

SENATE No. 2380

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 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 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 established
11 under 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 3 members of the senate, 1 of
17 whom shall be appointed by the minority leader of the senate, 3 members of house, 1 of whom
18 shall be appointed by the minority leader of the house of representatives, 1 member from the
19 Pioneer Institute, 1 member from Common Cause, 1 member from the McCormack Institute for
20 Public Affairs and one member from the Associated Industries of Massachusetts. The president
21 of the senate and the speaker of the house may serve as legislative appointees.

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

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

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

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

31 A public member of the commission shall be removed if the member does not have the
32 qualifications required by subsection (b) for appointment to the commission at the time of
33 appointment or does not maintain the qualifications while serving on the commission; provided,

34 however that the validity of the commission's action shall be unaffected if taken when a ground
35 for removal of a public member from the commission exists.

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

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

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

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

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

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

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

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

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

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

69 Subject to appropriation, each public member of the commission shall be entitled to
70 reimbursement for actual and necessary expenses incurred in performing commission duties.

71 Section 5. The commission shall adopt rules necessary to carry out this chapter.

72 Section 6. Before July 1 of the odd-numbered year before the year in which an agency,
73 advisory committee or authority subject to this chapter is abolished, the agency, advisory
74 committee or authority shall report to the commission:

75 information regarding the application to the agency, advisory committee or authority of
76 the criteria set forth in section 10; and
77 any other information that the agency, advisory committee or authority considers
78 appropriate or that the commission requests.

79 Section 7.

80 Within 1 year of the appointment and qualification of the members of the commission,
81 and the organization of the commission staff, the commission shall assign sunset dates for each
82 agency, authority and advisory committee of the commonwealth, and shall notify the head of
83 such agency, authority and advisory committee of the date selected. The commission shall then
84 file legislation with the general court to implement the abolition schedule.

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

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

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

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

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

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

98 Section 8.

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

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

105 Section 9.

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

108 In the report the commission shall include:

109 its findings under section 10;

110 its recommendations under this chapter; and

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

113 Section 10. The commission and its staff shall consider the following criteria in
114 determining whether a public need exists for the continuation of a state agency, authority or

115 advisory committee or for the performance of the functions of the agency, authority or advisory
116 committee:

117 the efficiency and effectiveness with which the agency, authority or advisory committee
118 operates;

119 an identification of the mission, goals, and objectives intended for the agency, authority
120 or advisory committee and of the problem or need that the agency, authority or advisory
121 committee was intended to address; and

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

124

125 an identification of any activities of the agency, authority or advisory committee in
126 addition to those granted by statute and of the authority, agency or advisory committee for those
127 activities; and

128 the extent to which those activities are needed;

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

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

134 the extent to which the jurisdiction of the agency, authority or advisory committee and
135 the programs administered by the agency, authority or advisory committee overlap or duplicate
136 those of other agencies, authorities or advisory committees, the extent to which the agency,
137 authority or advisory committee coordinates with those agencies, authorities or advisory
138 committees, and the extent to which the programs administered by the agency, authority or
139 advisory committee can be consolidated with the programs of other authorities, agencies or
140 advisory committees;

141 the promptness and effectiveness with which the agency, authority or advisory committee
142 addresses complaints concerning entities or other persons affected by the agency, authority or
143 advisory committee, including an assessment of the agency's, authority's or advisory
144 committee's administrative hearings process;

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

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

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

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

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

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

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

161 the extent to which the authority has issued bonds or otherwise incurred similar long-term
162 obligations, the amount of outstanding bonded indebtedness for which the authority is
163 responsible and the sustainability of another authority assuming responsibility for such long-term
164 obligations;

165 (14) whether the authority is responsible for a retirement system for its employees, and
166 the extent of the authority's obligations and available funding under such retirement system and
167 for other post-employment benefits for retired employees; and

168 (15) whether the agency, authority or advisory committee utilizes an open and
169 competitive bid process for third party contracts related to legal representation, bonds and fiscal
170 management.

171 Section 11.

172 (a) In its report on an agency, authority or advisory committee, the
173 commission shall:

174 make recommendations on the abolition, continuation or reorganization of each affected
175 agency, authority or advisory committee, and on the need for performance of the functions of the
176 agency, authority or advisory committee;

177 make recommendations on the consolidation, transfer or reorganization of programs
178 within agencies or authorities not under review when the programs duplicate functions
179 performed in agencies or authorities under review;

180 (3) make recommendations to improve the operations of the agency, its policy body,
181 authority or advisory committee, including management recommendations that do not require a
182 change in the agency's or authority's enabling statute; and

183 (4) make recommendations to improve the efficiency and transparency in third party
184 contract awards related to legal representation, bonds and fiscal management, including, but not
185 limited to, recommending utilization of an open and competitive bid process.

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

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

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

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

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

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

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

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

213 Section 15.

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

217 This chapter shall not prohibit the legislature from:

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

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

222 Section 16.

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

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

232 Except as provided by subsection (f) or as otherwise provided by law, all money in a
233 dedicated fund of an abolished state agency, authority or advisory committee on September 1 of
234 the year after abolition shall be transferred to the General Fund. The part of the law dedicating

235 the money to a specific fund of an abolished agency becomes void on September 1 of the year
236 after abolition.

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

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

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

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

269 Section 17.

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

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

276 If the chairman is absent, the chairman's designee may issue a subpoena or other process
277 in the same manner as the chairman.

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

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

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

285 Section 18.

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

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

290 Section 19.

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

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

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

306 Section 21.

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

309 The commission shall review the bill to determine whether:

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

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

314 the bill provides for adequate public input regarding any regulatory function proposed by
315 the bill; and

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

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

321 Section 22. (a) The commission may accept from any source any grant, donation, gift or
322 other form of conveyance of land, money, other real or personal property or other item of value
323 made to the commonwealth or the commission for carrying out the purpose of this section and
324 sections 1 to 21, inclusive.

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

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

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

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

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

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

346 the agency's:

347 operations and accomplishments; and

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

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

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

352 audited financial reports;

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

354 information detailing debt or equity investment;

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

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

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

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

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

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

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

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

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

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

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

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

400 SECTION 5A: Chapter 7 of the General Laws is hereby amended by inserting, after
401 section 22M, the following section:-

402 SECTION 22N. Notwithstanding any general or special law to the contrary and to the
403 extent permitted by federal law, a state agency or authority shall establish a preference for the
404 procurement of products or services by businesses, as defined in section 3A of chapter 23A, with
405 their principal place of business in the commonwealth.

406 SECTION 6. Subsection (c) of section 12 of chapter 7A of the General Laws, as
407 appearing in section 4 of chapter 26 of the acts of 2009, is hereby amended by adding the
408 following paragraph:-

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

413 SECTION 6A. Section 10 of chapter 10 of the General Laws, as appearing in the 2008
414 Official Edition, is hereby amended by adding the following paragraph:- The state treasurer
415 shall semi-annually report to the house and senate committees on ways and means and the joint
416 committee on revenue the lending and banking institutions into which the cash deposits of the
417 commonwealth are being deposited.

418 SECTION 6B. Chapter 10 of the General Laws is hereby amended by inserting after
419 section 10 the following section:-

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

426 SECTION 7. Section 35J of chapter 10 of the General Laws, as so appearing, is hereby
427 amended by striking out, in lines 16 and 17, the words “International Trade Council” and
428 inserting in place thereof the following words:- international trade office.

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

432 SECTION 8A. Chapter 10 of the General Laws is hereby amended by inserting after
433 section 53 the following section:-

434 Section 53A. The council shall establish criteria and guidelines for state designated
435 cultural and creative districts. A cultural and creative district shall be a well recognized, labeled,
436 mixed-use, compact area of a city or town in which a high concentration of cultural and creative
437 facilities serves as an anchor. The goals of a cultural and creative district shall include attracting
438 artists and creative enterprises to a community, encouraging business and job development,
439 establishing tourist destinations, preserving and reusing historic buildings, enhancing property
440 values and fostering local cultural and economic development.

441 The council shall develop a certification program to prepare cities and towns to become
442 home to a state designated cultural and creative district by creating an application process and
443 developing qualifying criteria and guidelines.

444 A city or town may create a cultural and creative district and submit the district for
445 designation by the council. If certified, a cultural and creative district certification shall remain
446 in effect for 10 years following the date of certification.

447 Two or more cities or counties may apply jointly for certification of a district that extends
448 across a common boundary.

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

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

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

457 SECTION 11. Said section 9 of said chapter 15A, as so appearing, is hereby further
458 amended by striking out, in lines 182 to 185, inclusive, the words, “their affiliated building
459 authorities, or any other organization affiliated therewith, as defined in paragraph (e) of said
460 section three of said chapter six hundred and fourteen” and inserting in place thereof the

461 following words:- as defined in section 2 of chapter 23K, or their affiliated building authorities,
462 or any other organization affiliated with the institutions of higher learning.

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

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

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

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

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

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

483 “MOBD”, the Massachusetts office of business development established by section 1.

484 SECTION 18. Section 3I of said chapter 23A of the General Laws is hereby amended by
485 striking out, in lines 2 and 33, as so appearing, the words, “the department” and inserting in place
486 thereof, in each instance, the following words:- Massachusetts office of business development.

487 SECTION 19. Said chapter 23A is hereby further amended by inserting after section 3I
488 the following 3 sections:

489 Section 3J. (a) The Massachusetts office of business development shall contract with
490 eligible regional economic development organizations, as defined in section 3K, which shall
491 serve as the primary points of contact in the various regions of the state for businesses seeking
492 assistance, services or information from the commonwealth. The contract and reimbursements
493 shall be designed to support regionally-based efforts to stimulate, encourage, facilitate and
494 nurture economic growth and prosperity in the commonwealth, including but not limited to,
495 activities related to the growth and retention of existing businesses and the attraction of new
496 businesses into the commonwealth. The contracts shall support a network of partnerships
497 between regional economic development organizations and the Massachusetts office of business
498 development in order to provide efficient and consistent response to businesses seeking
499 assistance from the commonwealth.

500 The Massachusetts office of business development shall locate staff throughout the
501 regions of the commonwealth in order to establish efficient and rapid access to all state
502 government and quasi-public business services. The Massachusetts office of business

503 development shall provide information to the regional economic development organizations
504 about state economic development, business assistance, capital access and incentive programs,
505 marketing activities and programs offered by agencies, authorities and private entities.

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

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

523 Section 3K. (a) (1) The Massachusetts office of business development shall award up to
524 12 contracts for regional business development services. Each contract shall specify the
525 municipalities which comprise the region to be served under that contract.

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

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

535 The applicant operates regionally and its service area or membership includes more than
536 10 contiguous cities or towns. The organization must describe the economic interdependency of
537 its contiguous member municipalities and articulate a comprehensive vision for recognition of
538 those municipalities as a self identified region with interrelated economic assets such as
539 industrial base, public infrastructure, research, educational and financial institutions and
540 environmental characteristics.

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

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

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

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

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

554 (b) Preference in awarding contracts shall be given to organizations that have prior
555 experience furnishing advice and assistance to businesses within or seeking to locate to the
556 identified region, a working knowledge of the region, the region's industrial base, the region's
557 demographics and the region's strengths and weaknesses and prior experience and involvement
558 with regional governmental entities, including but not limited to, regional competitiveness
559 councils regional planning agencies, and regional employment boards.

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

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

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

567 identify potential sites for business development and maintain an inventory of key
568 development parcels;

569 market the identified region in coordination with the Massachusetts marketing
570 partnership established under section 13A and in compliance with the marketing materials
571 developed by the partnership;

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

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

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

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

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

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

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

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

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

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

611 (g) If MOBD determines through the request for proposals process that no organization
612 meets the requirements set out in this section or a region is not served by any eligible regional
613 economic development organization, then MOBD shall provide services under sections 3J and
614 3K.

615 Section 3L.

616 (a) The Massachusetts office of business development shall provide initial assistance to a
617 business which contacts the office requesting service. The Massachusetts office of business
618 development shall provide the business with information about the various regional economic
619 development organizations with which it has contracted and continue to serve as primary contact
620 for that business until the business has established a relationship with a particular region. The
621 Massachusetts office of business development shall notify all regional economic development
622 organizations, on a nondiscriminatory basis, of business prospects that have expressed interest to
623 the Massachusetts office of business development in moving to the commonwealth.

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

628 information and advice from the regional economic development organizations, and (ii) to ensure
629 that initiatives led by the regional economic development organizations receive information and
630 advice from agencies within the executive branch and from quasi-public economic development
631 agencies.

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

635 SECTION 20. Section 4 of chapter 23A, as appearing in the 2008 Official Edition, is
636 hereby amended by striking out the words “department of economic development” and inserting
637 in place thereof the following words:- Massachusetts office of business development.

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

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

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

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

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

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

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

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

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

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

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

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

668 (a) The partnership shall consist of 11 partners who shall be: the secretary of housing and
669 economic development, who shall chair the partnership; the director of the Massachusetts office

670 of business development or the director's designee; the executive director of the Massachusetts
671 Convention Center Authority or the executive director's designee; the executive director of the
672 Massachusetts Port Authority or the executive director's designee; the executive director of the
673 Massachusetts Alliance for Economic Development, or its successor organization; and 6
674 individuals appointed by the governor for terms of 5 years, as follows: 2 persons employed by a
675 business that has a principal place of business in the commonwealth and that exports goods to
676 other countries, 1 of whom shall be selected from a list of 3 names submitted by the Associated
677 Industries of Massachusetts; 1 person who has significant experience with a public relations or
678 advertising firm doing business in the commonwealth; 1 person who shall be on the faculty of a
679 public or private business school in the commonwealth who is experienced in international
680 business; and 2 persons who shall represent a regional tourism council in the commonwealth
681 outside of Suffolk County, Middlesex County and Norfolk County. Of the initial partners
682 appointed by the governor, 3 shall serve a term of 2 years and 3 shall serve a term of 5 years.

