the same extent and in
2031 the same manner as they are applicable to the commonwealth.

2032 (c) Notwithstanding chapter 106 or any other general or special law, the authority by the
2033 filing of financing statements, as provided in chapter 106, may perfect security interests in
2034 revenues and receipts of participating institutions, whether in the form of proceeds of accounts
2035 receivable or contract rights or otherwise, and in any rights to receive those revenues and
2036 receipts, and those perfected security interests shall take priority over any subsequently perfected
2037 security interests in those revenues, receipts or rights or in the accounts receivable, goods,
2038 contract rights, or other rights or personal property giving rise to the revenues, receipts or rights
2039 provided that the financing statements filed by the authority contain a reference to this section.

2040 (d) Real or personal property which forms or has formed any part of the cost of a project
2041 financed or refinanced in whole or in part by the authority shall be excluded from a calculation

2042 of real and personal property for any general or special law limiting the amount of real and
2043 personal property which may be owned or held by an institution.

2044 Section 21. Sections 1 to 20, inclusive, of this chapter shall be deemed to provide a
2045 complete, additional and alternative method for the doing of the things authorized thereby and
2046 shall be regarded as supplemental and additional to powers conferred by other laws; provided,
2047 however, that the issuance of revenue bonds and revenue refunding bonds under this chapter
2048 need not comply with the requirements of any other law applicable to the issuance of bonds
2049 including, chapter 106. Except as otherwise expressly provided in this chapter, none of the
2050 powers granted to the authority by this chapter shall be subject to the supervision or regulation or
2051 require the approval or consent of any municipality or political subdivision or any department,
2052 division, commission, board, body, bureau, official or agency of the municipality or political
2053 subdivision or of the commonwealth.

2054 Section 22. This chapter, being necessary for the welfare of the commonwealth and its
2055 inhabitants, shall be liberally construed to effect its purposes.

2056 Section 23. To the extent that this chapter is inconsistent with any general statute or
2057 special act or parts thereof, this chapter shall be deemed controlling.

2058 SECTION 62. Chapter 25C of the General Laws is hereby amended by inserting after
2059 section 6 the following section:-

2060 Section 6A. (a) As used in this section, the following words and phrases shall, unless the
2061 context clearly requires otherwise, have the following meanings:

2062 “Internet Protocol-enabled service” or “IP-enabled service”, service, capability,
2063 functionality, or application provided using Internet Protocol, or any successor protocol, that
2064 enables an end user to send or receive a communication in Internet Protocol format or any
2065 successor format, regardless of technology; provided, however, that no service included within
2066 the definition of “Voice over Internet Protocol service” shall be included within this definition.

2067 "Voice-over-Internet Protocol Service" or "VoIP Service", service that:

2068 (i) enables real-time, 2-way voice communications that originate from or
2069 terminate to the user’s location in Internet Protocol or any successor protocol;

2070 (ii) uses a broadband connection from the user's location; and

2071 (iii) permits users generally to receive calls that originate on the public switched
2072 telephone network and to terminate calls to the public switched telephone network.

2073 (b) Except as set forth in subsections (c), (d), (e) and (f), and notwithstanding any other
2074 general or special law to the contrary, no department, agency, commission or political
2075 subdivision of the commonwealth, shall enact, adopt or enforce, either directly or indirectly, any
2076 law, rule, regulation, ordinance, standard, order or other provision having the force or effect of
2077 law that regulates, or has the effect of regulating, the entry, rates, terms or conditions of VoIP
2078 Service or IP-enabled service.

2079 (c) Subsection (b) shall not be construed to affect the authority of the attorney general to
2080 apply and enforce consumer protection laws of general applicability, including chapter 93A.

2081 (d) Subsection (b) shall not be construed to affect, mandate or prohibit the assessment of
2082 nondiscriminatory enhanced 911 fees or telecommunications relay service fees.

2083 (e) Subsection (b) shall not be construed to modify or affect the rights or obligations of
2084 any carrier under sections 251 or 252 of Title 47 of the United States Code.

2085 (f) Subsection (b) shall not be construed to affect or modify any obligations for the
2086 provision of video service by any party under applicable law.

2087 SECTION 63. Section 1 of chapter 29 of the General Laws, as so appearing, is hereby
2088 amended by striking out the definition of “State authority,” and inserting in place thereof the
2089 following definition:-

2090 “State authority” a body politic and corporate constituted as a public instrumentality of
2091 the commonwealth and established by an act of the General Court to serve an essential
2092 governmental function; provided, however that “state authority” shall not include: (1) a state
2093 agency; (2) a city or town; (3) a body controlled by a city or town; or (4) a separate body politic
2094 where the governing body is elected by the general public.

2095 SECTION 64. Chapter 29 of the General Laws is hereby amended by inserting after
2096 section 30 the following section:-Section 30A. Notwithstanding section 50 of chapter 3, or any
2097 other general or special law to the contrary, a state agency or state authority shall not use state
2098 funds to pay for an executive or legislative agent, as defined in section 39 of chapter 3, unless the
2099 executive or legislative agent is a full-time employee of the state agency or state authority.

2100 SECTION 65. Section 1 of chapter 30A of the General Laws, as appearing in the 2008
2101 Official Edition, is hereby amended by inserting after paragraph (4) the following paragraph:-

2102 (4A) “Proposed regulation”, a proposal by an agency to adopt, amend or repeal an
2103 existing regulation.

2104 SECTION 66. Said section 1 of said chapter 30A, as so appearing, is hereby further
2105 amended by inserting after paragraph (5) the following paragraph:-

2106 (5A) “Small business”, a business entity, including its affiliates, that: (i) is independently
2107 owned and operated; (ii) has a principal place of business in the commonwealth; and (iii) if in a
2108 manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade
2109 industry, employs fewer than 100 full-time employees or, if in any other industry, receives less
2110 than \$7,000,000 in annual receipts; provided, however, that for purposes of this definition, the
2111 industry of a business shall be primarily classified according to the Table of Small Business Size
2112 Standards of the Small Business Administration, including all exceptions to such standards as set
2113 forth in said table.

2114 SECTION 67. Section 2 of said chapter 30A, as so appearing, is hereby amended by
2115 inserting after the third paragraph the following 2 paragraphs:-

2116 At least 21 days prior to the date of the public hearing, the agency shall file a small
2117 business impact statement considering the impact of the proposed regulation on small business
2118 with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall
2119 include the statement of small business consideration on the electronic website of the state
2120 secretary; provided, however, that the full text of the small business impact statement may be
2121 inspected and copied in the office of the state secretary during business hours.

2122 That small business impact statement shall include, but not be limited to, the following:

2123 (1) an estimate of the number of small businesses subject to the proposed regulation;

2124 (2) projected reporting, recordkeeping and other administrative costs required for
2125 compliance with the proposed regulation;

2126 (3) the appropriateness of performance standards versus design standards;

2127 (4) an identification of regulations of the promulgating agency, or of another agency or
2128 department of the commonwealth, which may duplicate or conflict with the proposed regulation;
2129 and

2130 (5) an analysis of whether the proposed regulation is likely to deter or encourage the
2131 formation of new businesses in the commonwealth;

2132 SECTION 68. Section 3 of said chapter 30A, as so appearing, is hereby amended by
2133 inserting after the third paragraph the following 2 paragraphs:—

2134 At least 21 days prior to the date of the proposed action, the agency shall file a small
2135 business impact statement considering the impact of the proposed action on small businesses
2136 with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall
2137 include the small business impact statement on the electronic website of the state secretary;
2138 provided, however, that the full text of the small business impact statement may be inspected and
2139 copied in the office of the state secretary during business hours.

2140 That small business impact statement shall include, but not be limited to, the following:

2141 (1) an estimate of the number of small businesses subject to the proposed regulation;

2142 (2) projected reporting, recordkeeping and other administrative costs required for
2143 compliance with the proposed regulation;

2144 (3) the appropriateness of performance standards versus design standards;

2145 (4) an identification of regulations of the promulgating agency, or of another agency or
2146 department of the commonwealth, which may duplicate or conflict with the proposed regulation;
2147 and

2148 (5) an analysis of whether the proposed regulation is likely to deter or encourage the
2149 formation of new businesses in the commonwealth;

2150 SECTION 69. The second paragraph of section 5 of said chapter 30A, as so appearing, is
2151 hereby amended by striking out the third sentence.

2152 SECTION 70. Said section 5 of said chapter 30A, as so appearing, is hereby further
2153 amended by inserting after the second paragraph the following 2 paragraphs:-

2154 Prior to the adoption of a proposed regulation, an agency shall consider, without
2155 limitation, whether any of the following methods of reducing the impact of the proposed
2156 regulation on small businesses would hinder achievement of the purpose of the proposed
2157 regulation:

2158 (1) establishing less stringent compliance or reporting requirements for small businesses;

2159 (2) establishing less stringent schedules or deadlines for compliance or reporting
2160 requirements for small businesses;

2161 (3) consolidating or simplifying compliance or reporting requirements for small
2162 businesses;

2163 (4) establishing performance standards for small businesses to replace design or
2164 operational standards required in the proposed regulation; and

2165 (5) exempting small businesses from all or part of the requirements contained in the
2166 proposed regulation.

2167 An agency shall utilize regulatory methods that will accomplish the objectives of
2168 applicable statutes while minimizing adverse impact on small businesses.

2169 SECTION 71. Said chapter 30A, as so appearing, is hereby amended by inserting after
2170 section 5 the following section:-

2171 Section 5A. Rules and regulations shall be reviewed at least once every 12 years after
2172 their publication as the final rules or regulations to ensure that those rules and regulations
2173 minimize economic impact on small businesses in a manner consistent with the stated objectives
2174 of applicable statutes.

2175 In reviewing a rule or regulation to minimize economic impact of the rule or regulation
2176 on small businesses, the agency shall consider the following factors:

2177 (1) the continuing need for the rule or regulation;

2178 (2) the nature of complaints or comments received concerning the rule or regulation from
2179 the public;

2180 (3) the complexity of the rule or regulation;

2181 (4) the extent to which the rule or regulation overlaps, duplicates or conflicts with other
2182 federal, state and local governmental rules and regulations;

2183 (5) the length of time since the rule or regulation has been enacted, changed, amended or
2184 modified; and

2185 (6) the degree to which technology, economic conditions or other factors have changed in
2186 the subject areas affected by the rule or regulation.

2187 SECTION 72. Section 23 of chapter 32 of the General Laws, as so appearing, is hereby
2188 amended by inserting after the word “section”, in line 361, the following words:-

2189 ; provided, however, that consistent with sound investment policy and in accordance with
2190 the procedures and processes employed to oversee the allocation of traditional investment of
2191 funds, the director shall whenever reasonably possible ensure that funds are invested in banks or
2192 financial institutions which directly or through any subsidiary may make loans to small
2193 businesses, as defined in clause(A) of subdivision (7), and that when electing to make such
2194 investments the board shall review the guidelines for investing in small businesses contained in
2195 subdivision (7) and monies shall be invested as much as reasonably possible in such banks,
2196 financial institutions or companies which provide capital to small businesses under those
2197 guidelines so long as such use is consistent with sound investment policy.

2198 SECTION 73. Said section 23 of said chapter 32, as so appearing, is hereby further
2199 amended by adding the following subdivision:

2200 (7) The guidelines for investing in small businesses with a principal place of business in
2201 the commonwealth shall be:

2202 For the purposes of this section small business shall be a business entity, including its
2203 affiliates, that (i) is independently owned and operated; (ii) has a principal place of business in

2204 the commonwealth; and (iii) if in a manufacturing industry, employs fewer than 500 full-time
2205 employees, if in a wholesale trade industry, employs fewer than 100 full-time employees or, if in
2206 any other industry, has less than \$7,000,000 in annual receipts; provided, however, that for
2207 purposes of this definition, the industry of a business shall be primarily classified according to
2208 the Table of Small Business Size Standards of the Small Business Administration, including all
2209 exceptions to such standards as set forth in said table.

2210 Investments shall be made by banks or financial institutions with demonstrated
2211 experience making capital available to small businesses with good management, which are fast
2212 growing and identify the potential to use increased capital to create jobs and which are
2213 experiencing difficulty in accessing capital.

2214 Capital shall be provided to small businesses in a variety of financial instruments,
2215 including but not limited to: working capital and expansion loans to businesses, both secured and
2216 non-secured; provide lines of credit; capital expenditure loans; term loans; project finance loans;
2217 grants; loan guarantees; and mezzanine and structured finance loans.

2218 Capital shall not be provided unless financial and managerial advisory services are also
2219 provided to the business that is served.

2220 SECTION 74. Section 59 of chapter 40 of the General Laws, as so appearing, is hereby
2221 amended by striking out clause (iii) and inserting in place thereof the following clause:-

2222 (iii) authorizes tax increment exemptions from property taxes, under clause Fifty-first of
2223 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
2224 property which is located in the TIF zone and for which an agreement has been executed with the
2225 owner of the real property under clause (v); provided, however, that the TIF plan shall specify

2226 the level of the exemptions expressed as exemption percentages, not to exceed 100 per cent to be
2227 used in calculating the exemptions for the parcel, and for personal property situated on that
2228 parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided,
2229 further, that the exemption for each parcel of real property shall be calculated using an
2230 adjustment factor for each fiscal year of the specified term equal to the product of the inflation
2231 factors for each fiscal year since the parcel first became eligible for an exemption under this
2232 clause; provided, further that the inflation factor for each fiscal year shall be a ratio;

2233 (a) the numerator of which shall be the total assessed value of all parcels of commercial
2234 and industrial real estate that are assessed at full and fair cash value for the current fiscal year
2235 minus the new growth adjustment for the current fiscal year attributable to the commercial and
2236 industrial real estate as determined by the commissioner of revenue under subsection (f) of
2237 section 21C of chapter 59; and

2238 (b) the denominator of which shall be the total assessed value for the preceding fiscal
2239 year of all the parcels included in the numerator; provided, however, that the ratio shall not be
2240 less than 1;.

2241 SECTION 75. Clause (iii) of subsection (a) of section 60 of said chapter 40, as so
2242 appearing, is hereby amended by striking out the introductory paragraph and inserting in place
2243 thereof the following introductory paragraph:-

2244 (iii) authorize tax increment exemptions from property taxes, under clause Fifty-first of
2245 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
2246 property which is located in the UCH-TIF zone and for which an agreement has been executed
2247 under clause (v); provided, however, that the UCH-TIF plan shall specify the level of exemptions

2248 expressed as exemption percentages, not to exceed 100 per cent to be used in calculating the
2249 exemptions for the parcel, and for personal property situated on that parcel, as provided under
2250 said clause Fifty-first of said section 5 of said chapter 59; provided, further, that the exemption
2251 for each parcel of real property shall be calculated using an adjustment factor for each fiscal year
2252 of the specified term equal to the product of the inflation factors for each fiscal year since the
2253 parcel first became eligible for such exemption under this clause; provided, further, that the
2254 inflation factor for each fiscal year shall be a ratio:—

2255 SECTION 76. Clause (iii) of Section 60A of said chapter 40, as so appearing, is hereby
2256 amended by striking out the introductory paragraph and inserting in place thereof the following
2257 introductory paragraph: -

2258 (iii) authorize tax increment exemptions from property taxes, under clause Fifty-first of
2259 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
2260 property which is located in the MWT-TIF zone and for which an agreement has been executed
2261 with the owner of the parcel under clause (iv); provided, however, that the MWT-TIF plan shall
2262 specify the level of exemptions expressed as exemption percentages, not to exceed 100 per cent,
2263 to be used in calculating the exemptions for the parcel, and for personal property situated on that
2264 parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided,
2265 further, that the exemption for each parcel of real property shall be calculated using an
2266 adjustment factor for each fiscal year of the specified term equal to the product of the inflation
2267 factors for each fiscal year since the parcel first became eligible for such exemption pursuant to
2268 this clause; provided, further, that the inflation factor for each fiscal year shall be a ratio:

2269 SECTION 77. Chapter 40E of the General Laws is hereby repealed.

2270 SECTION 78. The General Laws are hereby amended by striking out chapter 40F and
2271 inserting in place thereof the following chapter:-

2272 Chapter 40F. Massachusetts Growth Capital Corporation

2273 Section 1. For the purposes of this chapter the following words and terms shall, except
2274 where the context clearly indicates otherwise, have the following meanings:

2275 “Capital participation instruments”, purchase of stock, both common and preferred,
2276 convertible securities, warrants, subscriptions, options to acquire, capital loans, and working
2277 capital or inventory loans, royalties, and other lawful derivations of the foregoing.

2278 “Community Development Corporation” or “CDC”, a certified community development
2279 corporation, as defined in section 2 of chapter 40H.

2280 “Corporation” or “GCC”, the Massachusetts Growth Capital Corporation created by
2281 section 2.

2282 “Equity investment”, any of the following types of investment activity: (a) a purchase of
2283 stock; (b) a purchase of a partnership interest; (c) a purchase of a limited liability company
2284 membership interest; or (d) a loan made on such terms that it has sufficient characteristics of
2285 equity.

2286 “Financial products”, loans, equity investments and other similar financing activities
2287 including, but not limited to, the purchase of loans originated by a certified community
2288 development financial institution, the provision of loan guarantees, or the provision of surety
2289 bond guarantees.

2290 “Project”, (a) the act of making available financial products to small businesses and
2291 nonprofit corporations; (b) manufacturing, wholesale, retail, service, or other business activity;
2292 (c) economic development activity involving the financing of commercial, industrial or other real
2293 estate activity; or (d) other activity from which a community will derive economic benefit.

2294 “Small business”, a business entity, including its affiliates, that (a) is independently
2295 owned and operated; (b) has a principal place of business in the commonwealth; and (c) if in a
2296 manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade
2297 industry, employs fewer than 100 full-time employees or, if in any other industry, has less than
2298 \$7,000,000 in annual receipts; provided, however, that for purposes of this definition, the
2299 industry of a business shall be primarily classified according to the Table of Small Business Size
2300 Standards of the Small Business Administration, including all exceptions to such standards as set
2301 forth in said table..

2302 Section 2. (a) There is hereby created a body politic and corporate to be known as the
2303 Massachusetts Growth Capital Corporation. The GCC is hereby constituted a public
2304 instrumentality and the exercise by the GCC of the powers conferred by this chapter shall be
2305 deemed to be the performance of an essential governmental function.

2306 The GCC shall be placed within the executive office of housing and economic
2307 development but shall not be subject to the supervision and control of an executive office,
2308 department, division, commission, board, bureau or agency except to the extent and in the
2309 manner provided by law.