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

692 (b) Eight partners shall constitute a quorum and the affirmative vote of a majority of
693 partners present at a duly called meeting, if a quorum is present, shall be necessary for an action
694 to be taken by the partnership. An action required or permitted to be taken at a meeting of the
695 partnership may be taken without a meeting if all of the partners consent, in writing, to the action
696 and that written consent is filed with the records of the minutes of the meetings of the
697 partnership. Such consent shall be treated for all purposes as a vote at a meeting. Each partner
698 shall make full disclosure, under subsection (c), of the partner's financial interest, if any, in
699 matters before the partnership by notifying the state ethics commission, in writing, and the
700 partner shall abstain from voting on a matter before the board in which the partner has a financial
701 interest, unless otherwise permitted under chapter 268A. (c) Chapters 268A and 268B shall
702 apply to all ex officio partners or the partners' designees and employees of the agencies within
703 the partnership. Chapters 268A and 268B shall apply to all other partners, except that the
704 agencies within the partnership may purchase from, sell to, borrow from, loan to, contract with
705 or otherwise deal with a person, corporation or other business entity in which any partner is in
706 any way interested or involved; provided, however, that such interest or involvement is disclosed
707 in advance to the partners of the partnership and recorded in its minutes; and provided, further,
708 that no partner having such an interest or involvement may participate in a decision of the
709 partnership relating to such person, corporation or other business entity. Employment by the
710 commonwealth or service in an agency or political subdivision of the commonwealth shall not be
711 deemed to be such an interest or involvement.

712 (d) The partnership shall bi-annually elect 1 of its partners as treasurer and 1 of its
713 partners as secretary. The secretary of the partnership shall keep a record of its proceedings and
714 shall be custodian of all books, documents and papers filed by the partnership and of its minute

715 book and seal. The secretary of the partnership shall cause copies to be made of all minutes and
716 other records and documents of the partnership and shall certify that such copies are true copies
717 and all persons dealing with the partnership may rely upon such certification. (e) Partners
718 and employees of the agencies within the partnership having access to its cash or negotiable
719 securities shall give bond to the partnership at its expense in such amounts and with such surety
720 as the partnership may prescribe. The persons required to give bond may be included in 1 or
721 more blanket or scheduled bonds. (f) Partners and officers who are not compensated
722 employees of the partnership shall not be liable to the commonwealth, the executive office of
723 housing and economic development or any other person as a result of their activities, whether
724 ministerial or discretionary, as such partners or officers except for willful dishonesty or
725 intentional violations of law. Neither members of the partnership nor a person executing bonds
726 or policies of insurance shall be personally liable on those bonds or policies or be subject to any
727 personal liability or accountability by reason of the issuance of those bonds or policies. The
728 partnership may purchase liability insurance for partners, officers and employees and may
729 indemnify the partners against claims of others.

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

733 (h) An action of the partnership may take effect immediately and need not be published
734 or posted unless otherwise provided by law. Meetings of the partnership shall be subject to
735 section 11A 1/2 of chapter 30A, except that said section 11A 1/2 shall not apply to any meeting
736 of partners in the partnership serving ex officio in the exercise of their duties as officers of the
737 commonwealth so long as no matter relating to the official business of the partnership is

738 discussed and decided at the meeting. The partnership shall be subject to all other sections of
739 said chapter 30A, and records pertaining to the administration of the partnership shall be subject
740 to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the partnership shall be
741 considered to be public funds for purposes of chapter 12A.

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

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

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

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

751 (1) adopt and amend by-laws, regulations and procedures for the governance of its
752 affairs and the conduct of its business for the administration and enforcement of this sections
753 13A to 13Q, inclusive; provided, however, that regulations adopted by agencies within the
754 partnership shall be adopted under chapter 30A; (2) adopt an official seal and a functional
755 name;

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

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

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

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

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

769 (8) obtain insurance;

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

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

776 (11) enter into agreements with public and private entities that deal primarily with
777 economic development, in order to distribute and provide leveraging of funds or services to
778 further economic development in the commonwealth and promote overall economic growth

779 within the commonwealth by fostering collaboration and investments in tourism and
780 international trade initiatives in the commonwealth;

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

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

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

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

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

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

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

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

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

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

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

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

812 Section 13D. (a) The partnership and the agencies within the partnership shall, for the
813 purposes of compliance with state finance law, operate as a state agency as defined in section 1
814 of chapter 29 and shall be subject to the laws applicable to agencies under the control of the
815 governor including, but not limited to, chapter 7, chapter 7A, chapter 10 and chapter 29;
816 provided, however, that the comptroller may identify additional instructions or actions necessary
817 for the partnership to manage fiscal operations in the state accounting system and meet statewide
818 and other governmental accounting and audit standards. Unless otherwise exempted by law or
819 the applicable central service agency, the partnership shall participate in other available
820 commonwealth central services including, but not limited, to the state payroll system under
821 section 31 of chapter 29, and may purchase other goods and services provided by state agencies

822 under the direction of the comptroller. The comptroller may chargeback the partnership for the
823 transition and ongoing costs for participation in the state accounting and payroll systems and
824 may retain and expend such costs without further appropriation for the purposes of this section.
825 The partnership shall be subject to section 5D of chapter 29 and subsection (f) of section 6B of
826 chapter 29. This section shall not apply to authorities who are serving as partners of the
827 partnership.

828 (b) The office of the attorney general shall appear for the partnership in all suits and other
829 civil proceedings in which the partnership is a party or interested, or in which the official acts
830 and doings of the partnership are called into question, to the same extent and in the same manner
831 as provided to the commonwealth and state departments, officers and commissions under section
832 3 of chapter 12. The partnership shall be generally considered to be an agency of the
833 commonwealth for purposes of chapter 12.

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

841 Section 13E. There shall be within the partnership an office of travel and tourism which
842 shall be under the supervision and control of an executive director. The powers and duties given
843 to the executive director of the office of travel and tourism in this chapter and in any other

844 general or special law shall be exercised and discharged subject to the direction, control and
845 supervision of the partnership.

846 The executive director of the office of travel and tourism shall be appointed by the
847 governor, and serve at the pleasure of the governor. The position of executive director of the
848 office of travel and tourism shall be classified under section 45 of chapter 30 and the executive
849 director of travel and tourism shall devote full time during business hours to the duties of the
850 office of travel and tourism and shall give to the state treasurer a bond for the faithful
851 performance of those duties.

852 The executive director of travel and tourism shall be the executive and administrative
853 head of travel and tourism and shall be responsible for administering and enforcing the laws
854 relative to travel and tourism and to any administrative unit of that office. Powers and duties
855 given to an administrative unit of travel and tourism by a general or special law shall be
856 exercised subject to the direction, control and supervision of the executive director of travel and
857 tourism.

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

863 Section 13G. The executive director of travel and tourism may, subject to appropriation
864 and with the approval of the partnership, appoint and may, with like approval, remove all such
865 employees as may be necessary to carry out the work of tourism. Unless otherwise provided by

866 law, all such appointments and removals shall be made under chapter 31. The executive director
867 may, subject to appropriation and the laws and regulations pertaining to the employment of
868 consultants, employ such consultants as the executive director may deem necessary.

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

876 The advisory commission shall have 30 members: 1 representative from each of the
877 following organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging
878 Association, the Massachusetts Camping Ground Association, the New England Bus
879 Association, the Massachusetts cultural council and the Massachusetts historical commission; 1
880 representative of a professional sports franchise located in the commonwealth, 2 representatives
881 of the Massachusetts Visitor Industry Council; the executive director or the executive director's
882 designee of each of the following regional tourism councils: the Berkshire Hills Visitors Bureau,
883 the Bristol County Convention and Visitors Bureau, the Cape Cod Chamber of Commerce, the
884 Franklin County Chamber of Commerce, the Greater Boston Convention and Visitors Bureau,
885 the Worcester County Convention and Visitors Bureau, the Martha's Vineyard Chamber of
886 Commerce, the Greater Merrimack Valley Convention and Visitors Bureau, the Mohawk Trail
887 Association, the North of Boston Convention and Visitors Bureau, the Greater Springfield
888 Convention and Visitors Bureau, the Plymouth County Development Council, Inc., the

889 Nantucket Island Chamber of Commerce, the MetroWest Tourism and Visitor's Bureau, the
890 Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitor's Bureau
891 and the following individuals, who shall not serve as chair: the commissioner of conservation
892 and recreation or the commissioner's designee, the administrator of the highway division or the
893 administrator's designee, the Massachusetts state coordinator of the United States National Park
894 Service, and the house and senate chairs of the joint committee on tourism, arts and cultural
895 development.

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

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

905 Section 13J. The following offices shall be within the office of travel and tourism: the
906 Massachusetts film office, which shall be the official and lead agency to facilitate motion picture
907 production and development within the commonwealth; the Massachusetts sports partnership,
908 which shall be the official and lead agency to facilitate and attract major sports events and
909 championships in the commonwealth; and the Massachusetts cultural council established under
910 section 52 of chapter 10.

911 Section 13K. There shall be within the partnership a Massachusetts international trade
912 office, which shall be under the supervision and control of an executive director. The executive
913 director shall be appointed by the governor, and serve at the pleasure of the governor. The
914 executive director shall devote his full time during business hours to the duties of the
915 Massachusetts international trade office. The executive director of the international trade office
916 shall be the executive and administrative head of the office and shall be responsible for
917 administering and enforcing the laws relative to the office and to any administrative unit of the
918 office.

919 The executive director shall also serve as the Massachusetts international trade
920 representative. The purpose of the Massachusetts international trade representative shall be to:
921 (1) serve as the commonwealth's official point of contact with the federal government on matters
922 related to international trade; (2) work with the executive office of housing and economic
923 development and other appropriate state agencies to analyze proposed and enacted international
924 trade agreements and provide an assessment of the impact of those agreements on the
925 commonwealth's economy; (3) serve as the designated recipient of federal requests for the
926 commonwealth to agree to be bound by investment, procurement, services or any other
927 provisions of international trade agreements, including those which may infringe upon state law
928 or regulatory authority reserved to the commonwealth; (4) serve as a liaison to the general court
929 on matters of international trade policy oversight including, but not limited to, reporting to
930 members of the general court on a regular basis on the status of ongoing international trade
931 negotiations, international trade litigation, and dispute settlement proceedings with implications
932 for existing state laws, state regulatory authority and international trade policy on the
933 commonwealth's economy.

934 The international trade representative shall, within 30 days of receipt, forward any
935 requests or communications received from the United States Trade Representative relative to any
936 issue of international trade, including requests seeking the commonwealth's consent to be bound
937 by international trade agreements, to the clerk of the house of representatives and the clerk of the
938 senate, who shall promptly refer the communications or requests to the joint committee on
939 economic development and emerging technologies. The joint committee shall, within 30 days of
940 receipt, conduct a public hearing on any request seeking the commonwealth's consent to be
941 bound by an international trade agreement. The joint committee may issue a report within 120
942 days of the public hearing including a resolution to the general court relative to the
943 recommendations of the committee on whether the commonwealth should consent to the
944 international trade agreement in question and memorializing the commonwealth's international
945 trade representative and the governor to take appropriate measures within their power to advise
946 the United States Trade Representative of the recommendations of the general court.

947 Section 13L. There shall be within the international trade office 1 or more foreign offices
948 for international trade. The foreign offices may be located in any country that the executive
949 director of the international trade office determines to be best suited as the location for the
950 furthering of foreign trade opportunities for the businesses of the commonwealth. The foreign
951 offices shall encourage and further trade between foreign businesses and businesses in the
952 commonwealth. The foreign offices shall also promote investment opportunities in the
953 commonwealth for foreign businesses in order to encourage the location and establishment of
954 such businesses within the commonwealth. For the purposes of furthering foreign trade and
955 investment, the foreign offices, subject to appropriation and approval by the executive director of
956 the trade international office, may contract for such advertising and other communication

957 services as may be necessary. The foreign offices shall maintain an updated list of businesses in
958 the commonwealth and foreign businesses which are or might become active in the import or
959 export of their products and services. The executive director shall consult with Massachusetts
960 office of business development and the regional economic development designated pursuant to
961 section 3J in order to ensure that the businesses and assets of all regions of the commonwealth
962 are included in such lists. The foreign office may also provide additional information and
963 assistance to businesses in the commonwealth that desire to export their goods and services.

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

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

975 Section 13M. There shall be a director of each foreign office appointed by the executive
976 director of the international trade office, who shall be a person with at least 2 years of experience
977 in international trade, having had administrative or business experience in the country where the

978 office is located, who shall be fluent in at least 2 languages and who may be a foreign national.
979 The director shall not be subject to chapter 31 or section 9A of chapter 30.

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

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

987 Section 13P. The executive director of the international trade office and the director of
988 any foreign office shall annually file a financial report with the clerks of the house and senate
989 and the joint legislative committee on economic development and emerging technologies on the
990 operation and activities of the office. The report shall include a complete evaluation of the results
991 of the activities of the foreign offices and its effects on the business economy of the
992 commonwealth, especially in the areas of the export of goods and services and in the location of
993 foreign businesses in the commonwealth.

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

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

1000 SECTION 29. Section 14 of said chapter 23A, as so appearing, is hereby amended by
1001 inserting after the word “Bureau”, in line 11, the words:- , the MetroWest Tourism and Visitor’s
1002 Bureau, the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and
1003 Visitor’s Bureau.

1004 SECTION 30. Said section 14 of said chapter 23A, as so appearing, is hereby amended
1005 by striking out, in lines 17 and 18, the words “director of economic development” and inserting
1006 in place thereof the following words:- executive director of tourism.

1007 SECTION 31. Said section 14 of said chapter 23A, as so appearing, is hereby further
1008 amended by striking out, in lines 55 and 56, the words “, subject to approval by the director of
1009 economic development” and inserting in place thereof the following words:- of tourism.

1010 SECTION 32. Sections 15 to 28, inclusive, of chapter 23A of the General Laws are
1011 hereby repealed.

1012 SECTION 33. Sections 39A to 39D, inclusive, of said chapter 23A are hereby repealed.

1013 SECTION 34. Sections 46 to 55, inclusive, of said chapter 23A are hereby repealed.

1014 SECTION 35. Chapter 23A of the General Laws, as appearing in the 2008 Official
1015 Edition, is hereby amended by striking out section 56 and inserting in place thereof the following
1016 section:-

1017 Section 56. (a) The secretary of housing and economic development shall coordinate the
1018 quasi-public entities and public purpose agencies of the commonwealth as to their economic
1019 development projects, programs and plans.