2310 (b) The corporation shall consist of 12 directors; 1 of whom shall be the secretary of
2311 housing and economic development, who shall serve as chair; 1 of whom shall be the secretary

2312 of administration and finance, or the secretary's designee; and 10 of whom shall be appointed by
2313 the governor. Of the 10 directors appointed by the governor; 3 shall be persons who together
2314 shall be experienced in small business financing, other financial instruments, turnarounds of
2315 troubled businesses, and the organization and operation of employee owned businesses;
2316 provided, however, that each such director shall be experienced and knowledgeable in at least 1
2317 such area; 1 shall be a representative of an organization of small businesses or manufacturing
2318 companies in the commonwealth; 1 shall be a representative of a community bank in the
2319 commonwealth and nominated by the Massachusetts Bankers Association; 1 shall be
2320 experienced in community economic development and employed by a CDC or a representative
2321 of the Massachusetts Association of Community Development Corporations; 1 shall be a current
2322 or retired certified public accountant or chief financial officer; 1 shall be a practicing or retired
2323 attorney with a business financing experience; 1 shall be a small business owner; and 1 shall be a
2324 representative of organized labor. Each member appointed by the governor shall serve a term of
2325 5 years, except that in making the governor's initial appointments the governor shall appoint 2
2326 members to serve for a term of 1 year, 2 members to serve for a term of 2 years, 2 members to
2327 serve for a term of 3 years, 2 members to serve for a term of 4 years, and 2 members to serve for
2328 a term of 5 years.

2329 (c) A person appointed to fill a vacancy in the office of a director shall be appointed in a
2330 like manner and shall serve for only the unexpired term. A director shall be eligible for
2331 reappointment. A director may only be removed from the director's appointment by the governor
2332 for good cause. The directors shall annually elect 1 director as vice-chair and designate a
2333 secretary-treasurer who need not be a director. The secretary-treasurer shall keep a record of the

2334 proceedings of the corporation and shall be the custodian of all books, documents, and papers
2335 filed with the corporation, the minute books of the corporation and of its official seal.

2336 (d) Six of the directors of the corporation shall constitute a quorum and 6 affirmative
2337 votes shall be necessary for the transaction of business or the exercise of a power or function of
2338 the corporation. Each director shall be entitled to reimbursement for the director's actual and
2339 necessary expenses incurred in the performance of the director's official duties.

2340 (e) The corporation, its directors, officers and employees shall be subject to sections 1 to
2341 4, inclusive, of chapter 268A except that the corporation may purchase from, sell to, borrow
2342 from, loan to, contract with or otherwise deal with a person in which a director of the corporation
2343 is interested or involved; provided, however, that such interest or involvement is disclosed in
2344 advance to the directors and recorded in the minutes of the corporation; provided, further, that no
2345 director having such an interest or involvement may participate in a decision of the directors
2346 relating to such person. Employment by the commonwealth or service in an agency of the
2347 commonwealth shall not be deemed to be such an interest or involvement.

2348 (f) The president of the corporation shall be appointed and the president's salary
2349 established by the directors. The president shall be the chief administrative and operational
2350 officer of the corporation and shall direct and supervise administrative affairs and the general
2351 management of the corporation. The president may employ such other employees as shall be
2352 designated by the directors, shall attend meetings of the directors, shall cause copies to be made
2353 of all minutes and other records and documents of the corporation and shall certify that such
2354 copies are true copies and all persons dealing with the corporation may rely upon such
2355 certification.

2356 (g) All officers and employees of the corporation having access to its cash and negotiable
2357 securities shall give bond to the corporation at its expense in such amounts and with such surety
2358 as the directors may prescribe. The persons required to give bond may be included in 1 or more
2359 blanket or scheduled bonds.

2360 (h) Directors shall not be liable to the commonwealth, to the agency or to any other
2361 person as a result of the director's activities, whether ministerial or discretionary, as such
2362 directors, except for willful dishonesty or intentional violations of the law. The corporation may
2363 purchase liability insurance for directors, officers, and employees and may indemnify said
2364 persons against claims of others.

2365 (i) Documentary materials, data or conversations made or received by a director or
2366 employee of the corporation and consisting of, or to the extent that such materials, data or
2367 conversations consist of, trade secrets or commercial or financial information regarding the
2368 operation of a business conducted by an applicant for assistance which the corporation is
2369 empowered to render or regarding the competitive position of such applicant in a particular field
2370 of endeavor, shall not be public records of the corporation and shall not be subject to section 10
2371 of chapter 66. A discussion or consideration of such trade secrets or commercial or financial
2372 information may be held by the directors in executive session closed to the public
2373 notwithstanding chapter 30A, but the purpose of such an executive session shall be set forth in
2374 the official minutes of the corporation and no business which is directly related to such purpose
2375 shall be transacted nor shall a vote be taken in such an executive session.

2376 Section 3. The GCC shall have the power to:

2377 (a) adopt by-laws for the regulation of its affairs and the conduct of its business;

- 2378 (b) adopt an official seal;
- 2379 (c) sue and be sued in its own name;
- 2380 (d) make and execute contracts and all other instruments necessary or convenient for the
2381 exercise of its power and functions;
- 2382 (e) acquire, hold and dispose of personal property for its corporate purposes;
- 2383 (f) enter into agreements or other transactions with federal and state agencies;
- 2384 (g) acquire real property, or an interest in real property, by purchase or foreclosure, if
2385 such acquisition is necessary or appropriate to protect or secure an investment or loan in which
2386 the agency has an interest; to sell, transfer and convey such property to a buyer and in the event
2387 such sale, transfer or conveyance cannot be effected with reasonable promptness or at a
2388 reasonable price, to lease such property to a tenant;
- 2389 (h) invest funds held in reserves or sinking funds, or funds not required for immediate
2390 disbursement, in such investments as may be lawful for fiduciaries in the commonwealth;
- 2391 (i) borrow money by the issuance of debt obligations whether tax exempt or taxable and
2392 secure such obligations by the pledge of its revenues or of the revenues, mortgages and notes of
2393 others; provided, however, that the corporation shall not issue debt obligations if the principal
2394 amount of those debt obligations, when added to the principal amount of existing debt
2395 obligations issued by the corporation, excluding debt obligations previously refunded or to be
2396 refunded by the corporation, would exceed 30 million dollars;
- 2397 (j) employ and fix the compensation of a president, who shall be the chief executive
2398 officer of the corporation and such other agents, employees, professional and business advisers

2399 as may be necessary in the judgment of the directors; provided, however, that the president,
2400 professional advisers and business advisers shall not be subject to chapter 31 or section 9A of
2401 chapter 30.

2402 (k) appear in its own behalf before boards, commissions, departments or other agencies
2403 of municipal, state or federal government;

2404 (l) procure insurance against any loss in connection with its property in such amounts,
2405 and from such insurers, as may be necessary or desirable;

2406 (m) consent, subject to any contract with noteholders or bondholders, whenever it deems
2407 it necessary or desirable in the fulfillment of the purposes of this chapter, to the modification,
2408 with respect to rate of interest, time of payment of an installment of principal or interest, or other
2409 terms, of a mortgage, mortgage loan, mortgage loan commitment, contract or other agreement to
2410 which the GCC is a party;

2411 (n) do any and all things necessary or convenient to carry out its purposes and exercise
2412 the powers expressly given and granted in this chapter;

2413 (o) receive and accept from federal and state agencies and public or private entities
2414 grants, loans or advances for or in aid of the purposes of this chapter and to receive and accept
2415 contributions from a source of either money, property, labor or other things of value, to be held,
2416 used and applied for the purposes of this chapter;

2417 (p) create, issue, buy and sell stock and other capital participation instruments; to hold
2418 such stock and capital participation instruments and to underwrite the creation of a capital market
2419 for these securities;

2420 (q) provide advisory services, technical assistance and training programs to small
2421 businesses as may be necessary or desirable to carry out the purposes of this chapter;

2422 (r) exercise other powers, rights or responsibilities of a corporation organized under
2423 chapter 156B.

2424 (s) create and issue shares which a person, firm or corporation may purchase; provided,
2425 however, that each share issued shall be in the form of non-voting common stock with each share
2426 having a par value of \$10 ; provided, further, that the total value of the shares issued shall not
2427 exceed \$25,000,000;

2428 (t) make loans or grants to, or otherwise finance or invest in, a business to further the
2429 purposes of this chapter; provided, further, that such loans or grants may be made to certified
2430 community development corporations or other community based nonprofit entities for the
2431 purpose of such corporations or entities providing financing to businesses;

2432 (u) provide loan guarantees to public or private entities for the purpose of causing such
2433 entities to provide financing to a business;

2434 (v) establish and collect such fees, charges and interest rates as the corporation
2435 determines to be reasonable; and

2436 (w) require, by contract in a financing agreement, or otherwise, specific operational
2437 activities, financial actions or management changes, as conditions for the receipt of a loan,
2438 financing or investment by the corporation.

2439 No debt obligation issued under paragraph (i), stock or capital participation instrument
2440 created under paragraph (p) or share issued under paragraph (s) shall be or become an

2441 indebtedness or obligation of the commonwealth, and it shall be plainly stated on the face of
2442 each bond, capital participation instrument, share or other evidence of indebtedness that it does
2443 not constitute an indebtedness or obligation of the commonwealth but is payable solely from the
2444 revenues or income of the Massachusetts Growth Capital Corporation.

2445 Section 4.

2446 The corporation shall contract with another public authority for the performance of its
2447 core administrative functions by that authority, as determined by the secretary of housing and
2448 economic development which may include but shall not be limited to, human resources, financial
2449 management, information technology, legal, procurement and asset management, to minimize
2450 the administrative costs and expenses of the corporation.

2451 Section 5.

2452 The corporation may participate in a project; provided that, the corporation shall find and
2453 incorporate in the official records of the corporation that the project will be of a public benefit
2454 such that the project is reasonably expected to:

2455 support or promote economic development, revitalization or stability;

2456 promote employment opportunities for residents of the commonwealth;

2457 promote the creation or retention of jobs; or,

2458 support the creation or expansion of a business sector whose success would enhance the
2459 economic development of the commonwealth, enhance the quality of life of residents of the
2460 commonwealth or enhance the employment opportunities for residents of the commonwealth.

2461 The corporation shall not participate in a project unless it determines, in writing, that its
2462 participation is necessary because funding for the project is not available in the traditional capital
2463 markets or that credit has been offered on terms that would preclude the success of the project.

2464 The corporation shall endeavor to participate in projects each year that provide financial
2465 products, which in the aggregate total not less than 30 percent of the total capital committed by
2466 the corporation over a 3 year period, to projects which enhance the economic development of a
2467 target area, as defined in section 2 of chapter 40H, or enhance the quality of life and promote
2468 employment opportunities for low and moderate income residents of the commonwealth. If a
2469 certified CDC requests that the corporation participate in a project, the corporation shall make a
2470 determination of the likelihood that the project: (i) will provide employment opportunities to low
2471 and moderate income residents of the commonwealth; (ii) is likely to enhance the quality of life
2472 of low and moderate income residents of the commonwealth; or (iii) supports the creation or
2473 expansion of the business sector in the region served by the CDC. If the corporation enters into
2474 an agreement to participate in such a project, the terms of the financial products made available
2475 shall favorably reflect the economic and social benefits which inures to the commonwealth from
2476 the project.

2477 Each contract shall include a requirement for adequate reporting of financial and other
2478 data to the corporation. The contract shall require that a business receiving financial products
2479 shall participate in financial and managerial consulting services and the contract shall include a
2480 requirement for an annual or other periodic audit of the project books.

2481 Section 6. The corporation shall endeavor to participate in projects each year that provide
2482 financial products, which in the aggregate total not less than 20 percent of the total capital

2483 committed by the corporation in that year, to minority-owned or women-owned contractors
2484 notwithstanding the conditions described in section 5, except that the corporation shall have
2485 determined, in writing; (a) that the project plans conform to applicable environmental, zoning,
2486 building, planning and sanitation laws; (b) that there is a reasonable expectation that the project
2487 will be successful; and (c) that the participation of the corporation is necessary for the successful
2488 completion of the proposed project because funding for the project is unavailable in the
2489 traditional capital markets, or that credit has been offered on terms that would preclude the
2490 success of the project.

2491 Section 7. (a) The GCC may establish or invest in the capital stock of 1 or more
2492 corporations organized for the purposes of increasing capital available to small businesses or to
2493 engage local residents and businesses to work together to undertake programs, projects and
2494 activities which develop and improve urban, rural and suburban communities by creating and
2495 expanding economic opportunities for low and moderate income people. Without limitation,
2496 such a corporation may:

2497 (1) serve as a financial intermediary between entities undertaking projects and small
2498 businesses and public or private sources of capital including, without limitation, direct lenders,
2499 guarantors or grant makers. Any corporation so organized may accomplish its purposes by means
2500 of (i) investing in the equity capital of, (ii) making direct loans to, or (iii) issuing loan guarantees
2501 to entities undertaking projects or to small businesses; and

2502 (2) provide financial and managerial consulting services to entities undertaking projects,
2503 small businesses and minority-owned or women-owned contractors.

2504 (b) The GCC may have a controlling or a minority interest in such a corporation, as the
2505 directors of the GCC shall determine in the board's discretion; provided, however, that at least 1
2506 director of the GCC shall sit on the board of directors of the corporation.

2507 (c) A corporation established under this section or in which the GCC has invested under
2508 this section shall, prior to making an investment in the capital stock of, or loans or loan
2509 guarantees to entities undertaking projects or to small businesses, make the following findings:

2510 (1) That such action is consistent with the objectives of this section and may reasonably
2511 be expected to contribute to the redevelopment and economic well-being of the commonwealth,
2512 will create or retain jobs or will assist minority or women-owned businesses.

2513 (2) That the funds provided by the GCC will be used solely in connection with the costs
2514 of the project or the operation of the small business.

2515 (3) That the contract for participation in a project requires adequate reporting of financial
2516 data from the small business or project to such corporation. The contract shall require that a
2517 business receiving financial products shall participate in financial and managerial consulting
2518 services and the contract shall include a requirement for an annual or other periodic audit of the
2519 books of the project or the small business.

2520 (4) That its participation is necessary to the successful completion of the proposed project
2521 or to the success of the small business because funding for the project or small business is
2522 unavailable in the traditional capital markets, or that credit has been offered on terms that would
2523 preclude the success of the project or the small business.

2524 (5) That should the GCC desire to sell or otherwise dispose of stock received under such
2525 a contract, the small business or entity undertaking a project, or the small business or entity's
2526 nominee, shall within 120 days have the right of first refusal upon the sale and the right to meet a
2527 subsequent bona fide offer by a third party.

2528 (d) The GCC shall not, nor shall the GCC in combination with such a corporation, own
2529 more than 49 percent of the voting stock in a small business.

2530 (e) Upon the request of the GCC, the commissioner of banks shall examine the books of a
2531 corporation established or invested in by the GCC under this section if such examination is a
2532 condition of the particular investment, lending, loan guaranty or grant program administered by
2533 such corporation.

2534 Section 8. (a) The corporation shall establish a program to support the provision of
2535 financial and managerial consulting and technical assistance to eligible companies which receive
2536 financial assistance from the commonwealth or any of the commonwealth's public authorities.
2537 Services supported may include, but are not limited to, procurement of investment capital,
2538 management, administration, production, product marketing, assisting business in securing
2539 federal contracts and business expansion, renovation and diversification. The program shall
2540 include: (i) referrals to technical assistance provided without charge to eligible companies by
2541 public and private small business support organizations; (ii) financial support to engage private
2542 consultants; and (iii) a directory of organizations, experts and consultants available to be engaged
2543 to offer financial or managerial consulting services.

2544 (b) The corporation shall coordinate the program with the United State Small Business
2545 Administration, the Massachusetts Small Business Development Center Network and other

2546 private for profit and nonprofit providers of consulting and technical assistance to small
2547 businesses. The corporation shall consult with the commonwealth's public authorities, private
2548 business associations and regional economic development organizations in administering the
2549 program.

2550 (c) The corporation may provide matching grants to fund consulting and technical
2551 assistance to small businesses who receive financial assistance from the commonwealth or any of
2552 the commonwealth's public authorities. The grants shall be used by the recipient businesses to
2553 pay for mandated small business consulting and technical assistance services. Prior to awarding
2554 a grant, the corporation shall have determined that the financial or managerial consulting services
2555 mandated as a condition of financial support of the small business are not available without
2556 charge from an entity participating in the program and that procuring such services creates a
2557 hardship and impedes the likelihood of success of a project. Grants awarded shall require a 100
2558 percent match by the recipient.

2559 Section 9.(a) The GCC may establish an economic stabilization program for the
2560 following purposes:

2561 (1) To provide flexible high risk financing necessary to implement a change of
2562 ownership, a corporate restructuring or a turnaround plan for an economically viable, but
2563 troubled business which faces the likelihood of a large employment loss, plant closure or failure
2564 without such a change of ownership, corporate restructuring or turnaround plan. The program
2565 shall provide assistance to firms in specific mature industries for the purpose of technological
2566 investment or upgrading of management operations in order for the business to maintain future
2567 economic stability. The financial participation of the GCC shall aim to supplement private

2568 financial institutions and public economic development agencies when such institutions are
2569 unable to provide all the financing or bear all of the risk necessary to transfer ownership,
2570 restructure or turnaround a business in a situation where the business might otherwise fail or
2571 greatly reduce its employment.

2572 (2) To provide flexible high risk financing in connection with the start-up of employee-
2573 owned businesses or the implementation of employee-ownership projects. The financial
2574 participation of the GCC shall aim to supplement private financial institutions and public
2575 economic development agencies when such institutions are unable to provide all the financing or
2576 bear all of the risk necessary to start-up an employee-owned business or implement an employee-
2577 ownership project.

2578 (b) The GCC shall endeavor to direct at least 10 percent of the financing provided by the
2579 economic stabilization program to businesses that are employee-owned businesses in order to
2580 fulfill the purposes of this section.

2581 (c) The GCC may participate in projects under this section, provided that, the corporation
2582 shall find and incorporate in the official records of the corporation that the project will be of a
2583 public benefit and:

2584 (1) when providing assistance in connection with the purchase of a troubled business, the
2585 directors shall determine and incorporate in the minutes of a meeting of the directors that:

2586 (i) the business is likely to experience a large loss of employment, plant closure, or
2587 failure without the loan financing or investment by corporation;

2588 (ii) the business within a specific mature industry requires assistance for the purpose of
2589 technological investment or upgrading of management operations in order for the business to
2590 maintain future economic stability;

2591 (iii) the business or person seeking to purchase the business has taken or will take such
2592 actions as the directors deem necessary to ensure the business has a reasonable chance to
2593 continue as a successful business, including, but not limited to, changes in its operations,
2594 financing, or management and that said actions are included as a condition for financing by the
2595 corporation in the financing agreement; and

2596 (iv) the business or person seeking to purchase the business has made diligent efforts to
2597 obtain the financing necessary to continue its operations or transfer ownership of the business
2598 from private financial institutions and public economic development agencies and such financing
2599 is unavailable or has been offered on terms that would prevent the successful continuation or
2600 change in ownership of the business; or

2601 (2) when providing assistance in connection with an employee-owned business or an
2602 employee-ownership project, the directors shall determine and incorporate in the minutes of a
2603 meeting of the directors that:

2604 (i) the business or person seeking assistance has taken or will take such actions as the
2605 directors deem necessary to ensure that the employee-ownership project has a reasonable chance
2606 to succeed; and

2607 (ii) except with respect to assistance for pre-feasibility and feasibility studies, that such
2608 business or person has made diligent efforts to obtain the financing necessary to institute or
2609 implement the employee-ownership project from private financial institutions and public

2610 economic development agencies, and such financing is unavailable or has been offered on terms
2611 that would prevent the successful institution or implementation of the project.