1020 (b) The secretary shall aggregate the data submitted under subsection (i) of section 16G
1021 of chapter 6A and shall, not later than December 31, submit an annual report to the secretary of
1022 administration and finance, the house and senate committees on ways and means, the joint
1023 committee on economic development and emerging technologies, the joint committee on labor
1024 and workforce development, the joint committee on small business and community development
1025 and the joint committee on higher education. The report shall include an analysis of all public
1026 lending activities to businesses with an assessment of the economic impact of those activities and
1027 an analysis evaluating public lending to small businesses as defined in section 57 of this chapter.

1028 (c) In order to fully utilize all appropriate measures to provide risk capital to small
1029 businesses in the commonwealth the Massachusetts Growth Capital Corporation, the
1030 Massachusetts Development Finance Agency and the Massachusetts Technology Development
1031 Corporation may establish 1 or more small business investment corporations or special small
1032 business investment corporations as provided by the federal Small Businesses Equity
1033 Enhancement Act of 1992.

1034 (d) The books and records of the quasi-public entities and public purpose agencies of the
1035 commonwealth under this section shall be subject to a biennial audit by the auditor of the
1036 commonwealth and an annual audit conducted by an independent auditor. The results of both
1037 audits shall be published in conjunction with the publication of audited financial statements.

1038 (e) The secretary of housing and economic development shall from time to time convene
1039 the Massachusetts Life Sciences Center created under chapter 23I, the Massachusetts clean
1040 energy technology center created under chapter 23J, the Massachusetts Technology
1041 Development Corporation created under chapter 40G, the Massachusetts Technology Park

1042 Corporation created under chapter 40J, and the Massachusetts Technology Transfer Center
1043 created under chapter 75 , for the purpose of ensuring that: (1) the agencies’ projects, programs
1044 and plans are coordinated and consistent with this section; (2) the agencies are sharing
1045 administrative functions for efficiencies and cost saving measures; (3) the agencies are sharing
1046 information that is beneficial to the growth and expansion of technology related companies in the
1047 commonwealth; and (4) the agencies are sharing best practices related to assisting technology
1048 related companies with debt and equity products and technical assistance.

1049 SECTION 36. Subsection (a) of section 57 of said chapter 23A, as so appearing, is
1050 hereby further amended by striking out the definition of “small business” and inserting in place
1051 thereof the following definition:-

1052 “Small business”, a business entity, including its affiliates, that: (i) is independently
1053 owned and operated; (ii) has a principal place of business in the commonwealth; and (iii) if in a
1054 manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade
1055 industry, employs fewer than 100 full-time employees or, if in any other industry, receives less
1056 than \$7,000,000 in annual receipts; provided, however, that for purposes of this definition, the
1057 industry of a business shall be primarily classified according to the Table of Small Business Size
1058 Standards of the Small Business Administration, including all exceptions to such standards as set
1059 forth in said table.

1060 SECTION 37. Said section 57 of said chapter 23A, as so appearing, is hereby amended
1061 by striking out subsection (i) and inserting in place thereof the following 2 subsections:-

1062 (i) No loan or loans in an aggregate principal amount in excess of \$500,000 shall be
1063 provided to a borrower under the program and no small business borrower under the program
1064 shall be provided a loan under the program for passive real estate purposes.

1065 (j) Any financial institution desiring to become a participating financial institution shall
1066 execute an agreement in such form as the agency or its agent may prescribe, which agreement
1067 shall contain the terms and provisions set forth in subsections (a) to (i), inclusive and such other
1068 terms and provisions as the agency or its agent may deem necessary or appropriate.

1069 SECTION 38. Said chapter 23A is hereby amended by striking out section 58, as so
1070 appearing, and inserting in place thereof the following section:-

1071 Section 58. The agency is hereby authorized to:

1072 (a) enter into a contract, after a competitive bidding process, with an organization to act
1073 as the agent of the agency with respect to the administration of the program; provided, however,
1074 that the contract shall: (1) be for a period of 2 years with such provisions for extension or
1075 renewal of the contract as the agency may agree to with the administering agent; and (2) provide
1076 for compensation and reimbursement of the agent on terms the agency may deem appropriate for
1077 the administration of the program, for any expenses incurred by the administering agent in
1078 connection with its services as agent and for such other services as the agency may deem
1079 appropriate including, but not limited to, the use of the premises, personnel and personal
1080 property of the administering agent; provided, however, that the administering agent shall submit
1081 annually to the agency for review and approval by the agency a prospective budget for the
1082 operations of the program, which once approved shall define the terms under which the

1083 administering agent shall be compensated for its services; provided, further that no organization
1084 shall be selected as the agent of the agency unless the organization:

1085 (i) is licensed to do business in, and maintains its primary headquarters in, the
1086 commonwealth; and

1087 (ii) has a demonstrated history of lending in participation with community banks;

1088 (b) conduct an annual review and assessment of the performance of the administering
1089 agent in its capacity as agent for the agency; provided, however, that the annual review shall be
1090 based on whether the administering agent has satisfactorily met the terms and conditions of the
1091 contract and on the program's effectiveness in achieving its intended goals; provided further, that
1092 the contract between the agency and the administering agent shall be subject to the performance
1093 management system developed under section 16G of chapter 6A; provided further, that the
1094 agency shall require the administering agent to annually submit, within 90 days of the end of
1095 program's fiscal year, financial statements of the program audited in accordance with generally
1096 accepted accounting principles by a certified public accountant, which financial statements will
1097 contain such footnotes or other disclosures of the administration of the program as the certified
1098 public accountant preparing the same deems appropriate under generally accepted accounting
1099 principles; provided further, that the agency shall have the right, at the agency's expense, to have
1100 representatives or agents of the agency audit the books and records along with supporting
1101 documentation used to prepare an annual report under this subsection; and provided further, that
1102 the annual report submitted by the administering agent shall be a public record;

1103 (c) within 45 days of the end of each of fiscal quarter for the program, the administering
1104 agent shall submit to the agency a quarterly report, which shall include the names of all

1105 participating financial institutions, a detailed listing of all outstanding loans made under the
1106 program, including a statement, for each loan, of the amount and per cent contribution of the
1107 borrower, financial institution and program to the loan loss reserves funded by the program; an
1108 accounting of all claims made on the loss reserves during such quarter; an accounting of the
1109 capital access fund and the loss reserves at the end of such quarter; of all credited accrued
1110 earnings or interest in the capital access fund and in the loss reserves during such quarter; and
1111 interim accounting of those costs and expenses for which the administering agent has been
1112 reimbursed; provided, however, that the quarterly report submitted by the administering agent
1113 shall be a public record;

1114 (d) make and publish rules and regulations respecting the implementation of the small
1115 business capital access program established by this section and any other rules and regulations
1116 necessary to fulfill the purposes of this section; and

1117 (e) do any and all things necessary or convenient to carry out its purposes and exercise
1118 the powers expressly given and granted in this section.

1119 SECTION 39. Said chapter 23A is hereby amended by striking out section 61, as so
1120 appearing, and inserting in place thereof the following section:-

1121 Section 61. The Massachusetts office of business development may:

1122 (a) enter into a contract, after a competitive bidding process, with an organization to act
1123 as the agent of the agency with respect to the administration of the program; provided, however,
1124 that said contract shall: (1) be for a period of 2 years with such provisions for extension or
1125 renewal of the contract as the agency may agree to with the administering agent; and (2) provide
1126 for compensation and reimbursement of the agent on terms the agency may deem appropriate for

1127 the administration of the program, for any expenses incurred by the administering agent in
1128 connection with its services as agent and for such other services as the agency may deem
1129 appropriate including, but not limited to, the use of the premises, personnel and personal
1130 property of the administering agent; provided, however, that the administering agent shall
1131 annually submit to the agency for review and approval by the agency a prospective budget for
1132 the operations of the program, which once approved shall define the terms under which the
1133 administering agent shall be compensated for its services; provided, further that no organization
1134 shall be selected as the agent of the agency unless the organization:

1135 (i) is licensed to do business in, and maintains its primary headquarters in, the
1136 commonwealth; and

1137 (ii) has a demonstrated history of lending in participation with community banks;

1138 (b) conduct an annual review and assessment of the performance of the administering
1139 agent in its capacity as agent for the agency; provided, however, that the annual review shall be
1140 based on whether the administering agent has satisfactorily met the terms and conditions of the
1141 contract and on the program's effectiveness in achieving its intended goals; provided further, that
1142 the contract between the agency and the administering agent shall be subject to the performance
1143 management system developed under section 16G of chapter 6A; provided further, that the
1144 agency shall require the administering agent to annually submit, within 90 days of the end of
1145 program's fiscal year, financial statements of the program audited in accordance with generally
1146 accepted accounting principles by a certified public accountant, which financial statements will
1147 contain such footnotes or other disclosures of the administration of the program as the certified
1148 public accountant preparing the same deems appropriate under generally accepted accounting

1149 principles; provided, further, that the agency shall have the right, at the agency's expense, to
1150 have representatives or agents of the agency audit the books and records along with supporting
1151 documentation used to prepare an annual report under this subsection; and provided, further, that
1152 the annual report submitted by the administering agent shall be a public record;

1153 (c) within 45 days of the end of each fiscal quarter for the program, the administering
1154 agent shall submit to the agency a quarterly report, which quarterly report shall include the
1155 names of all participating financial institutions, a detailed listing of all outstanding loans made
1156 under the program, including a statement, for each loan, of the amount and per cent contribution
1157 of the borrower, financial institution, and program to the loan loss reserves funded by the
1158 program; an accounting of all claims made on the loss reserves during such quarter; an
1159 accounting of the capital access fund and the loss reserves at the end of such quarter; of all
1160 credited accrued earnings or interest in the capital access fund and in the loss reserves during
1161 such quarter; and interim accounting of those costs and expenses for which the administering
1162 agent has been reimbursed; provided, however, that the quarterly report submitted by the
1163 administering agent shall be a public record;

1164 (d) make and publish rules and regulations respecting the implementation of the
1165 redevelopment access to capital program and any other rules and regulations necessary to fulfill
1166 the purposes of this section; and

1167 (e) do any and all things necessary or convenient to carry out its purposes and exercise
1168 the powers expressly given and granted in this section.

1169 SECTION 40. Said chapter 23A is hereby amended by striking out section 62, as so
1170 appearing, and inserting in place thereof the following section:-

1171 Section 62. There shall be a 10 person interagency permitting board within the
1172 Massachusetts office of business development. The members of the board shall be comprised of
1173 the state permit ombudsman who will serve as the chair of the interagency permitting board, the
1174 secretary of housing and economic development, the secretary of transportation, the secretary of
1175 energy and environmental affairs, the secretary of public safety and security, the director of the
1176 department of housing and community development, the director of business development, the
1177 director of the department of workforce development, the director of the office of consumer
1178 affairs and business regulation, and the executive director of the Massachusetts Development
1179 Finance Agency; or their designees. Six members shall be a quorum for the transaction of
1180 business. The chair shall communicate with municipal officials responsible for local review
1181 procedures to determine the municipal perspective on the proposed project, and to facilitate
1182 communication between the municipality and state agencies. The interagency permitting board
1183 shall consult with each regional office of the Massachusetts office of business development as
1184 well as each regional planning agency, and regional economic development organizations with
1185 which the Massachusetts office of business development has contracted under this chapter in
1186 order to better serve local businesses. At the direction of the chair, the board shall meet no fewer
1187 than 8 times a year, and shall monitor the development of priority development sites under
1188 chapter 43D and investigate ways in which to expedite priority development site projects. The
1189 board shall evaluate state agency permit procedures and recommend changes for improved
1190 efficiency. The board shall administer the technical assistance grants program established in
1191 subsection (b) of section 3 of chapter 43D. The secretary of housing and economic development
1192 shall work with the chair of the interagency permitting board and senior staff members to

1193 develop a recommended format for an application form and procedure which shall be used by all
1194 executive offices when possible.

1195 SECTION 41. Sections 8 to 15, inclusive, of chapter 23D of the General Laws are
1196 hereby repealed.

1197 SECTION 42. Said chapter 23D is hereby further amended by striking out section 16, as
1198 appearing in the 2008 Official Edition, and inserting in place thereof the following section:

1199 Section 16. There shall be established within the Massachusetts Growth Capital
1200 Corporation a separate fund to be known as the Employee-Ownership Revolving Loan Fund, the
1201 proceeds of which shall be used to provide low interest long term loans to individuals for the
1202 purchase of such individual's ownership interest in an employee-owned business. The fund shall
1203 consist of all monies designated for that fund by the board of directors of the Massachusetts
1204 Growth Capital Corporation in consultation with the director of the industrial services program.

1205 Said board shall administer the employee-ownership revolving loan fund program. The
1206 application process, and the terms and conditions of approving such loans shall be determined by
1207 the board in consultation with the director. Said Employee-Ownership Revolving Loan Fund
1208 shall be subject to the reporting and auditing requirements of section 56 of chapter 23A.

1209 SECTION 43. Section 20 of said chapter 23D, as so appearing, is hereby amended by
1210 striking out, in lines 10 and 11, the words 'trustees of the economic stabilization trust' and
1211 inserting in place thereof the following words:- directors of the Massachusetts Growth Capital
1212 Corporation.

1213 SECTION 44. Chapter 23F of the General Laws is hereby repealed.

1214 SECTION 45. Section 1 of chapter 23G, as appearing in the 2008 Official Edition, is
1215 hereby amended by inserting after the definition of “governing body” the following definition:-

1216 “Hospital”, a nonprofit hospital within the commonwealth licensed by the department of
1217 public health; a nonprofit health maintenance organization within the commonwealth licensed by
1218 the commissioner of insurance; or an affiliated nonprofit corporation which is organized and
1219 operated for the benefit of, to perform 1 or more of the functions of or to carry out 1 or more of
1220 the purposes of 1 or more licensed nonprofit hospitals or health maintenance organizations,
1221 including operation of a nursing home, comprehensive gerontology facility or congregate care
1222 facility.

1223 SECTION 46. Said section 1 of said chapter 23G, as so appearing, is hereby further
1224 amended by striking out the definition of “Institution” and inserting in place thereof the
1225 following definition:-

1226 "Institution", a hospital or a nonprofit corporation organized to operate a facility or
1227 facilities that provide cultural or educational services; provided, however, that nothing in this
1228 definition shall be construed to limit the power or authority of the Agency to provide financing to
1229 a person which is otherwise authorized.

1230 SECTION 47. Section 2 of said chapter 23G, as so appearing, is hereby amended by
1231 striking out, in line 12, the words “director of economic development” and inserting in place
1232 thereof the following words:- secretary of housing and economic development.

1233 SECTION 48. Subsection (b) of said section 2 of said chapter 23G, as so appearing, is
1234 hereby further amended by striking out the sixth sentence and inserting in place thereof the

1235 following sentence:- The secretary of housing and economic development shall serve as
1236 chairperson.

1237 SECTION 49. Clause (16) of section 3 of chapter 23G, as so appearing, is hereby
1238 amended by adding the following words:- ; provided, further, that the agency shall publish and
1239 disseminate through its website each fiscal year a schedule of fees or a methodology for
1240 determining fees to be charged to institutions under this chapter, which shall result in similar
1241 charges for similarly-situated projects, regardless of the size of the participating institution.

1242 SECTION 50. Said section 3 of said chapter 23G, as so appearing, is further amended by
1243 inserting, after clause (33), the following clause:-

1244 (34) to make loans, including working capital and contract based loans, provide
1245 guarantees, loan insurance or reinsurance or otherwise provide financing or credit enhancing
1246 devices for the operation of companies which have a principal place of business in the
1247 commonwealth, including but not limited to loans to lending institutions under terms and
1248 conditions requiring the proceeds of such loans to be used by such lending institutions for the
1249 making of loans for the operation of companies.

1250 SECTION 51. Said chapter 23G is hereby amended by striking out section 27, as so
1251 appearing, and inserting in place thereof the following section:-

1252 Section 27. (a) There is hereby established and placed within the agency the Emerging
1253 Technology Fund, referred to in this section and section 28 as the fund, to which shall be
1254 credited appropriations, bond proceeds or other monies authorized by the general court and
1255 specifically designated to be credited to the fund, such additional funds as are subject to the
1256 direction and control of the agency, pension funds, federal grants or loans or private investment

1257 capital which may properly be applied in furtherance of the objectives of the fund, proceeds from
1258 the sale of qualified investments secured or held by the fund, fees and charges imposed relative
1259 to the making of qualified investments, as the same shall be defined and approved under rules
1260 approved by the advisory committee created under section 28 for the fund, secured or held by the
1261 fund, and other monies which may be available to the agency or the advisory committee for the
1262 purposes of the fund from another source or sources. The agency shall hold the fund in an
1263 account or accounts separate from other funds or accounts and shall manage the fund on behalf
1264 of the advisory committee, under rules and policies established by the advisory committee.

1265 (b) The agency, on behalf of the advisory committee, shall invest and reinvest the fund
1266 and the income of the fund, except as provided in this section, as follows:

1267 (1) in the making of qualified investments, under rules approved by the advisory
1268 committee;

1269 (2) in defraying the ordinary and necessary expenses of administration and operation
1270 associated with the fund;

1271 (3) in the investment of funds not required for immediate disbursement in the purchase
1272 of such securities as may be lawful investments for fiduciaries in the commonwealth;

1273 (4) for the payment of binding obligations associated with such qualified investments
1274 which are secured by the fund as the obligations become payable; and

1275 (5) for the payment of principal or interest on qualified investments secured by the fund
1276 or the payment of a redemption premium required to be paid when such qualified investments
1277 are redeemed prior to maturity; provided, however, that monies in the fund shall not be

1278 withdrawn at any time in such an amount as would reduce the amount of the fund to less than the
1279 minimum requirement established jointly by the agency and advisory committee, except for the
1280 purpose of paying binding obligations associated with qualified investments which are secured
1281 by the fund as the obligations become payable.

1282 (c) The fund shall be held and applied by the agency, on behalf of the advisory
1283 committee, to make qualified investments designed to advance the following public purposes:

1284 (1) to stimulate increased financing for new, renovated or improved manufacturing,
1285 research and development and related facilities and financing for the operations of emerging
1286 technology companies in the commonwealth by leveraging private financing for highly,
1287 productive state-of-the-art facilities or for the operations of emerging technology companies,
1288 which will lead to increased and more rewarding employment opportunities in the
1289 commonwealth by providing financing related to such facilities including, without limitation,
1290 financing of the construction or expansion of such facilities, including specialized real estate
1291 improvements and specialized equipment for those facilities; and financing for the operations of
1292 emerging technology companies; and

1293 (2) to make matching grants to universities, colleges, public instrumentalities, companies
1294 and other entities to induce the federal government, industry and other grant-funding sources to
1295 fund advanced research and development activities in new and emerging technologies and new
1296 application of existing technologies in the commonwealth, so as to serve to increase and
1297 strengthen the commercial and industrial base of the commonwealth and the economic
1298 development and employment opportunities related to the commercial and industrial base;

1299 (3) to provide bridge financing to universities, colleges, public instrumentalities,
1300 companies and other entities in anticipation of the receipt of grants of the type described in
1301 clause (2) awarded or to be awarded by the federal government, industry or other sources;

1302 (4) to provide low or no interest equipment loans targeted to companies within the
1303 defense technology and homeland security sector particularly those that are seeking to become
1304 more competitive against out-of-state companies;

1305 (5) to make grants to the Massachusetts Technology Transfer Center, established by
1306 section 45 of chapter 75, to fund activities that facilitate the transfer of technology from the
1307 commonwealth's research institutions to the commonwealth's emerging technology industries,
1308 for productive use by such industries and to make targeted investments in proof of concept
1309 funding for emerging technologies; and

1310 (6) to provide matching grants in the field of marine science technology for companies in
1311 the commonwealth that receive small business innovation research or small business technology
1312 transfer grants from the small business administration. The matching award amount shall be the
1313 lesser of \$20,000 or 15 per cent of the small business innovation research or small business
1314 technology transfer grant. There shall be a maximum of \$60,000 available per company,
1315 including affiliates, per calendar year allocated on a competitive basis, contingent upon the
1316 availability of funds. The matching funds shall be used for product development and
1317 commercialization.

1318 The agency shall make no such qualified investment under clause (1) of subsection (b)
1319 unless the advisory committee finds that, to the extent possible, said qualified investment is such
1320 that a definite benefit to the economy of the commonwealth may reasonably be expected as a

1321 result. In addition, the agency shall make no such qualified investment under said clause (1) of
1322 said subsection (b) unless such qualified investment is in conformity with rules approved by the
1323 advisory committee.

1324 Said rules shall define which industries within the commonwealth shall be considered
1325 emerging technology industries for purposes of this section, provided that “emerging technology
1326 industries” shall include industries employing new or state-of-the-art technology in
1327 biotechnology, marine science technology, pharmaceuticals, defense and homeland security-
1328 related technologies, advanced materials, electronics, nanotechnology, environmental, medical
1329 device, information technology, plastics and polymers, telecommunications industries involved
1330 in the research and development of state-of-the-art medication delivery devices or any other
1331 technological field or industry which the advisory committee has classified or shall classify as an
1332 emerging technology. Said rules shall also set the terms and conditions for investments which are
1333 to constitute qualified investments, which may include, without limitation, loans, working capital
1334 and contract based loans, guarantees, loan insurance or reinsurance, equity investments, grants
1335 made only under clauses (2) and (5) of subsection (c), or other financing or credit enhancing
1336 devices, as made by the agency directly or on its own behalf or in conjunction with other public
1337 instrumentalities, or private institutions, or the federal government; provided, however, that said
1338 rules shall provide that each such qualified investment made under clause (1) of said subsection
1339 (c) shall involve a transaction with the participation of at least 2 at-risk private parties.

1340 Said rules shall, in addition, set forth the terms, procedures, standards and conditions
1341 which the agency shall employ to identify qualified applications, process applications, make
1342 investment determinations, safeguard the fund, advance the objective of increasing employment
1343 opportunities, oversee the progress of qualified investments and secure the participation of other

1344 public instrumentalities, private institutions, or the federal government in such qualified
1345 investments; provided, however, that said rules shall provide that each recipient of a qualified
1346 investment shall be required to pay a fee as a condition of such receipt, which fee may take the
1347 form of points, an interest rate premium or a contribution of warrants or other form of equity or
1348 consideration to the fund as prescribed by the advisory committee; and provided, further, that
1349 said rules shall provide for negotiated agreements between the agency and each recipient of a
1350 qualified investment regarding the terms and conditions by which the fund's support of a
1351 recipient could be reduced or withdrawn.

1352 (d) The agency or the advisory committee may solicit investments by private institutions
1353 or investors in the activities of the fund and may reach agreements with such private institutions
1354 or investors regarding the terms of such investments including, without limitation, the rights of
1355 such investors to participate in the income or appropriation of the fund. To help secure
1356 investments by private institutions or investors in the activities of the fund, the advisory
1357 committee may develop a proposal relative to the creation of a separate investment entity which
1358 would allow for the commingling of the resources of the fund with the maximum participation
1359 by such private institutions or investors in a manner which is consistent with the public purpose
1360 of the fund and under terms and conditions calculated to protect and preserve the assets of the
1361 fund; provided, however, that if the creation or operation of such a separate entity as proposed by
1362 the advisory committee would require additional or clarifying amendments to the enabling act of
1363 the agency, said proposal shall include proposed statutory language.

1364 (e) Copies of the approved rules, and modifications to the rules, shall be submitted to the
1365 chairs of the house and senate committees on ways and means and the joint committee on

1366 economic development and emerging technologies and the clerks of the house of representatives
1367 and senate.

1368 (f) Qualified investment transactions undertaken by the agency on behalf of the advisory
1369 committee under this section shall not, except as specified in this section, be subject to chapter
1370 175, and shall be payable solely from the Emerging Technology Fund, established by this section
1371 and shall not constitute a debt or pledge of the faith and credit of the commonwealth, the agency
1372 or any subdivision of the commonwealth.

1373 (g) The agency, on behalf of the advisory committee, shall not make an expenditure from
1374 or commitment of the assets of the fund, including, without limitation, the making of qualified
1375 investments secured by the fund, if making such a qualified investment would reduce the
1376 amount of the fund below the minimum requirement established by law, unless the agency, at the
1377 time of making of such qualified investment, deposits in the fund from the proceeds of that
1378 qualified investment or from any fees and charges imposed relative to the making of qualified
1379 investments, or otherwise, an amount which, together with the amount in the fund, shall not be
1380 less than the minimum requirement; provided, however, that at no time shall the minimum
1381 requirement of the fund be less than the maximum amount of principal and interest becoming
1382 due in the current and succeeding fiscal year of the agency on all outstanding bonds and other
1383 obligations which are secured by the fund or such greater amount as may be set forth in the rules
1384 governing the fund.

1385 SECTION 52. Said chapter 23G is hereby amended by striking out section 28, as so
1386 appearing, and inserting in place thereof the following section:-

1387 Section 28. (a) There is hereby established an advisory committee relative to the fund
1388 consisting of the director of the Massachusetts office of business development, the director of the
1389 John Adams Innovation Institute, the president of the Massachusetts Technology Development
1390 Corporation, and 6 other persons, 3 of whom shall be appointed by the governor and 3 of whom
1391 shall be appointed by the board of the agency; provided, however, that the director of the John
1392 Adams Innovation Institute, and the president of the Massachusetts Technology Development
1393 Corporation may designate another person to act in such member's place for a particular
1394 purpose, including the right to attend and vote at a meeting of the advisory committee; provided,
1395 further, that at least 1 member appointed by the governor shall be a representative of an
1396 emerging technology industry, at least 1 member appointed by the governor shall have
1397 knowledge of financing of emerging technology companies, and at least 1 member shall have
1398 knowledge of technology transfer and commercialization activities at research institutions; and
1399 provided, further, that at least 1 member appointed by the board of the agency shall be a
1400 representative of an emerging technology industry, and at least 1 member appointed by the board
1401 of the agency shall have knowledge of financing of emerging technology companies and 1
1402 member appointed by the board of the agency shall be a member of the agency's board of
1403 directors. The executive director of the Massachusetts Technology Transfer Center shall serve as
1404 an ex-officio member of the advisory committee.

1405 Each appointed member of the advisory committee shall serve for a term of 3 years or
1406 until such member's successor is appointed; provided, however, that of those initially appointed,
1407 1 of each the governor's appointees and the board of the agency's appointees shall serve for a
1408 term of 1 year, 1 of each of the governor's appointees and the board of the agency's appointees
1409 shall serve for a term of 2 years, and 1 of each the governor's appointees and the board of the

1410 agency's appointees shall serve for a term of 3 years. A person appointed to fill a vacancy on the
1411 advisory committee shall be appointed in a like manner and shall be eligible for reappointment.
1412 A member of the advisory committee appointed by the governor may be removed by the
1413 governor for cause. A member of the advisory committee appointed by the board of the agency
1414 may be removed by the board of the agency for cause.

1415 (b) The members shall annually elect a chairman and vice chairman and shall adopt by-
1416 laws governing the affairs of the advisory committee. Five members of the advisory committee
1417 shall constitute a quorum and the affirmative vote of a majority of the members present and
1418 eligible to vote at a meeting shall be necessary for an action to be taken by the advisory
1419 committee; provided, however, that no vacancy in the membership of the advisory committee
1420 shall impair the right of a quorum to exercise the powers of the advisory committee.

1421 (c) The members shall serve without compensation, but each member shall be entitled to
1422 reimbursement for actual and necessary expenses incurred in the performance of official duties.

1423 (d) The advisory committee may meet as often as the members shall decide; provided,
1424 however, that it shall meet at least once in each calendar quarter and its approval shall be
1425 necessary for an expenditure from or commitment of the assets of the fund or entry into contracts
1426 of the type specified in subsection (g).

1427 (e) The advisory committee may, by majority vote, elect, in its discretion, to delegate
1428 some or all of the committee's approval rights to the board or the staff of the agency; provided,
1429 that, any such delegation may be revoked at any time by majority vote of the advisory
1430 committee.