2612 Section 10. The GCC shall be subject to section 16G of chapter 6A and section 56 of
2613 chapter 23A.

2614 SECTION 79. Section 2 of chapter 40G of the General Laws, as appearing in the 2008
2615 Official Edition, is hereby amended by striking out, in lines 19 and 20, the words “eleven
2616 directors: the director of economic development, the secretary of administration, one” and
2617 inserting in place thereof the following words:- 11 directors: the secretary of housing and
2618 economic development, who shall serve as chair, the secretary of administration and finance, 1.

2619 SECTION 80. The fifth paragraph of said section 2 of said chapter 40G, as so appearing,
2620 is hereby amended by striking out the fourth sentence.

2621 SECTION 81. Subsection (d) of section 3 of said chapter 40G, as so appearing, is hereby
2622 amended in by adding the following words:- provided, however, that the MTDC shall contract
2623 with another public authority for the performance of core administrative functions by that
2624 authority, as determined by the secretary of housing and economic development, which may
2625 include but shall not be limited to, human resources, financial management, information
2626 technology, legal, procurement and asset management, to minimize the administrative costs and
2627 expenses of the MTDC.

2628 SECTION 82. Chapter 40G of the General Laws is hereby amended by adding the
2629 following section:-

2630 Section 11. The MTDC shall be subject to section 16G of chapter 6A and section 56 of
2631 chapter 23A.

2632 SECTION 83. Section 2 of chapter 40H of the General Laws, as appearing in the 2008
2633 Official Edition, is hereby amended by striking out the definition of “CDC” and inserting in
2634 place thereof the following definition:-

2635 “CDC” or “Community Development Corporation”, a non-profit corporation organized
2636 under chapter 180, and exempt from taxation under section 501(c) of the Internal Revenue Code
2637 and which:

2638 (a) focuses a substantial majority of the corporation’s efforts on serving 1 or more
2639 specific neighborhoods or municipalities, a region of the commonwealth, or a constituency that
2640 is economically disadvantaged;

2641 (b) has as the corporation’s purpose to engage local residents and businesses to work
2642 together to undertake community development programs, projects and activities which develop
2643 and improve urban, rural and suburban communities in sustainable ways that create and expand
2644 economic opportunities for low and moderate income people;

2645 (c) demonstrates to the department of housing and community development that the
2646 corporation’s constituency, including low and moderate income people, is meaningfully
2647 represented on the board of directors of the corporation; provided, however, that in making this
2648 determination, the department shall consider the following criteria (1) the percentage, if any, of
2649 the board that is elected by the general membership; (2) the percentage of the board members
2650 that are residents of the service area; (3) the percentage of board members that are people of low
2651 or moderate income; (4) the racial and ethnic composition of the board in comparison to the

2652 racial and ethnic composition of the community being served; (5) other mechanisms, including
2653 committees, membership meetings, that the organization uses to ensure that their constituency
2654 has a meaningful role in the governance and direction of the organization; and (6) other criteria
2655 as determined by the department.

2656 SECTION 84. The definition of “Eligible organization” in section 2 of chapter 40H, as
2657 so appearing, is hereby amended by striking out the second sentence.

2658 SECTION 85. Section 2 of chapter 40H, as so appearing, is hereby amended by striking
2659 out the definition of “Target Area” and inserting in place thereof the following definition:-

2660 “Target area”, a contiguous geographic area in which the project is located and is:(1) an
2661 economic target area designated under section 3D of chapter 23A; (2) the service area of
2662 community development corporation; or (3) a zip code whose current unemployment rate
2663 exceeds the state unemployment rate by at least 25 per cent or whose mean household income is
2664 at or below 80 per cent of the state mean household income as of the most recent decennial
2665 census.

2666 SECTION 86. Chapter 40H of the General Laws, is hereby amended by inserting, after
2667 section 2, the following section:-

2668 Section 2A (a) The director of housing and community development shall establish and
2669 maintain a list of organizations that have been certified as CDCs consistent with this chapter and
2670 develop a process for certifying said organizations; provided, however, that the organizations
2671 must be recertified at least once every 4 years. The process shall include an analysis of the
2672 organization’s governance and a determination of whether the organization’s constituency,
2673 including low and moderate income persons, is meaningfully represented on the board of

2674 directors of the organization. In making such determination, the director shall consider the
2675 following criteria: (a) the percentage, if any, of the board that is elected by the general
2676 membership; (b) the percentage of the board members who are residents of the service area; (c)
2677 the percentage of board members that are persons of low or moderate income; (d) the racial and
2678 ethnic composition of the board in comparison to the racial and ethnic composition of the
2679 community that the organization serves; (e) other mechanisms, including committees,
2680 membership meetings and others that the organization uses to ensure that the organization's
2681 constituency has a meaningful role in the governance and direction of the organization; and (f)
2682 other criteria as determined by the director of housing and community development.

2683 (b) The director of housing and community development shall file an annual report on
2684 December 15 with the speaker of the house of representatives, the president of the senate, the
2685 chairs of the house and senate committees on ways and means, the chairs of the joint committee
2686 on housing, and the chairs of the joint committee on community development and small business
2687 providing:

2688 a list of certified CDCs in the commonwealth; and

2689 a summary of programs, initiatives or partnerships operated by the executive office of
2690 housing and economic development, its agencies and quasi-public agencies organized under the
2691 executive office, that are designed to build the capacity of CDCs, provide training or technical
2692 assistance to CDC employees or board members, provide funding to support CDCs and their
2693 programs, projects and initiatives and otherwise help CDCs to engage local residents and
2694 businesses to work together to undertake programs, projects and activities which develop and
2695 improve urban, rural and suburban communities by creating and expanding economic

2696 opportunities for low and moderate income persons together with recommendations for action to
2697 enhance the ability of CDCs to advance those activities.

2698 SECTION 87. Subsection (b) of section 3 of chapter 40H of the General Laws, as
2699 appearing in the 2008 Official Edition, is hereby amended by striking out, in line 13, the words
2700 “nine directors, four” and inserting in place thereof the following words:- 9 directors, 1 of whom
2701 shall be the secretary of the housing and economic development, who shall serve as chair, 3.

2702 SECTION 88. Said subsection (b) of said section 3 of said chapter 40H, as so appearing,
2703 is hereby amended by striking out the sixth sentence.

2704 SECTION 89. Chapter 40H of the General Laws is hereby amended by adding the
2705 following section:-

2706 Section 9. CEDAC shall be subject to section 16G of chapter 6A and section 56 of
2707 chapter 23A.

2708 SECTION 90. The third paragraph of section 3 of chapter 40J of the General Laws, as
2709 appearing in the 2008 Official Edition, is hereby amended by striking out the first sentence and
2710 inserting in place thereof the following 2 sentences:- The secretary of housing and economic
2711 development or the secretary’s designee shall serve as chairperson. The board shall annually
2712 elect from among its members a vice-chairperson and may designate a treasurer and a secretary,
2713 who need not be members of the board.

2714 SECTION 91. Subsection (a) of section 6A of said chapter 40J of the General Laws, as so
2715 appearing, is hereby amended by striking out, in line 16, the words, “undersecretary of business

2716 development” and inserting in place thereof the following words:- secretary of housing and
2717 economic development.

2718 SECTION 92. Subsection (c) of section 6B of said chapter 40J, as so appearing, is hereby
2719 amended by striking out, in line 32, the words “or his designee” and inserting in place thereof the
2720 following words:- , who shall serve as chair.

2721 SECTION 93. Sais subsection (c) of said section 6B of said chapter 40J, as so appearing,
2722 is hereby further amended by striking out the second sentence.

2723 SECTION 94. The first paragraph of subsection (b) of section 6D of said chapter 40J, as
2724 so appearing, is hereby amended by striking out the second and third sentences and inserting in
2725 place thereof the following 2 sentences:- The council shall advise the institute on the
2726 dissemination of health information technology across the commonwealth, including the
2727 deployment of electronic health records systems in all health care provider settings that are
2728 networked through a statewide health information exchange. The council shall consist of 9
2729 members; 1 of whom shall be the secretary of health and human services, who shall serve as the
2730 chair; 1 of whom shall be the secretary of administration and finance, or the secretary’s designee;
2731 1 of whom shall be the executive director of the health care quality and cost council; 1 of whom
2732 shall be the director of the office of Medicaid; 1 of whom shall be the secretary of housing and
2733 economic development or the secretary’s designee; 4 of whom shall be appointed by the
2734 governor, of whom at least 1 shall be an expert in health information technology, 1 shall be an
2735 expert in law and health policy and 1 shall be an expert in health information privacy and
2736 security.

2737 SECTION 95. Chapter 40J of the General Laws is hereby amended by adding the
2738 following section:-

2739 Section 13. The corporation shall be subject to section 16G of chapter 6A and section 56
2740 of chapter 23A.

2741 SECTION 96. Section 1 of chapter 40Q of the General Laws, as appearing in the 2008
2742 Official Edition, is hereby amended by striking out the definition of “Base date” and inserting in
2743 place thereof the following 2 definitions:- “Adjustment factor”, for each fiscal year of the term
2744 of a given development program, the product of the inflation factors for each fiscal year
2745 subsequent to the first fiscal year immediately following the base date.

2746 “Base date”, the last assessment date of the real property tax immediately preceding the
2747 creation of the district.

2748 SECTION 97. The definition of “Development program” of said section 1 of said
2749 chapter 40Q, as so appearing, is hereby amended, in lines 31 and 32, by striking out clause (8)
2750 and inserting in place thereof the following clause:- (8) the duration of the program which shall
2751 not exceed the longer of (i) 30 years from the date of designation of the district or (ii) 30 years
2752 from project stabilization, as defined in the development program.