1431 (f) The agency shall manage the qualified investments made from the fund on behalf of
1432 the advisory committee including, without limitation, the closing, servicing, monitoring,
1433 underwriting, and where appropriate, the enforcement of rights with respect to such management
1434 and shall provide such staff and supporting assistance as deemed appropriate by the board of
1435 directors of the agency to enable the advisory committee to discharge its duties in a manner
1436 consistent with its public purpose. Subsection (d), subsections (f) to (i), inclusive, and subsection
1437 (l) of section 2 of this chapter shall also apply to the members and affairs of the advisory
1438 committee created under this section.

1439 (g) The advisory committee and the agency are encouraged to award 1 or more contracts
1440 with regard to the management of the fund, which may provide performance-based incentives,
1441 with regard to such management.

1442 SECTION 53. Chapter 23G of the General Laws is hereby amended by adding the
1443 following section:-

1444 Section 44. The agency shall be subject to section 16G of chapter 6A and section
1445 56 of chapter 23A.

1446 SECTION 54. Clause (7) of subsection (a) of section 4 of chapter 23I of the General
1447 Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word
1448 “document”, in line 35, the following words:- ; provided, however, that the center shall contract
1449 with another public authority for the performance by that authority of core administrative
1450 functions, as determined by the secretary of housing and economic development which may
1451 include but shall not be limited to, human resources, financial management, information

1452 technology, legal, procurement and asset management, to minimize the administrative costs and
1453 expenses of the center.

1454 SECTION 55. Subsection (d) of section 6 of said chapter 23I, as so appearing, is hereby
1455 amended by inserting after the figure “75”, in line 82, the following words:- to fund activities
1456 that facilitate the transfer of technology from the commonwealth’s research institutions to the
1457 commonwealth’s life science industries, for productive use by such industries and to make
1458 targeted investments in proof of concept funding for emerging technologies.

1459 SECTION 56. Section 12 of said chapter 23I, as so appearing, is hereby amended by
1460 striking out, in line 9, the word “and” and inserting in place thereof the following words:- the
1461 executive director of the Massachusetts Technology Transfer Center and.

1462 SECTION 57. Chapter 23I of the General Laws is hereby amended by adding the
1463 following section:

1464 Section 18. The center shall be subject to section 16G of chapter 6A and section 56 of
1465 chapter 23A.

1466 SECTION 58. Section 2 of chapter 23J of the General Laws, as so appearing, is hereby
1467 amended by striking out, in line 62, the words “his designee shall serve as chairperson” and
1468 inserting in place thereof the following words:- the secretary’s designee and the secretary of
1469 housing and economic development, or the secretary’s designee shall serve as co-chairs.

1470 SECTION 59. Section 3 of said chapter 23J, as so appearing, is hereby amended in by
1471 inserting after the word “chapter;”, in line 30, the following words:- provided, however, that the
1472 center shall contract with another public authority for the performance by that authority of core

1473 administrative functions, as determined by the secretary of housing and economic development
1474 which may include but shall not be limited to, human resources, financial management,
1475 information technology, legal, procurement and asset management, to minimize the
1476 administrative costs and expenses of the center.

1477 SECTION 60. Chapter 23J of the General Laws is hereby amended by adding the
1478 following section:-

1479 Section 9. The center shall be subject to section 16G of chapter 6A and section 56 of
1480 chapter 23A.

1481 SECTION 61. The General Laws are hereby amended by inserting after chapter 23J the
1482 following chapter:-

1483 CHAPTER 23K

1484 The Health and Educational Facilities Authority

1485 Section 1. This chapter may be referred to and cited as the "Health and Educational
1486 Facilities Authority Act."

1487 Section 2. In this chapter, the following words shall, unless the context clearly requires
1488 otherwise, have the following meanings:

1489 "Authority", the Health and Educational Facilities Authority created by section 3.

1490 "Bonds" or "revenue bonds", revenue bonds of the authority issued under this chapter,
1491 including revenue refunding bonds, notwithstanding that the same may be secured by any
1492 federally guaranteed security, whether acquired by the authority or by a participating institution,

1493 or by mortgage, the full faith and credit or by any other lawfully pledged security of 1 or more
1494 participating institutions.

1495 "Cost", as applied to a project or any portion thereof financed under this chapter
1496 embraces all or any part of the cost of construction, acquisition, alteration, enlargement,
1497 reconstruction and remodeling of a project including all lands, structures, real or personal
1498 property, rights, rights of way, air rights, franchises, easements and interests acquired or used for
1499 or in connection with a project, the cost of demolishing or removing any buildings or structures
1500 on land so acquired, including the cost of acquiring any lands to which such buildings or
1501 structures may be moved, the cost of all machinery and equipment, financing charges, interest
1502 prior to, during and for a period after completion of such construction and acquisition,
1503 reasonably required amounts to make the project operational, provisions for reserves for
1504 principal and interest and for extensions, enlargements, additions, replacements, renovations and
1505 improvements, the cost of architectural, engineering, financial and legal services, plans,
1506 specifications, studies, surveys, estimates of cost and of revenues, administrative expenses,
1507 expenses necessary or incident to determining the feasibility or practicability of constructing the
1508 project and such other expenses as may be necessary or incident to the construction and
1509 acquisition of the project, the financing of such construction and acquisition and the placing of
1510 the project in operation.

1511 "Cultural institution", a nonprofit cultural or scientific institution within the
1512 commonwealth with respect to which the authority finds that the institution is a major regional
1513 resource, that it provides educational services to candidates for academic degrees for credit at
1514 other institutions or resources for research by scholars holding academic degrees or other

1515 education at an advanced level, and that it has demonstrated broad community support through
1516 giving for capital or current purposes.

1517 "Federally guaranteed security", any security, investment or evidence of indebtedness
1518 which is either directly or indirectly, insured or guaranteed, in whole or in part, as to the
1519 repayment of principal or interest or both by the United States or any instrumentality of the
1520 United States.

1521 "Federally insured project loan", a loan to finance or refinance the cost of a project for an
1522 institution which is either directly or indirectly, insured or guaranteed, in whole or in part, as to
1523 the repayment of the principal or interest or both by the United States or an instrumentality of the
1524 United States, or a commitment by the United States or an instrumentality of the United States to
1525 so insure or guarantee such a loan.

1526 "Hospital", a nonprofit hospital within the commonwealth licensed by the department of
1527 public health; or a nonprofit health maintenance organization within the commonwealth licensed
1528 by the commissioner of insurance; or an affiliated nonprofit corporation which is organized and
1529 operated for the benefit of, to perform 1 or more of the functions of, or to carry out 1 or more of
1530 the purposes of 1 or more licensed nonprofit hospitals or health maintenance organizations,
1531 including operation of a nursing home, comprehensive gerontology facility or congregate care
1532 facility; or any other nonprofit charitable institution in the commonwealth not otherwise eligible
1533 to participate under this chapter; provided, however, that such other nonprofit charitable
1534 institution may only undertake the financing and construction or acquisition of a project or
1535 undertake the refunding or refinancing of obligations or of a mortgage or of advances to the
1536 extent that such projects, obligations, mortgages, or advances consist of or result from the

1537 purchase of energy or from energy conservation or related projects of such other nonprofit
1538 charitable institution; and provided further, that such other nonprofit charitable institution
1539 participates in or is a member of a group power purchasing program organized and administered
1540 by or on behalf of the authority.

1541 "Institution", a hospital or a nonprofit corporation organized to operate a facility or
1542 facilities that provide cultural or educational services, including but not limited to an institution
1543 for higher education, a school for the developmentally disabled, or a cultural institution.

1544 "Institution for higher education", a public or a private, nonprofit educational institution
1545 within the commonwealth authorized by law to provide a program of education beyond the high
1546 school level, or any organization affiliated therewith; provided, that for the purposes of this
1547 definition an "organization affiliated" with such educational institution shall be any organization
1548 or association, in any form, the activities of which are a part of the activities of such educational
1549 institution and are subject to regulation by the trustees or other governing body of such
1550 educational institution, or any research foundation, teaching hospital and associated clinics, or
1551 other research or educational organization the operation of which in conjunction with such
1552 educational institution is approved by the trustees or other governing body of such educational
1553 institution, or any other entity whose activities are approved by the trustees or other governing
1554 body of such educational institution as furthering the purposes of the educational institution, or,
1555 in the case of a public institution for higher education, the advisory committee on education
1556 policy established under section 2 of chapter 15A.

1557 "Participating cultural institution", a cultural institution which, under this chapter,
1558 undertakes the financing and construction or acquisition of a project or undertakes the refunding
1559 of refinancing of obligations or of a mortgage or of advances as provided in this chapter.

1560 "Participating hospital", a hospital which, under this chapter, undertakes the financing
1561 and construction or acquisition of a project or undertakes the refunding or refinancing of
1562 obligations or of a mortgage or of advances as provided in this chapter.

1563 "Participating institution", a participating hospital or other participating nonprofit
1564 corporation organized to operate a facility or facilities that provide cultural or educational
1565 services, including but not limited to a participating institution for higher education, a
1566 participating school for the developmentally disabled, or a participating cultural institution;
1567 provided, however, that 'participating institution' shall also include any institution authorized to
1568 borrow on a tax-exempt basis through the Massachusetts Development Finance Agency under
1569 chapter 23G.

1570 "Participating institution for higher education", an institution for higher education which,
1571 under this chapter, undertakes the financing and construction or acquisition of a project or
1572 undertakes the refunding or refinancing of obligations or of a mortgage or of advances as
1573 provided in this chapter.

1574 "Participating school for the developmentally disabled", a school for the
1575 developmentally disabled which, under this chapter, undertakes the financing and construction or
1576 acquisition of a project or undertakes the refunding or refinancing of obligations.

1577 "Project", in the case of a participating institution for higher education, participating
1578 institution for the developmentally disabled or other participating institution that offers

1579 residences to students, a structure or structures suitable for use as a dormitory or other multi-unit
1580 housing facility for students, faculty, officers or employees, a dining hall, student union,
1581 administration building, academic building, library, laboratory, research facility, classroom,
1582 athletic facility, health care facility, maintenance facility, storage or utility facility and other
1583 structures or facilities related to any of those structures or required or useful for the instruction of
1584 students or the conducting of research or the operation of an institution for higher education or
1585 participating institution for the handicapped or other participating institution, including parking
1586 and other facilities or structures essential or convenient for the orderly conduct of such institution
1587 for higher education or participating institution for the developmentally disabled or other
1588 participating institution; provided, however, that “project” shall also include landscaping, site
1589 preparation, furniture, equipment and machinery and other similar items necessary or convenient
1590 for the operation of a particular facility or structure in the manner for which its use is intended as
1591 well as any furnishings, equipment, machinery and other similar items necessary or convenient
1592 for the operation of an institution of higher education or participating institution for the
1593 handicapped or other participating institution, whether or not such items are related to a
1594 particular facility or structure financed under this chapter; provided, however, that “project” shall
1595 not include such items as books, fuel, supplies or other items the cost of which are customarily
1596 deemed to result in a current operating charge, and shall not include any facility used or to be
1597 used for sectarian instruction or as a place of religious worship nor any facility which is used or
1598 to be used primarily in connection with any part of the program of a school or department of
1599 divinity for any religious denomination; provided, further, that “project” shall include, in the case
1600 of a participating hospital, a structure or structures suitable for use as a hospital, clinic,
1601 comprehensive gerontology facility, nursing home, or other health care facility, laboratory,

1602 laundry, nurses or interns residence or other multi-unit housing facility for staff, employees,
1603 patients or relatives of patients admitted for treatment in such hospital, or for the aged, doctors
1604 office building, administration building, research facility, maintenance, storage or utility facility
1605 and other structures or facilities related to any of the foregoing or required or useful for the
1606 operation of a hospital, including parking and other facilities or structures essential or convenient
1607 for the orderly conduct of such hospital, and shall also include landscaping, site preparation,
1608 furniture, equipment and machinery and other similar items necessary or convenient for the
1609 operation of a particular facility or structure in the manner for which its use is intended and shall
1610 further include any furnishings, equipment, machinery and other similar items necessary or
1611 convenient for the operation of a hospital, whether or not such items are related to a particular
1612 facility or structure financed under this chapter, and may also include the issuance of tax exempt
1613 debt instruments for working capital and for the providing of such items as fuel, supplies or other
1614 items the cost of which are customarily deemed to result in a current operating charge; and in the
1615 case of a particular cultural institution, a structure or structures suitable for its purposes, whether
1616 or not to be used to provide educational services, or research resources; provided, further, that
1617 “project” shall also include supporting facilities, landscaping, site preparation, furniture,
1618 equipment, machinery and other related items and shall further include any furnishings,
1619 equipment, machinery and other similar items necessary or convenient for the operation of a
1620 cultural institution, whether or not such items are related to a particular facility or structure
1621 financed under this chapter, but shall not include books, works of art, or other items for display
1622 or exhibition, or items the cost of which are customarily deemed to result in a current operating
1623 charge; provided, further, that "project" may include any combination of 1 or more of the
1624 foregoing undertaken jointly by 1 or more participating institutions with each other or with other

1625 parties; and, notwithstanding anything in this definition to the contrary, "project" may also
1626 include any capital or operating expenditure which may legally be made by any participating
1627 institution and the thing produced or acquired by such expenditure.

1628 "School for the developmentally disabled", a nonprofit primary, secondary or post-
1629 secondary school within the commonwealth which: (i) serves students, at least 70 per cent of
1630 whom are developmentally disabled, as determined by 1 or more appropriate educational,
1631 rehabilitation, medical or mental health authorities; (ii) is accredited by a recognized accrediting
1632 body; and (iii) is determined by the authority to be a major resource of benefit to the
1633 developmentally disabled.

1634 Section 3. (a) There is hereby created a body politic and corporate to be known as the
1635 "Health and Educational Facilities Authority". The authority is constituted a public
1636 instrumentality and the exercise by the authority of the powers conferred by this chapter shall be
1637 deemed and held to be the performance of an essential public function. The authority shall
1638 consist of 9 members, to be appointed by the governor, who shall be residents of the
1639 commonwealth, 1 of whom shall be the secretary of housing and economic development and not
1640 more than 5 of whom shall be members of the same political party. At least 2 of the members
1641 shall be trustees, directors, officers or employees of institutions for higher education, at least 2
1642 shall be trustees, directors, officers or employees of hospitals, at least 1 shall be a person having
1643 a favorable reputation for skill, knowledge and experience in the field of state and municipal
1644 finance, either as a partner, officer or employee of an investment banking firm which originates
1645 and purchases state and municipal securities, or as an officer or employee of an insurance
1646 company or bank whose duties relate to the purchase of state and municipal securities as an

1647 investment and to the management and control of a state and municipal securities portfolio, and
1648 at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in
1649 the building construction field. Upon the expiration of the term of any member, a successor shall
1650 be appointed for a term of 7 years. The governor shall fill any vacancy for the remainder of the
1651 unexpired term. Any member of the authority may be removed by the governor for misfeasance,
1652 malfeasance or willful neglect of duty or other cause after notice and a public hearing unless
1653 such notice and hearing shall be expressly waived in writing.

1654 (b) The secretary of the executive office of housing and economic development shall
1655 serve as the chairman of the authority. The authority shall annually elect 1 of its members as
1656 vice chairman. It may appoint an executive director and assistant executive director, who shall
1657 not be members of the authority, who shall serve at the pleasure of the authority. They shall
1658 receive such compensation as shall be fixed by the authority.

1659 (c) The executive director or assistant executive director or other person designated by
1660 resolution of the authority shall keep a record of the proceedings of the authority and shall be
1661 custodian of all books, documents and papers filed with the authority, the minute book or journal
1662 of the authority, and its official seal. The executive director or assistant executive director or
1663 other person may cause copies to be made of all minutes and other records and documents of the
1664 authority and may give certificates under the official seal of the authority to the effect that such
1665 copies are true copies, and all persons dealing with the authority may rely upon such certificates.

1666 (d) Five members of the authority shall constitute a quorum. The affirmative vote of a
1667 majority of all the members of the authority shall be necessary for any action taken by the
1668 authority. A vacancy in the membership of the authority shall not impair the right of a quorum to

1669 exercise all the rights and perform all the duties of the authority. An action taken by the authority
1670 under this chapter may be authorized by resolution at a regular or special meeting, and each such
1671 resolution shall take effect immediately and need not be published or posted.

1672 (e) Before the authority issues revenue bonds under this chapter, the chairman, vice
1673 chairman, executive director and assistant executive director and any other member of the
1674 authority authorized by resolution of the authority to handle funds or sign checks of the authority
1675 shall execute a surety bond in the penal sum of \$50,000, or in lieu thereof the chairman shall
1676 obtain a blanket position bond covering the executive director and every member and other
1677 employee of the authority in the penal sum of \$50,000. Each such bond shall be conditioned
1678 upon the faithful performance of the duties of the principal or the members, executive director
1679 and other employees, as the case may be, shall be executed, by a surety company authorized to
1680 transact business in the commonwealth as surety, shall be approved by the attorney general and
1681 shall be filed in the office of the state secretary. The cost of each such bond shall be paid by the
1682 authority.

1683 (f) The members of the authority shall receive no compensation for the performance of
1684 their duties under this chapter but each member shall be paid the member's necessary expenses
1685 incurred while engaged in the performance of the member's duties.

1686 (g) A member, officer, agent or employee of the authority who, directly or indirectly, has
1687 a financial interest in a property to be included in, or a contract for property or materials to be
1688 furnished or used in connection with, a project of the authority, shall be punished by a fine of not
1689 less than \$50 nor more than \$1,000, or by imprisonment for not more than 1 month, or both.

1690 (h) Members of the authority shall be considered state employees for the purposes of
1691 chapters 268A and 268B; provided, however, that notwithstanding subsection (g) or any other
1692 law to the contrary, it shall not be or constitute a conflict of interest or violation of paragraph (g)
1693 or any other law for a trustee, director, officer or employee of a participating institution or for a
1694 person having the required favorable reputation for skill, knowledge and experience in state and
1695 municipal finance or for a person having the required favorable reputation for skill, knowledge
1696 and experience in the building construction field to serve as a member of the authority; provided,
1697 further, that;

1698 (1) in each case to which this subsection is applicable, such trustee, director,
1699 officer or employee of such participating institution abstains from discussion, deliberation, action
1700 and vote by the authority in specific respect to an undertaking under this chapter in which such
1701 participating institution has an interest;

1702 (2) such person having the required favorable reputation for skill, knowledge and
1703 experience in state and municipal finance abstains from discussion, deliberation, action and vote
1704 by the authority in specific respect to any sale, purchase or ownership of bonds of the authority
1705 in which the investment banking firm or insurance company or bank of which such person is a
1706 partner, officer or employee has a past, current or future interest; or

1707 (3) such person having the required favorable reputation for skill, knowledge and
1708 experience in the building construction field abstains from discussion, deliberation, action and
1709 vote by the authority in specific respect to construction or acquisition of a project of the authority
1710 in which a partnership, firm, joint venture, sole proprietorship or corporation of which such

1711 person is an owner, venturer, participant, partner, officer or employee who has a past, current or
1712 future interest.

1713 Section 4. The purpose of the authority shall be to assist institutions in the acquisition,
1714 construction, financing and refinancing of projects. For that purpose the authority may:

1715 (a) adopt by-laws for the regulation of its affairs and the conduct of its business;

1716 (b) adopt an official seal and alter the same at its pleasure;

1717 (c) maintain an office at such place or places as it may designate;

1718 (d) sue and be sued in its own name, plead and be impleaded;

1719 (e) determine the location and character of a project to be financed under this chapter, and
1720 construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as
1721 lessee or lessor, and regulate the same, enter into contracts for any or all of such purposes, enter
1722 into contracts for the management and operation of a project, and designate a participating
1723 institution as its agent to determine the location and character of a project undertaken by such
1724 participating institution under this chapter and, as the agent of the authority, construct,
1725 reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or
1726 lessor, and regulate the same, and, as the agent of the authority, enter into contracts for any or all
1727 of such purposes, including contracts for the management and operation of such project;

1728 (f) issue bonds, bond anticipation notes and other obligations of the authority for any of
1729 its corporate purposes, and fund or refund bonds, bond anticipation notes and other obligations as
1730 provided in this chapter;

1731 (g) generally, fix and revise and charge and collect rates, rents, fees and charges for the
1732 use of and for the services furnished or to be furnished by a project or any portion of a project
1733 and contract with any person, partnership, association or corporation or other body public or
1734 private in respect thereof and designate a participating institution as its agent to fix, revise,
1735 charge and collect such rates, rents, fees and charges and make such contracts;

1736 (h) establish rules and regulations for the use of a project or any portion of a project and
1737 designate a participating institution as its agent to establish rules and regulations for the use of a
1738 project in which such participating institution is participating;

1739 (i) require, at the expense directly or indirectly of an institution intending to participate in
1740 a project, a report on the financial feasibility of such project to be financed; provided, however,
1741 that the report of an independent accountant or accounting firm or financial expert employed or
1742 selected by such institution with the approval of the authority shall be deemed to satisfy the
1743 requirement of such report, if such independent accountant, accounting firm or financial expert
1744 has demonstrated capability of preparing such financial feasibility reports; and provided, further,
1745 that the authority shall not unreasonably or arbitrarily withhold such approval and may
1746 promulgate regulations stipulating the form and content of such report;

1747 (j) employ and fix the compensation of consulting engineers, architects, attorneys,
1748 accountants, construction and financial experts, superintendents, managers, and other employees
1749 and agents as may be necessary in its judgment;

1750 (k) receive and accept from any public agency loans or grants for, or in aid of, the
1751 construction of a project or any portion of a project, and to receive and accept loans, grants, aid
1752 or contributions from any source of either money, property, labor or other things of value to be

1753 held, used and applied only for the purposes for which such loans, grants, aid and contributions
1754 are made;

1755 (l) mortgage a project and the site of the project for the benefit of the holders of revenue
1756 bonds issued to finance that project; provided, however, that the authority shall not mortgage any
1757 project undertaken on behalf of a public institution for higher education or the site of that project,
1758 and shall not convey that project or site except under section 7;

1759 (m) make loans to a participating institution for the cost of a project under an agreement
1760 between the authority and 1 or more participating institutions; provided, however, that no such
1761 loan shall exceed the total cost of the project as determined by the participating institution and
1762 approved by the authority;

1763 (n) make loans to participating institutions to refund outstanding obligations, mortgages
1764 or advances issued, made or given by the institutions for the cost of a project;

1765 (o) charge to and equitably apportion among participating institutions its reasonable
1766 administrative costs and expenses incurred in the exercise of the powers and duties conferred by
1767 this chapter; provided, however, that the authority shall contract with another public authority for
1768 the performance by that authority of core administrative functions, as determined by the
1769 secretary of housing and economic development and approved by a vote of the board of directors
1770 which may include but shall not be limited to, human resources, financial management,
1771 information technology, legal, procurement and asset management, to minimize the
1772 administrative costs and expenses apportioned to participating institutions under this clause;
1773 provided further, that such contracting for services with another public authority shall actually
1774 reduce such costs and expenses; provided further, that such contracting for services with another

1775 public authority shall not create a conflict of interest, compromise a fiduciary duty of a board
1776 member or employee, violate interests of bondholders or breach a bond covenant or procurement
1777 law; provided further, that if the authority does not contract with another public authority as
1778 required in this clause, the authority may only charge its reasonable administrative costs and
1779 expenses to participating institutions; provided, further, that the authority shall publish and
1780 disseminate through its website each fiscal year a schedule of fees or a methodology for
1781 determining fees to be charged under this clause, which shall be charged for similarly-situated
1782 projects, regardless of the size of the participating institution;

1783 (p) acquire and enter into commitments to acquire a federally guaranteed security and
1784 pledge or otherwise use the federally guaranteed security in such manner as the authority shall
1785 approve to secure or otherwise provide a source of repayment on any of its bonds or to enter into
1786 an appropriate agreement with 1 or more participating institutions whereby the authority may
1787 make a loan to any such institution for the purpose of enabling such institution to fund or refund,
1788 directly or indirectly, the cost of acquiring or entering into commitments to acquire a federally
1789 guaranteed security; provided, however, that the federally guaranteed security is evidence of a
1790 federally insured project loan or, if not such evidence, that the authority determines that the
1791 federally guaranteed security has been issued to pass through a federally insured project loan;

1792 (q) issue electric rate reduction bonds, as defined in section 1H of chapter 164, for the
1793 benefit of any electric company, as defined in section 1 of said chapter 164, that is determined to
1794 be eligible for said bond financing by the department of energy resources under said chapter 164;
1795 provided, however, that such electric rate reduction bonds shall constitute bonds as defined in
1796 section 2; provided, further, that such an electric company shall be deemed to be a participating
1797 institution as defined in section 2; and provided further, that the financing or refinancing of

1798 transition costs or the acquiring of transition property as provided for in section 1H of said
1799 chapter 164 shall be deemed to be a project as defined in section 2; and

1800 (r) make loans, grants and undertake other financing transactions;

1801 (s) establish and collect such fees and charges as the authority without appropriation
1802 shall determine to be reasonable; and to receive and apply revenues from fees and charges to the
1803 purposes of the authority or allotment by the commonwealth or a political subdivision of the
1804 commonwealth; and

1805 (t) do all things necessary or convenient to carry out the purpose of this chapter.

1806 In carrying out the purposes of this chapter, the authority may undertake joint projects for
1807 2 or more participating institutions for higher education or 2 or more participating hospitals, or
1808 for any combination of participating institutions for higher education and participating hospitals,
1809 and, thereupon, all other provisions of this chapter shall apply to and for the benefit of the
1810 authority and the participants in such joint projects.

1811 The authority shall not undertake a project on behalf of a public institution for higher
1812 education except upon written request made by the advisory committee on education policy
1813 established under section 2 of chapter 15A.

1814 Section 5. All expenses incurred in carrying out this chapter shall be payable solely from
1815 funds provided under the authority of this chapter and no liability or obligation shall be incurred
1816 by the authority under this chapter beyond the extent to which moneys shall have been provided
1817 under this chapter.

1818 Section 6. The authority may, directly or by and through a participating institution, as its
1819 agent, acquire by purchase solely from funds provided under the authority of this chapter, or by
1820 gift or devise, and take title to such lands, structures, property, real or personal, rights, rights-of-
1821 way, air rights, franchises, easements and other interests in lands, including lands lying under
1822 water and riparian rights, which are located within the commonwealth as the authority may deem
1823 necessary or convenient for the acquisition, construction or operation of a project, upon such
1824 terms and at such prices as may be considered by the authority to be reasonable and can be
1825 agreed upon between the authority and the owner in the name of the authority or in the name of 1
1826 or more participating institutions as its agent.

1827 Section 7. When the principal of and interest on revenue bonds of the authority issued to
1828 finance the cost of a particular project for 1 or more participating institutions, including revenue
1829 refunding bonds issued to refund and refinance the revenue bonds, have been fully paid and
1830 retired or when adequate provision has been made to fully pay and retire the revenue bonds, and
1831 all other conditions of the resolution or trust agreement authorizing and securing the revenue
1832 bonds have been satisfied and the lien of the resolution or trust agreement has been released in
1833 accordance with the resolution or trust agreement, the authority shall promptly do such things
1834 and execute such deeds and conveyances as are necessary and required to convey title to the
1835 project to the participating institutions, all to the extent that title to the project is not, at the time,
1836 vested in the participating institutions.

1837 Section 8. The authority may issue negotiable notes for a corporate purpose and may
1838 renew notes by issuing new notes, whether the notes to be renewed have or have not matured.
1839 The authority may issue notes partly to renew notes or to discharge other obligations then
1840 outstanding and partly for any other purpose. The notes may be authorized, sold, executed and

1841 delivered in the same manner as bonds. A resolution authorizing notes of the authority or an
1842 issue of notes by the authority may contain provisions which the authority is authorized to
1843 include in a resolution authorizing revenue bonds of the authority or an issue of bonds by the
1844 authority, and the authority may include in a note any terms, covenants or conditions which it is
1845 authorized to include in any bonds. A resolution may delegate to the executive director, assistant
1846 executive director, or any member of the authority or any combination of them, the power to
1847 determine any of the details of the notes and to award the notes to a purchaser. All the notes
1848 shall be payable solely from the revenues of the authority, subject only to any contractual rights
1849 of the holders of any of its notes or other obligations then outstanding.