2753 SECTION 98. Said section 1 of said chapter 40Q, as so appearing, is hereby amended by
2754 striking out the definition of “Inflation factor” and inserting in place thereof the following
2755 definition:- "Inflation factor", a ratio: (1) the numerator of which shall be the total assessed
2756 value of all parcels of residential, commercial and industrial real estate that are assessed at full
2757 and fair cash value for the current fiscal year minus the new growth adjustment factor for the
2758 current fiscal year attributable to the residential, commercial and industrial real estate as

2759 determined by the commissioner of revenue under paragraph (f) of section 21C of chapter 59;
2760 and (2) the denominator of which shall be the total assessed value for the preceding fiscal year of
2761 all the parcels included in the numerator; provided, however, the ratio shall not be less than 1;
2762 provided, further, that if the proposed Invested Revenue District does not include residential
2763 property, the assessed value attributable to residential property shall not be included in either the
2764 numerator or the denominator in calculating the inflation factor. SECTION 99. The definition
2765 of “Invested revenue district development program” of said section 1 of said chapter 40Q, as so
2766 appearing, is hereby amended by striking out, in line 59, the word “and”.

2767 SECTION 100. Said definition of “Invested revenue district development program” of
2768 said section 1 of said chapter 40Q, as so appearing, is hereby further amended by adding the
2769 following words:- ;and (8) if applicable, a statement of the city or town electing that the original
2770 assessed value not be increased by the adjustment factor. SECTION 101. Said section 1 of said
2771 chapter 40Q, as so appearing, is hereby further amended by striking out the definition of
2772 “Original assessed value” and inserting in place thereof the following definition:- "Original
2773 assessed value", the aggregate assessed value of the invested revenue district as of the base date;
2774 provided, however, that if the city or town has not included an election statement in its
2775 investment district development program, the original assessed value in any year shall be equal
2776 to the original assessed value as of the base date multiplied by the adjustment factor for that
2777 fiscal year.

2778 SECTION 102. Section 92 of chapter 41 of the General Laws, as so appearing, is hereby
2779 amended by striking out, in line 13, the words “two thousand five hundred dollars”, and inserting
2780 in place thereof the following figure:- \$7,000.

2781 SECTION 103. Said section 92 of said chapter 41 is hereby further amended by striking
2782 out, in lines 14 and 15, the words “two thousand five hundred dollars”, and inserting in place
2783 thereof the following figure: \$7,000

2784 SECTION 104. Clause sixteenth of section 5 of chapter 59 of the General Laws, as so
2785 appearing, is hereby amended by striking out paragraph (3) and inserting in place thereof the
2786 following paragraph:-

2787 (3) In the case of (i) a manufacturing corporation or a research and development
2788 corporation, as defined in section 42B of chapter 63, or (ii) a limited liability company that; (a)
2789 has its usual place of business in the commonwealth; (b) is engaged in manufacturing in the
2790 commonwealth and whose sole member is a manufacturing corporation as defined in section 42B
2791 of chapter 63 or is engaged in research and development in the commonwealth and whose sole
2792 member is a research and development corporation as defined in said section 42B; and (c) is a
2793 disregarded entity, as defined in paragraph 2 of section 30 of chapter 63, all property owned by
2794 the corporation or the limited liability company other than real estate, poles and underground
2795 conduits, wires and pipes; provided, however, that no property, except property entitled to a
2796 pollution control abatement under clause forty-fourth or a cogeneration facility, shall be exempt
2797 from taxation if it is used in the manufacture or generation of electricity and it has not received a
2798 manufacturing classification effective on or before January 1, 1996. For the purposes of this
2799 section, a cogeneration facility shall be an electrical generating unit having power production
2800 capacity which, together with any other power generation facilities located at the same site, is not
2801 greater than 30 megawatts and which produces electric energy and steam or other form of useful
2802 energy utilized for industrial, commercial, heating or cooling purposes. This clause as it applies
2803 to a research and development corporation, as defined in section 42B of said chapter 63, and as it

2804 applies to a limited liability company that is a disregarded entity and whose sole member is a
2805 manufacturing corporation or a research and development corporation shall take effect only upon
2806 its acceptance by the city or town in which the real estate, poles and underground conduits, wires
2807 and pipes are located.

2808 SECTION 105. Said section 5 of said chapter 59, as so appearing, is hereby amended by
2809 striking out clause Fifty-first and inserting in place thereof the following clause: -

2810 Fifty-first, the value of a parcel of real property which is included within an executed
2811 agreement under clause (v) of section 59, clause (v) of subsection (a) of section 60 or clause (iv)
2812 of subsection (a) of section 60A of chapter 40, and the value of personal property situated on that
2813 parcel, but taxes on real and personal property eligible for exemption under this clause shall be
2814 assessed only on that portion of the value of the property that is not exempt under section 59,
2815 section 60 or section 60A of chapter 40, and this exemption shall be for a term not longer than
2816 the period specified for the exemption in the agreement. The amount of the exemption under this
2817 clause for a parcel of real property shall be the exemption percentage adopted under clause (iii)
2818 of section 59, subsection (a) of section 60 or of section 60A of said chapter 40 multiplied by the
2819 amount by which the parcel's value exceeds the product of its assessed value for the last fiscal
2820 year before it became eligible for exemption under this clause multiplied by the adjustment
2821 factor determined under said section 59, section 60 or section 60A of said chapter 40. The
2822 amount of the exemption under this clause for personal property shall be the exemption
2823 percentage adopted under clause (iii) of section 59, subsection (a) of section 60 or of section 60A
2824 of said chapter 40 multiplied by the fair cash valuation of the personal property. Taxes on
2825 property eligible for exemption under this clause shall be assessed only on that portion of the
2826 value of the property that is not exempt under this clause.

2827 SECTION 106. Subsection (c) of section 45 of chapter 75 of the General Laws, as so
2828 appearing, is hereby amended by striking out, in line 15, the words, “director of business and
2829 technology” and inserting in place thereof the following words:- secretary of housing and
2830 economic development.

2831 SECTION 107. Said subsection (c) of said section 45 of said chapter 75, as so appearing,
2832 is hereby further amended by striking out, in line 19, the words, “department of business
2833 technology” and inserting in place thereof the following words:- Massachusetts office of
2834 business development.

2835 SECTION 108. Subsection (d) of said section 45 of said chapter 75, as so appearing, is
2836 hereby amended by striking out, in lines 25 to 27, inclusive, the words “director of business and
2837 technology, or his designee, the director of science and technology within the department of
2838 business and technology and 7” and inserting in place thereof the following words:- secretary of
2839 housing and economic development, who shall serve as chair, the executive director of the
2840 Massachusetts development finance agency, the president of the Massachusetts life sciences
2841 center, the executive director of the Massachusetts clean energy center, the director of the John
2842 Adams Innovation Institute, the president of the Massachusetts Technology development
2843 corporation and 8.

2844 SECTION 109. Chapter 75 of the General Laws is hereby amended by inserting after
2845 section 45 the following section:-

2846 Section 45A. The center shall be subject to section 16G of chapter 6A and section 56 of
2847 chapter 23A.

2848 SECTION 110. Section 1H of chapter 164 of the General Laws, as appearing in the 2008
2849 official edition, is hereby amended by striking out the definition of the word “department” and
2850 inserting in place thereof the following definition:- “Department”, the department of public
2851 utilities.

2852 SECTION 111. The second paragraph of section 14 of chapter 167 of the General Laws,
2853 as so appearing, is hereby amended, in line 22, by striking out the words “8, 29 and 30” and
2854 inserting in place thereof the following words:-8, 29, 30 and 30A.

2855 SECTION 112. Section 2 of chapter 167F of the General Laws, as so appearing, is hereby
2856 amended by inserting after paragraph 30 the following paragraph: --

2857 30A. To participate in the activities of the Massachusetts Growth Capital Corporation
2858 created under chapter 40F by making capital available to the corporation by making an
2859 investment or deposit in or grant to said corporation, an affiliate or subsidiary of said corporation
2860 or any fund managed by said corporation.

2861 SECTION 113. Paragraph 13 of said section 2 of said chapter 167F, as so appearing, is
2862 hereby amended by striking out the first sentence and inserting in place thereof the following
2863 sentence:- To act as trustee for the holders of a bond issued by the Massachusetts Industrial
2864 Finance Agency, under chapter 23A or by any industrial development authority of a city or town
2865 under chapter 40D or by the Massachusetts Health and Educational Facilities Authority, under
2866 chapter 23K.

2867 SECTION 114. Section 21 of chapter 218 of the General Laws, as so appearing, is hereby
2868 amended by striking out, in line 35, the following words, “two thousand dollars” and inserting in
2869 place thereof the following figure:- \$7,000.

2870 SECTION 115. Section 22 of said chapter 218, as so appearing, is hereby amended by
2871 adding the following paragraph:-

2872 The entry fee shall be \$75 for a party that has filed 5 statements of claim in the court
2873 during the calendar year, \$150 for a party that has previously filed 10 statements of claim in the
2874 court during the calendar year and \$240 for a party that has previously filed 100 statements of
2875 claim in the court during the calendar year.

2876 SECTION 116. Chapter 465 of the acts of 1956 is hereby amended by inserting after
2877 section 21 the following section:-

2878 Section 21A. The authority shall be subject to section 16G of chapter 6A and section 56
2879 of chapter 23A of the General Laws.