1850 Section 9.

1851 (a) The authority may issue revenue bonds for any corporate purpose and all the revenue
1852 bonds, notes, bond anticipation notes or other obligations of the authority issued under this
1853 chapter shall be negotiable for all purposes notwithstanding their payment from a limited source
1854 and notwithstanding any general or special law to the contrary. In anticipation of the sale of
1855 revenue bonds the authority may issue negotiable bond anticipation notes and may renew the
1856 notes from time to time, but the maximum maturity of a bond anticipation note, including
1857 renewals of that note, shall not exceed 5 years from the date of issue of the original note. Bond
1858 anticipation notes shall be paid from revenues of the authority available for that purpose and not
1859 otherwise pledged, or from the proceeds of sale of the revenue bonds of the authority in
1860 anticipation of which they were issued. The notes shall be issued in the same manner as the
1861 revenue bonds. The notes and the resolution authorizing those notes may contain any provisions,
1862 conditions or limitations which a bond resolution of the authority may contain.

1863 (b) The revenue bonds and notes of every issue shall be payable solely out of revenues to
1864 the authority, subject only to any agreements with the holders of particular revenue bonds or
1865 notes pledging any particular revenues and subject to any agreements with any participating
1866 institution. Notwithstanding that revenue bonds and notes may be payable from a special fund,
1867 they shall be and be deemed to be, for all purposes, negotiable instruments, subject only to the
1868 provisions of the revenue bonds and notes for registration.

1869 (c) The revenue bonds may be issued as serial bonds or as term bonds, or the authority, in
1870 its discretion, may issue bonds of both types. The revenue bonds shall be authorized by
1871 resolution of the members of the authority and shall bear such date or dates, mature at such time
1872 or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates,
1873 payable at such time or times, be in such denominations, be in such form, either coupon or
1874 registered, carry such registration privileges, be executed in such manner, be payable in lawful
1875 money of the United States of America at such place or places, and be subject to such terms of
1876 redemption, as such resolution or resolutions may provide. Such resolution or resolutions may
1877 delegate to the executive director, assistant executive director or any member of the authority or
1878 any combination of them, the power to determine any of the matters set forth in this section and
1879 the power to award the bonds to a purchaser or purchasers at public sale or to negotiate a sale to
1880 a purchaser or purchasers provided in the latter case that the bonds are to be reoffered to the
1881 public. The revenue bonds or notes may be sold at public or private sale for such price or prices
1882 as the authority shall determine. Pending preparation of the definitive bonds, the authority may
1883 issue interim receipts or certificates which shall be exchanged for such definitive bonds.

1884 (d) A resolution authorizing a revenue bond or an issue of revenue bonds may contain
1885 provisions, which shall be a part of the contract with the holders of the revenue bonds to be
1886 authorized, as to:

1887 (1) pledging all or any part of the revenues of a project, a revenue producing contract
1888 made by the authority with an individual, partnership, corporation or association or other body,
1889 public or private, or a federally guaranteed security and moneys received therefrom whether the
1890 security is acquired by the authority or a participating institution to secure the payment of the
1891 revenue bonds or of any particular issue of revenue bonds, subject to such agreements with
1892 bondholders as may then exist;

1893 (2) the rentals, fees and other charges to be charged, and the amounts to be raised in each
1894 year by those rentals, fees and charges, and the use and disposition of the revenues;

1895 (3) the establishment and setting aside of reserves or sinking funds, and the regulation
1896 and disposition of those reserves or sinking funds;

1897 (4) limitations on the right of the authority or its agent to restrict and regulate the use of
1898 the project;

1899 (5) limitations on the purpose to which the proceeds of sale of any issue of revenue bonds
1900 then or thereafter to be issued may be applied, including as authorized purposes, all costs and
1901 expenses necessary or incidental to the issuance of bonds, to the acquisition of or commitment to
1902 acquire a federally guaranteed security and to the issuance and obtaining of a federally insured
1903 mortgage note and pledging such proceeds to secure the payment of the revenue bonds or an
1904 issue of the revenue bonds;

1905 (6) limitations on the issuance of additional bonds, the terms upon which additional
1906 bonds may be issued and secured and the refunding of outstanding bonds;

1907 (7) the procedure, if any, by which the terms of a contract with bondholders may be
1908 amended or abrogated, the amount of bonds the holders of which must consent thereto, and the
1909 manner in which such consent may be given;

1910 (8) limitations on the amount of moneys derived from the project to be expended for
1911 operating, administrative or other expenses of the authority;

1912 (9) defining the acts or omissions to act which shall constitute a default in the duties of
1913 the authority to holders of its obligations and providing the rights and remedies of such holders
1914 in the event of a default;

1915 (10) the duties, obligations and liabilities of any trustee or paying agent; and

1916 (11) the mortgaging of a project and the site of the project for the purpose of securing the
1917 bondholders.

1918 (e) Neither the members of the authority nor a person executing the revenue bonds or
1919 notes shall be liable personally on the revenue bonds or notes or be subject to any personal
1920 liability or accountability due to the issuance of the bonds or notes.

1921 (f) The authority shall have power out of any funds available for the authority to
1922 purchase its bonds or notes. The authority may hold, pledge, cancel or resell those bonds or
1923 notes, subject to and in accordance with agreements with bondholders.

1924 Section 10. In the discretion of the authority a revenue bond issued under this chapter
1925 may be secured by a trust agreement by and between the authority and a corporate trustee, which

1926 may be a trust company or bank having the powers of a trust company under section 1A of
1927 chapter 172 or a savings bank under section 2 of chapter 167F within the commonwealth. The
1928 trust agreement or the resolution allowing the authority to issue those revenue bonds may pledge
1929 or assign the revenues to be received or proceeds of a contract pledged and may convey or
1930 mortgage the project or a portion of the project. A trust agreement or resolution allowing the
1931 authority to issue the revenue bonds may contain provisions for protecting and enforcing the
1932 rights and remedies of the bondholders as may be reasonable and proper and not in violation of
1933 law, including particularly provisions that are specifically authorized by this chapter to be
1934 included in a resolution of the authority authorizing revenue bonds of the authority. A bank, trust
1935 company or savings bank incorporated under the laws of the commonwealth which may act as
1936 depository of the proceeds of bonds or of revenues or other moneys may furnish the
1937 indemnifying bonds or pledge the securities as may be required by the authority. A trust
1938 agreement may set forth the rights and remedies of the bondholders and of the trustee, and may
1939 restrict the individual right of action by bondholders. A trust agreement or resolution may also
1940 contain other provisions as the authority may deem reasonable and proper for the security of the
1941 bondholders. All expenses incurred in carrying out the trust agreement or resolution may be
1942 treated as a part of the cost of the operation of a project.

1943 Section 11. Revenue bonds issued under this chapter shall not be deemed to constitute a
1944 debt or liability of the commonwealth or of any political subdivision of the commonwealth or a
1945 pledge of the faith and credit of the commonwealth or of any political subdivision of the
1946 commonwealth, but shall be payable solely from the funds provided for payment of those funds
1947 from revenues. A revenue bond shall contain on its face a statement to the effect that neither the
1948 commonwealth nor the authority shall be obligated to pay the revenue bond or the interest on the

1949 revenue bond except from revenues of the project or the portion of the project for which they are
1950 issued and that neither the faith and credit nor the taxing power of the commonwealth or of a
1951 political subdivision of the commonwealth is pledged to the payment of the principal of or the
1952 interest on the bond. The issuance of revenue bonds under this chapter shall not directly or
1953 indirectly or contingently obligate the commonwealth or a political subdivision of the
1954 commonwealth to levy or to pledge any form of taxation or to make an appropriation for their
1955 payment.

1956 Section 12. (a) The authority may fix, revise, charge and collect rates, rents, fees and
1957 charges for the use of and for the services furnished or to be furnished by each project and the
1958 authority may contract with any person, partnership, association or corporation, or other body,
1959 public or private, for those purposes.

1960 (b) The rates, rents, fees and charges shall be fixed and adjusted in respect of the
1961 aggregate of rates, rents, fees and charges from a project so as to provide funds sufficient with
1962 other revenues, if any: (1) to pay the cost of maintaining, repairing and operating the project and
1963 each and every portion thereof, to the extent that the payment of a cost has not otherwise been
1964 adequately provided for; (2) to pay the principal of and the interest on outstanding revenue bonds
1965 of the authority issued in respect of that project as the same shall become due and payable; and
1966 (3) to create and maintain reserves required or provided for in any resolution authorizing, or trust
1967 agreement securing, those revenue bonds of the authority.

1968 (c) The rates, rents, fees and charges shall not be subject to supervision or regulation by
1969 any department, commission, board, body, bureau or agency of this commonwealth other than
1970 the authority, except as provided in section 13.

1971 (d) A sufficient amount of the revenues derived in respect of a project, except the part of
1972 those revenues as may be necessary to pay the cost of maintenance, repair and operation and to
1973 provide reserves and for renewals, replacements, extensions, enlargements and improvements as
1974 may be provided for in the resolution authorizing the authority to issue revenue bonds of the
1975 authority or in the trust agreement securing the revenue bonds, shall be set aside at such regular
1976 intervals as may be provided in the resolution or trust agreement in a sinking or other similar
1977 fund which is hereby pledged to, and charged with, the payment of the principal of and the
1978 interest on the revenue bonds as the payment of the principal of and interest on the revenue
1979 bonds shall become due, and the redemption price or the purchase price of bonds retired by call
1980 or purchase as provided in the resolution or trust agreement. A pledge shall be valid and binding
1981 from the time when the pledge is made; the rates, rents, fees and charges and other revenues or
1982 other moneys so pledged and thereafter received by the authority shall immediately be subject to
1983 the lien of the pledge without any physical delivery of the lien or further act, and the lien of any
1984 such pledge shall be valid and binding as against all parties having claims of any kind in tort,
1985 contract or otherwise against the authority, irrespective of whether such parties have notice of the
1986 lien.

1987 (e) Neither the resolution nor a trust agreement by which a pledge is created need be filed
1988 or recorded except in the records of the authority. The use and disposition of moneys to the credit
1989 of such sinking or other similar fund shall be subject to the resolution authorizing the authority to
1990 issue the bonds or of the trust agreement.

1991 (f) Except as may otherwise be provided in a resolution or a trust agreement, a sinking or
1992 other similar fund shall be a fund for all the revenue bonds issued to finance a project at 1 or
1993 more participating institutions, without distinction or priority of one over another; provided,

1994 however, that the authority in a resolution or trust agreement may provide that the sinking or
1995 other similar fund shall be the fund for a particular project at an institution and for the revenue
1996 bonds issued to finance a particular project and may, additionally, permit and provide for the
1997 authority to issue revenue bonds having a subordinate lien in respect of the security authorized in
1998 this section to other revenue bonds of the authority and, in such case, the authority may create
1999 separate or other similar funds in respect of the subordinate lien bonds.

2000 Section 13. In the case of a project for a public institution for higher education, an
2001 establishment or revision of rules and regulations for the use of that institution and the fixing or
2002 revising of rates, rents, fees or other charges by the authority shall require the approval of the
2003 trustees. The trustees shall exercise their powers so that the aggregate of the rates, rents, fees and
2004 charges from the project with other revenues, if any, shall be sufficient: (1) to pay the cost of
2005 maintaining, repairing and operating the project and each and every portion of the project, to the
2006 extent that the payment of the cost has not otherwise been adequately provided for; (2) to pay the
2007 principal of and the interest on outstanding revenue bonds of the authority issued in respect of
2008 such project as the principal of and the interest on those bonds shall become due and payable;
2009 and (3) to create and maintain reserves required or provided for in any resolution authorizing, or
2010 trust agreement securing, such revenue bonds of the authority. Upon a failure of the trustees to
2011 exercise those powers, the authority may establish or revise such rules and regulations and fix or
2012 revise such rates, rents, fees or other charges without the approval of the trustees; provided,
2013 however, that in that case the trustees may propose alternative rules and regulations or scale of
2014 rates, rents, fees or other charges which shall then be adopted by the authority if they will
2015 produce sufficient aggregate revenues to meet the requirements. The rates, rents, fees or other
2016 charges shall not, except as expressly provided in this section with respect to the trustee, be

2017 subject to supervision or regulation of a department, division, commission, board, bureau or
2018 agency of the commonwealth or a political subdivision of the commonwealth.

2019 For the purpose of this section, the term "trustees" shall mean: (1) the advisory committee
2020 on education policy established in section 2 of chapter 15A, in the case of any state college, as
2021 listed in section 19 of chapter 73, or in the case of any community college, as defined in section
2022 10 of chapter 15A; or (2) the trustees of the public institution of higher education, or said
2023 advisory committee on education policy if authorized by the trustees, in the case of a public
2024 university.

2025 Section 14. Money received under the authority of this chapter, whether as proceeds from
2026 the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely
2027 as provided in this chapter. An officer with whom, or a bank or trust company with which, such
2028 money shall be deposited shall act as trustee of that money and shall hold and apply that money
2029 for the purposes provided in this chapter, subject to such regulations as this chapter and the
2030 resolution authorizing the bonds of an issue or the trust agreement securing those bonds may
2031 provide.

2032 Section 15. Any holder of revenue bonds, notes, bond anticipation notes, other notes or
2033 other obligations of the authority issued under this chapter or any of the coupons appertaining
2034 thereto, and the trustee or trustees under any trust agreement, except to the extent the rights
2035 herein given may be restricted by any resolution authorizing the issuance of, or any such trust
2036 agreement securing, such bonds or other obligations, may, either at law or in equity, by suit,
2037 action, mandamus or other proceedings, protect and enforce any and all rights under the laws of
2038 the commonwealth or granted hereunder or under such resolution or trust agreement, and may

2039 enforce and compel the performance of all duties required by this chapter or by such resolution
2040 or trust agreement to be performed by the authority or any officer, employee or agent thereof,
2041 including the fixing, charging and collecting of the rates, rents, fees and charges herein
2042 authorized and required by the provisions of such resolution or trust agreement to be fixed,
2043 established and collected.