2880 SECTION 117. Chapter 614 of the acts of 1968 is hereby repealed.

2881 SECTION 118. Section 33 of chapter 190 of the acts of 1982 is hereby amended by
2882 striking out the second paragraph, as appearing in chapter 23 of the acts of 1998, and inserting in
2883 place thereof the following paragraph:-

2884 The authority shall consist of 13 members, 9 of whom shall be appointed by the
2885 governor, 1 of whom shall be the secretary of housing and economic development or the
2886 secretary's designee, who shall serve as chair, 1 of whom shall be appointed from a list of 3
2887 nominees recommended by the Massachusetts Visitors Industry Council, 1 of whom shall be
2888 appointed from a list of 3 nominees recommended by the Massachusetts Lodging Association, 1
2889 of whom shall be a resident of the city of Cambridge and 1 of whom shall be a resident of
2890 Hampden county. Two persons shall be appointed by the mayor of the city of Boston, 1 of whom

2891 shall be a resident of South Boston. The remaining 2 persons shall be the secretary of
2892 administration and finance or the secretary's designee and the collector-treasurer of the city of
2893 Boston or the collector-treasurer's designee, both of whom shall serve ex officio and shall have
2894 the right to exercise or vote on matters before the authority. Three of the members of the
2895 authority first appointed by the governor shall continue in office for a term expiring December
2896 31, 2000 and 3 members of the authority first appointed by the governor shall continue in office
2897 for a term expiring December 31, 2001 and 3 members of the authority first appointed by the
2898 governor shall continue in office for a term expiring December 31, 2003. The term of each such
2899 member shall be designated by the governor and shall continue until the member's successor is
2900 duly appointed and qualified. The members appointed by the mayor shall continue in office for a
2901 term expiring December 31, 1999, and shall continue until their successors are duly appointed
2902 and qualified. The successor of each such member shall be appointed for a term of 6 years and
2903 until his successor is duly appointed and qualified, except that a person appointed to fill a
2904 vacancy shall serve only for the unexpired term and until the appointee's successor is duly
2905 appointed and qualified. Each member of the authority shall be eligible for reappointment. Each
2906 member of the authority shall serve at the pleasure of the governor, if appointed by the governor,
2907 and each member of the authority may be removed by the governor, if appointed by the
2908 governor, or by the mayor, if appointed by the mayor. Each member of the authority before
2909 entering upon such member's duties shall take an oath before the governor to administer the
2910 duties of the member's office faithfully and impartially, and a record of such oaths shall be filed
2911 in the office of the secretary of the commonwealth. Members of the authority shall serve without
2912 compensation, but service as a member of the authority shall be credited to such member's years
2913 in service for pension and retirement purposes.

2914 SECTION 119. Chapter 190 of the acts of 1982 is hereby amended by inserting after
2915 section 40 the following section:-

2916 Section 40A. The Authority shall be subject to section 16G of chapter 6A and section 56
2917 of chapter 23A of the General Laws.

2918 SECTION 120. Sections 6, 7A, 7B and 8 of chapter 324 of the acts of 1987 are hereby
2919 repealed.

2920 SECTION 121. Section 64 of chapter 365 of the acts of 1996, as amended by chapter
2921 352 of the acts of 2004, is hereby amended by adding the following sentence:-

2922 The corporation shall be subject to section 16G of chapter 6A and section 56 of chapter
2923 23A of the General Laws.

2924 SECTION 122. Notwithstanding any general or special law to the contrary, certain
2925 regulatory approvals are hereby extended as provided in this section.

2926 (a) For purposes of this section, the following words shall, unless the context clearly
2927 requires otherwise, have the following meanings:

2928 “Approval” except as otherwise provided in subsection (b), any permit, certificate, order,
2929 excluding enforcement orders, license, certification, determination, exemption, variance, waiver,
2930 building permit, or other approval or determination of rights from any municipal, regional or
2931 state governmental entity, including any agency, department, commission, or other
2932 instrumentality of the municipal, regional or state governmental entity, concerning the use or
2933 development of real property, including certificates, licenses, certifications, determinations,
2934 exemptions, variances, waivers, building permits, or other approvals or determination of rights

2935 issued or made under chapter 21, chapter 21A excepting section 16, chapter 21D, sections 61 to
2936 62H, inclusive, of chapter 30, chapters 30A, 40, 40A to 40C, inclusive, 40R, 41, 43D, section 21
2937 of chapter 81, chapter 91, chapter 131, chapter 131A, chapter 143, sections 4 and 5 of chapter
2938 249, or chapter 258, of the General Laws or chapter 665 of the acts of 1956, or any local by-law
2939 or ordinance.

2940 “Development”, division of a parcel of land into 2 or more parcels, the construction,
2941 reconstruction, conversion, structural alteration, relocation or enlargement of a building or other
2942 structure or facility, or any grading, soil removal or relocation, excavation or landfill or any use
2943 or change in the use of any building or other structure or land or extension of the use of land.

2944 “Tolling period”, the period beginning January 1, 2008 and continuing through January 1,
2945 2011.

2946 (b) (1) Notwithstanding any general or special law to the contrary, an approval in effect
2947 or existence during the tolling period shall be extended for a period of 3 years, in addition to the
2948 lawful term of the approval.

2949 (2) Nothing in this section shall be deemed to extend or purport to extend:

2950 (i) a permit or approval issued by the government of the United States or an agency or
2951 instrumentality of the government of the United States or to a permit or approval, of which the
2952 duration of effect or the date or terms of its expiration are specified or determined by or under
2953 law or regulation of the federal government or any of its agencies or instrumentalities;

2954 (ii) an enforcement order issued by the department of environmental protection; or

2955 (iii) a permit, license, privilege or approval issued by the division of fisheries and wildlife
2956 under chapter 131 for hunting, fishing or aquaculture.

2957 (3) Nothing in this section shall affect the ability of a municipal, regional or state
2958 governmental entity, including an agency, department, commission or other instrumentality of a
2959 municipal, regional or state governmental entity to revoke or modify a specific permit or
2960 approval or extension of a specific permit or approval under this section, when that specific
2961 permit or approval or the law or regulation under which the permit or approval was issued
2962 contains language authorizing the modification or revocation of the permit or approval.

2963 (4) In the event that an approval tolled under this section is based upon the connection to
2964 a sanitary sewer system, the approval's extension shall be contingent upon the availability of
2965 sufficient capacity, on the part of the treatment facility, to accommodate the development whose
2966 approval has been extended. If sufficient capacity is not available, those permit holders whose
2967 approvals have been extended shall have priority with regard to the further allocation of
2968 gallonage over those approval holders who have not received approval of a hookup prior to the
2969 effective date of this section. Priority regarding the distribution of further gallonage to a permit
2970 holder who has received the extension of an approval under this section shall be allocated in
2971 order of the granting of the original approval of the connection.

2972 (5) Nothing in this section shall be construed or implemented in such a way as to modify
2973 a requirement of law that is necessary to retain federal delegation to, or assumption by, the
2974 commonwealth of the authority to implement a federal law or program.

2975 SECTION 123. Notwithstanding any general or special law to the contrary, within 4
2976 years of the effective date of this act, each agency shall review the agency's rules and regulations

2977 currently existing to determine whether such rules and regulations should be continued without
2978 change or should be amended or rescinded to minimize economic impact of those rules and
2979 regulations on small businesses in a manner consistent with the stated objective of applicable
2980 statutes. If the head of the agency determines that completion of the review of existing rules is
2981 not feasible by the established date the agency shall publish a statement certifying that
2982 determination. The agency may extend the completion date by 1 year at a time for a total of not
2983 more than 5 years.

2984 SECTION 124. Notwithstanding any general or special law to the contrary, the executive
2985 office of housing and economic development shall conduct a study to examine the cost reliability
2986 and economic impact of electricity. The study shall include, but not be limited to:

2987 (i) an analysis of the economic and reliability implications of implementing
2988 administrative, regulatory and legislative mandates as they pertain to electricity; and

2989 (ii) the extent to which efforts to achieve recently-established goals relating to zero net
2990 energy growth, greenhouse gas reductions or scheduled increases in renewable power, demand
2991 resources and energy efficiency contribute to the rates paid by residential, commercial and
2992 industrial customers in the commonwealth.

2993 The study shall be completed with stakeholder input, including representatives from
2994 various sectors of the commonwealth's economy. The study shall be completed and submitted to
2995 the joint committee on telecommunications, utilities and energy no later than December 31,
2996 2010.

2997 SECTION 125. Notwithstanding any general or special law to the contrary, all current
2998 members of the health and educational facilities authority established by section 4 of chapter 614

2999 of the acts of 1968 shall continue to serve, as if the member had been appointed under section 4
3000 of chapter 21K, until the expiration of the term of that member.

3001 SECTION 126. Notwithstanding any general or special law to the contrary, all current
3002 assets, liabilities, obligations and debt of the authority shall be deemed to have been created
3003 under chapter 23K of the General Laws, and no existing rights of the holders of the bonds,
3004 revenue bonds, notes, bond anticipation notes, other notes or other obligations issued by HEFA
3005 under chapter 614 of the acts of 1968 shall be impaired and HEFA shall maintain the covenants
3006 of the trust indentures pertaining to those bonds so long as those bonds shall remain outstanding.

3007 SECTION 127. Notwithstanding any other general or special law to the contrary, the
3008 pension reserves investment management board established under section 23 of chapter 32 of the
3009 general laws shall review its investment portfolio and to the extent it is reasonably possible it
3010 shall invest not less than \$25,000,000 and not more than \$50,000,000 in banks or financial
3011 institutions which make capital available to small businesses under the guidelines of subdivision
3012 (7) of section 23 of chapter 32 of the general laws and shall make such investment a priority of
3013 the portfolio as long as such investment is consistent with sound investment policy.

3014 SECTION 128. Notwithstanding any other general or special law to the contrary any
3015 stock purchase agreement between the commonwealth and Community Development Finance
3016 Corporation (CDFC) in existence on the effective date of this act which contains outstanding
3017 obligations on the part of the commonwealth and which has been pledged as security for the
3018 payment of debt obligations issued by the CDFC which are also outstanding on the effective date
3019 of this act shall continue to constitute a general obligation of the commonwealth for which the

3020 faith and credit of the commonwealth remains pledged for the benefit of CDFC and of the
3021 holders of said debt obligations of CDFC until the terms of said debt obligations are satisfied.

3022 SECTION 129. (a) Notwithstanding any general or special law to the contrary, this
3023 section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations,
3024 property and legal obligations of the following functions of state government from the transferor
3025 agency to the transferee agency, defined as follows: (1) the functions of the Massachusetts Sports
3026 and Entertainment Commission, as the transferor agency, to the Massachusetts marketing
3027 partnership, as the transferee agency; (2) the functions of the Community Development Finance
3028 Corporation and the Economic Stabilization Trust, as transferor agencies, to the Massachusetts
3029 Growth Capital Corporation, as the transferee agency; (3) the functions of the department of
3030 business development, as the transferor agency, to the Massachusetts office of business
3031 development, as the transferee agency; (4) the functions of the office of travel and tourism in the
3032 department of business development, as the transferor agency, to the office of travel and tourism
3033 in the Massachusetts marketing partnership, as the transferee agency; (5) the functions of the
3034 office of international trade and investment in the department of business development, as the
3035 transferor agency, to the Massachusetts trade office in the Massachusetts marketing partnership,
3036 as the transferee agency; and (6) the function of the office of small business and
3037 entrepreneurship, as the transferor agency, to the Massachusetts Office of Business
3038 Development, as the transferee agency. (b) The employees of each transferor agency, including
3039 those who immediately before the effective date of this act hold permanent appointment in
3040 positions classified under chapter 31 of the General Laws or have tenure in their positions as
3041 provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold
3042 confidential positions, are hereby transferred to the respective transferee agency, without

3043 interruption of service, without impairment of seniority, retirement or other rights of the
3044 employee, and without reduction in compensation or salary grade, notwithstanding any change in
3045 title or duties resulting from such reorganization, and without loss of accrued rights to holidays,
3046 sick leave, vacation and benefits,. The reorganization shall not impair the civil service status of
3047 any such reassigned employee who immediately before the effective date of this act either holds
3048 a permanent appointment in a position classified under chapter 31 of the General Laws or has
3049 tenure in a position by reason of section 9A of chapter 30 of the General Laws.

3050 Notwithstanding the provisions of any general or special law to the contrary, all such
3051 employees shall continue to retain their right to collectively bargain under chapter 150E of the
3052 General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing
3053 in this section shall be construed to confer upon an employee a right not held immediately before
3054 the date of said transfer, or to prohibit a reduction of salary grade, transfer, reassignment,
3055 suspension, discharge, layoff or abolition of position not prohibited before such date. (c) All
3056 petitions, requests, investigations and other proceedings appropriately and duly brought before
3057 each transferor agency or duly begun by each transferor agency and pending before it before the
3058 effective date of this act, shall continue unabated and remain in force, but shall be assumed and
3059 completed by the transferee agency. (d) All orders, rules and regulations duly made and all
3060 approvals duly granted by each transferor agency, which are in force immediately before the
3061 effective date of this act, shall continue in force and shall thereafter be enforced, until
3062 superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

3063 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and other
3064 property, both personal and real, including all such property held in trust, which immediately
3065 before the effective date of this act are in the custody of each transferor agency shall be

3066 transferred to the transferee agency. (f) All duly existing contracts, leases and obligations of
3067 each transferor agency shall continue in effect but shall be assumed by the respective transferee
3068 agency. No existing right or remedy of any character shall be lost, impaired or affected by this
3069 act.

3070 SECTION 130. The state secretary shall immediately notify all agencies required to file
3071 rules or regulations under section 5 of chapter 30A of the General Laws of the new requirements
3072 regarding small business impact statements.

3073 SECTION 131. (a) There shall be a commission to study the feasibility of establishing a
3074 bank owned by the commonwealth or by a public authority constituted by the commonwealth.

3075 (b) The commission shall consist of the secretary for administration and finance and the
3076 secretary of housing and economic development or their respective designees, who shall serve as
3077 co-chairs of the commission; the state treasurer or the treasurer's designee; the state comptroller
3078 or the comptroller's designee; 2 persons to be appointed by the president of the senate, 1 of
3079 whom shall be a member of the senate; 1 person to be appointed by the minority leader of the
3080 senate; 2 persons to be appointed by the speaker of the house of representatives; 1 of whom shall
3081 be a member of the house of representatives; 1 person to be appointed by the minority leader of
3082 the house; the executive directors of the Massachusetts Development Financing Agency and the
3083 Massachusetts Housing Finance Agency or their designees; the executive director of the
3084 Massachusetts Growth Capital Corporation or the executive director's designee; and 8 persons
3085 to be appointed by the governor who shall not be employees of the executive branch, 3 of whom
3086 shall be drawn from a list of 5 names submitted by the Massachusetts Bankers Association, at
3087 least 1 of whom shall be a representative of a community bank operating in the commonwealth,

3088 1 of whom shall be drawn from a list of 3 names submitted by the Associated Industries of
3089 Massachusetts, 1 of whom shall be drawn from a list of 3 names submitted by the Small Business
3090 Association of New England and 1 of whom shall be a professor at an institution of higher
3091 education in the commonwealth who has researched and published articles on banking. Of the
3092 governor's remaining appointments, not more than 1 may be a representative of a financial
3093 services firm located in the commonwealth. The governor shall ensure geographic diversity in
3094 the governor's appointments to the commission. The members of the commission shall be
3095 appointed not later 90 days after the effective date of this act.

3096 (c) The commission shall examine the technical, legal and financial feasibility of
3097 establishing a commonwealth-owned bank, including but not limited to a commonwealth-owned
3098 bank for infrastructure investment purposes. The commission shall seek participation in its
3099 deliberations from the president of the Federal Reserve Bank of Boston or the president's
3100 designee. The commission shall evaluate the experiences of other states with state-owned banks,
3101 identifying the financial performance of such banks and evaluating the lending practices of such
3102 banks to show whether such banks successfully fill lending gaps not filled by the private sector.
3103 The commission shall also evaluate the manner in which public funds are invested or deposited
3104 by the commonwealth and its political subdivisions including funds managed by the state
3105 treasurer; the Massachusetts Municipal Depository Trust and state and local pension funds. The
3106 commission shall examine the infrastructure investment activities conducted by other states with
3107 state-owned banks. The commission shall also examine the lending practices, including lending
3108 to support infrastructure, of the existing public agencies in the commonwealth that perform
3109 lending services. The Massachusetts development finance agency, Massachusetts Housing
3110 Finance Agency, Health and Educational Facilities Authority, Massachusetts Growth Capital

3111 Corporation and any other public authority in the commonwealth that lends money shall
3112 cooperate fully with the commission and shall supply information reasonably required by the
3113 commission to carry out its charge.

3114 (d) The commission shall hold at least 3 public hearings in distinct geographic regions of
3115 the commonwealth.

3116 (e) The commission shall publish its findings and recommendations, together with drafts
3117 of legislation, if any, necessary to carry those recommendations into effect, in a written report
3118 not later than 1 year after the effective date of this act. The report shall be published on the
3119 official website of the commonwealth, and shall be contemporaneously filed with the house and
3120 senate committees on ways and means and the house and senate chairs of the joint committee on
3121 financial services.

3122 SECTION 132. The Massachusetts office of business development shall within 180 days
3123 of the effective date of this act publish and release a solicitation for a competitive regional
3124 economic development bidding process under section 3K of chapter 23A. The solicitation shall
3125 seek applications from eligible organizations under said section 3K to act as the
3126 commonwealth's primary agents for business development in each region of the commonwealth.

3127 The Massachusetts office of business development may implement the bidding process as
3128 a phased, multi-step process that may include 1 or more of the following prior to the issuance of
3129 a request for proposals:

3130 a request for information that would inform the development of a request for proposals;

3131 a call for solutions that would focus on regional approaches to meet the needs of
3132 specified industry sectors or clusters or locations in the commonwealth; and

3133 a request for qualifications that would determine the pool of entities that would be
3134 eligible to apply for funding.

3135 The Massachusetts office of business development shall not initiate the bidding process
3136 under this section until the Massachusetts office of business development promulgates the
3137 formula for contractual reimbursement required in sections 3J and 3K of chapter 23A.

3138 SECTION 133. Within 90 days of the effective date of this act or at least 180 days before
3139 the expiration of the current contract with the Massachusetts business development corporation,
3140 whichever shall occur earlier, the Massachusetts office of business development shall initiate a
3141 competitive process seeking bidders to administer, either jointly or separately, the capital access
3142 program described in sections 57 and 58 of chapter 23A of the General Laws and the
3143 redevelopment access to capital program described in sections 60 and 61 of said chapter 23A.
3144 Contracts for the administration of the programs described in the preceding sentence shall be
3145 within the definition of “services,” as defined in section 1 of chapter 12A of the General Laws.

3146 SECTION 134. The state comptroller shall transfer the balance of the Economic
3147 Stabilization Trust, established by section 8 of chapter 23D of the General Laws, to the
3148 Massachusetts Growth Capital Corporation, established in chapter 40F, to be used to provide
3149 financing and technical services to small business.

3150 SECTION 135. Sections 65 to 71 of this act shall only apply to regulations proposed
3151 after the effective date of this act.

3152 SECTION 136. Sections 38 and 39 shall take effect upon the termination of the
3153 Massachusetts office of business development's current contract with the Massachusetts business
3154 development corporation, without renewal or extension of those contracts.