2044 Section 16. The exercise of the powers granted by this chapter shall be for the benefit of
2045 the people of this commonwealth, for the increase of their commerce, welfare and prosperity,
2046 and for the improvement of their health and living conditions. The operation and maintenance of
2047 a project by the authority or its agent shall constitute the performance of an essential public
2048 function. Neither the authority nor its agent shall be required to pay a tax or assessment: (a)
2049 upon or in respect of a project or a property acquired or used by the authority or its agent under
2050 this chapter; or (b) upon the income from a project or a property acquired or used by the
2051 authority or its agent. The income from a bond issued or transferred under this chapter, including
2052 any profit made on the sale of the bond, shall at all times be free from taxation of every kind by
2053 the commonwealth and by the municipalities and other political subdivisions in the
2054 commonwealth.

2055 Section 17. (a) The authority may issue revenue bonds for the purpose of refunding
2056 outstanding revenue bonds of the authority, including the payment of a redemption premium on
2057 the bonds and any interest accrued or to accrue to the earliest or any subsequent date of
2058 redemption, purchase or maturity of the revenue bonds, and, if deemed advisable by the
2059 authority, for the additional purpose of paying all or any part of the cost of constructing and
2060 acquiring additions, improvements, extensions or enlargements of a project or any portion of a
2061 project.

2062 (b) The proceeds of revenue bonds issued to refund outstanding revenue bonds may, in
2063 the discretion of the authority, be applied to the purchase or retirement at maturity or redemption
2064 of such outstanding revenue bonds either on their earliest or any subsequent redemption date or
2065 upon the purchase or at the maturity of the bonds and may, pending such application, be placed
2066 in escrow to be applied to the purchase or retirement at maturity or redemption on a date as may
2067 be determined by the authority.

2068 (c) Escrowed proceeds, pending such use, may be invested and reinvested in direct
2069 obligations of the United States, or in certificates of deposit or time deposits secured by direct
2070 obligations of the United States, maturing at a time as shall be appropriate to assure the prompt
2071 payment, as to principal, interest and redemption premium, if any, of the outstanding revenue
2072 bonds to be so refunded. The interest, income and profits, if any, earned or realized on such an
2073 investment may also be applied to the payment of the outstanding revenue bonds to be so
2074 refunded. After the terms of the escrow have been fully satisfied and carried out, a balance of
2075 such proceeds and interest, income and profits, if any, earned or realized on the investments may
2076 be returned to the authority for use by it in any lawful manner.

2077 (d) The portion of the proceeds of a revenue bond issued for the additional purpose of
2078 paying all or any part of the cost of constructing and acquiring additions, improvements,
2079 extensions or enlargements of a project may be invested and reinvested in direct obligations of
2080 the United States, or in certificates of deposit or time deposits secured by direct obligations of
2081 the United States, maturing not later than the time when such proceeds will be needed to pay all
2082 or any part of such cost. The interest, income and profits, if any, earned or realized on such an
2083 investment may be applied to the payment of all or any part of such cost or may be used by the
2084 authority in any lawful manner.

2085 (e) All such revenue bonds shall be subject to this chapter in the same manner and to the
2086 same extent as other revenue bonds issued under this chapter.

2087 Section 18. Bonds issued by the authority under this chapter are hereby made securities in
2088 which all public officers and public bodies of the commonwealth and its political subdivisions,
2089 all insurance companies, trust companies, savings banks, co-operative banks, banking
2090 associations, investment companies, executors, administrators, trustees and other fiduciaries may
2091 properly and legally invest funds, including capital in their control or belonging to them. Such
2092 bonds are hereby made securities which may properly and legally be deposited with and received
2093 by any commonwealth or municipal officer or any agency or political subdivision of the
2094 commonwealth for any purpose for which the deposit of bonds or obligations of the
2095 commonwealth is now or may hereafter be authorized by law.

2096 Section 19. The authority shall be subject to section 16G of chapter 6A and section 56 of
2097 chapter 23A.

2098 Section 20. (a) The authority may take such action as it deems appropriate to enable its
2099 employees to come within the provisions and obtain the benefits of the federal social security act.
2100 If the employees of the authority shall come within the provisions of said social security act,
2101 their employment shall be included in the term "employment" as used in sections 1 to 7,
2102 inclusive, of chapter 151A.

2103 (b) Sections 26 to 29, inclusive, and sections 44A to 44M, inclusive, of chapter 149 and
2104 sections 39F to 39S, inclusive, of chapter 30 shall apply to the authority to the same extent and in
2105 the same manner as they are applicable to the commonwealth.

2106 (c) Notwithstanding chapter 106 or any other general or special law, the authority by the
2107 filing of financing statements, as provided in chapter 106, may perfect security interests in
2108 revenues and receipts of participating institutions, whether in the form of proceeds of accounts
2109 receivable or contract rights or otherwise, and in any rights to receive those revenues and
2110 receipts, and those perfected security interests shall take priority over any subsequently perfected
2111 security interests in those revenues, receipts or rights or in the accounts receivable, goods,
2112 contract rights, or other rights or personal property giving rise to the revenues, receipts or rights
2113 provided that the financing statements filed by the authority contain a reference to this section.

2114 (d) Real or personal property which forms or has formed any part of the cost of a project
2115 financed or refinanced in whole or in part by the authority shall be excluded from a calculation
2116 of real and personal property for any general or special law limiting the amount of real and
2117 personal property which may be owned or held by an institution.

2118 Section 21. Sections 1 to 20, inclusive, of this chapter shall be deemed to provide a
2119 complete, additional and alternative method for the doing of the things authorized thereby and
2120 shall be regarded as supplemental and additional to powers conferred by other laws; provided,
2121 however, that the issuance of revenue bonds and revenue refunding bonds under this chapter
2122 need not comply with the requirements of any other law applicable to the issuance of bonds
2123 including, chapter 106. Except as otherwise expressly provided in this chapter, none of the
2124 powers granted to the authority by this chapter shall be subject to the supervision or regulation or
2125 require the approval or consent of any municipality or political subdivision or any department,
2126 division, commission, board, body, bureau, official or agency of the municipality or political
2127 subdivision or of the commonwealth.

2128 Section 22. This chapter, being necessary for the welfare of the commonwealth and its
2129 inhabitants, shall be liberally construed to effect its purposes.

2130 Section 23. To the extent that this chapter is inconsistent with any general statute or
2131 special act or parts thereof, this chapter shall be deemed controlling.

2132 SECTION 63. Section 1 of chapter 29 of the General Laws, as so appearing, is hereby
2133 amended by striking out the definition of “State authority,” and inserting in place thereof the
2134 following definition:-

2135 “State authority” a body politic and corporate constituted as a public instrumentality of
2136 the commonwealth and established by an act of the General Court to serve an essential
2137 governmental function; provided, however that “state authority” shall not include: (1) a state
2138 agency; (2) a city or town; (3) a body controlled by a city or town; or (4) a separate body politic
2139 where the governing body is elected by the general public.

2140 SECTION 64. Chapter 29 of the General Laws is hereby amended by inserting after
2141 section 30 the following section:- Section 30A. Notwithstanding section 50 of chapter 3, or
2142 any other general or special law to the contrary, a state agency or state authority shall not use
2143 state funds to pay for an executive or legislative agent, as defined in section 39 of chapter 3,
2144 unless the executive or legislative agent is a full-time employee of the state agency or state
2145 authority.

2146 SECTION 65. Section 1 of chapter 30A of the General Laws, as appearing in the 2008
2147 Official Edition, is hereby amended by inserting after paragraph (4) the following paragraph:-

2148 (4A) “Proposed regulation”, a proposal by an agency to adopt, amend or repeal an
2149 existing regulation.

2150 SECTION 66. Said section 1 of said chapter 30A, as so appearing, is hereby further
2151 amended by inserting after paragraph (5) the following paragraph:-

2152 (5A) “Small business”, a business entity or agriculture operation, including its affiliates,
2153 that: (i) is independently owned and operated; (ii) has a principal place of business in the
2154 commonwealth; and (iii) if in a manufacturing industry, employs fewer than 500 full-time
2155 employees, if in a wholesale trade industry, employs fewer than 100 full-time employees or, if in
2156 any other industry, receives less than \$7,000,000 in annual receipts; provided, however, that for
2157 purposes of this definition, the industry of a business shall be primarily classified according to
2158 the Table of Small Business Size Standards of the Small Business Administration, including all
2159 exceptions to such standards as set forth in said table.

2160 SECTION 67. Section 2 of said chapter 30A, as so appearing, is hereby amended by
2161 inserting after the third paragraph the following 2 paragraphs:-

2162 At least 21 days prior to the date of the public hearing, the agency shall file a small
2163 business impact statement considering the impact of the proposed regulation on small business
2164 with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall
2165 include the statement of small business consideration on the electronic website of the state
2166 secretary; provided, however, that the full text of the small business impact statement may be
2167 inspected and copied in the office of the state secretary during business hours.

2168 That small business impact statement shall include, but not be limited to, the following:

- 2169 (1) an estimate of the number of small businesses subject to the proposed regulation;
- 2170 (2) projected reporting, recordkeeping and other administrative costs required for
2171 compliance with the proposed regulation;
- 2172 (3) the appropriateness of performance standards versus design standards;
- 2173 (4) an identification of regulations of the promulgating agency, or of another agency or
2174 department of the commonwealth, which may duplicate or conflict with the proposed regulation;
2175 and
- 2176 (5) an analysis of whether the proposed regulation is likely to deter or encourage the
2177 formation of new businesses in the commonwealth;

2178 SECTION 68. Section 3 of said chapter 30A, as so appearing, is hereby amended by
2179 inserting after the third paragraph the following 2 paragraphs:—

2180 At least 21 days prior to the date of the proposed action, the agency shall file a small
2181 business impact statement considering the impact of the proposed action on small businesses
2182 with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall
2183 include the small business impact statement on the electronic website of the state secretary;
2184 provided, however, that the full text of the small business impact statement may be inspected and
2185 copied in the office of the state secretary during business hours.

2186 That small business impact statement shall include, but not be limited to, the following:

- 2187 (1) an estimate of the number of small businesses subject to the proposed regulation;

2188 (2) projected reporting, recordkeeping and other administrative costs required for
2189 compliance with the proposed regulation;

2190 (3) the appropriateness of performance standards versus design standards;

2191 (4) an identification of regulations of the promulgating agency, or of another agency or
2192 department of the commonwealth, which may duplicate or conflict with the proposed regulation;
2193 and

2194 (5) an analysis of whether the proposed regulation is likely to deter or encourage the
2195 formation of new businesses in the commonwealth;

2196 SECTION 69. The second paragraph of section 5 of said chapter 30A, as so appearing, is
2197 hereby amended by striking out the third sentence and inserting in place thereof the following
2198 sentence:- The requirements to file small business impact statements under this section and
2199 sections 2, 3 and 5A shall be enforceable by a civil action for mandamus relief, but the
2200 sufficiency of the statement filed shall not be grounds for invalidating or staying the effect of the
2201 regulation.

2202 SECTION 70. Said section 5 of said chapter 30A, as so appearing, is hereby further
2203 amended by inserting after the second paragraph the following 2 paragraphs:-

2204 Prior to the adoption of a proposed regulation, an agency shall file an amended small
2205 business impact statement, which considers, without limitation, whether any of the following
2206 methods of reducing the impact of the proposed regulation on small businesses would hinder
2207 achievement of the purpose of the proposed regulation:

2208 (1) establishing less stringent compliance or reporting requirements for small businesses;

2209 (2) establishing less stringent schedules or deadlines for compliance or reporting
2210 requirements for small businesses;

2211 (3) consolidating or simplifying compliance or reporting requirements for small
2212 businesses;

2213 (4) establishing performance standards for small businesses to replace design or
2214 operational standards required in the proposed regulation;

2215 (5) an analysis of whether the proposed regulation is likely to deter or encourage
2216 the formation of new businesses in the commonwealth; and

2217 (6) minimizing adverse impact on small businesses by using alternative regulatory
2218 methods.

2219 SECTION 71. Said chapter 30A, as so appearing, is hereby amended by inserting after
2220 section 5 the following section:-

2221 Section 5A. Rules and regulations shall be reviewed at least once every 12 years after
2222 their publication as the final rules or regulations to ensure that those rules and regulations
2223 minimize economic impact on small businesses in a manner consistent with the stated objectives
2224 of applicable statutes.

2225 In reviewing a rule or regulation to minimize economic impact of the rule or regulation
2226 on small businesses, the agency shall file a small business impact statement which considers the
2227 following factors:

2228 (1) the continuing need for the rule or regulation;

2229 (2) the nature of complaints or comments received concerning the rule or regulation from
2230 the public;

2231 (3) the complexity of the rule or regulation;

2232 (4) the extent to which the rule or regulation overlaps, duplicates or conflicts with other
2233 federal, state and local governmental rules and regulations;

2234 (5) the length of time since the rule or regulation has been enacted, changed, amended or
2235 modified; and

2236 (6) the degree to which technology, economic conditions or other factors have changed in
2237 the subject areas affected by the rule or regulation.

2238 SECTION 71A. Chapter 30B of the General Laws is hereby amended by adding the
2239 following section:-

2240 SECTION 22. (a) Notwithstanding any general or special law to the contrary and to the
2241 extent permitted by federal law, a governmental body may, by a majority vote, establish a
2242 preference for the procurement of products or services by businesses, as defined in section 3A of
2243 chapter 23A, with their principal place of business in the commonwealth.

2244 (b) If a governmental body establishes such a preference, the procurement officer
2245 responsible for procuring products and services on behalf of the governmental body shall
2246 effectuate such preference for the procurement in: (i) advertising for bids, contracts or otherwise
2247 and making reasonable efforts to facilitate the purchase of such products or services; and (ii)
2248 purchasing products or services by businesses, as defined in said section 3A of said chapter 23A,
2249 with their principal place of business in the commonwealth, unless the price of such goods or

2250 services exceed, by more than 10 per cent, the price of such goods or services produced by
2251 businesses with their principal place of business outside of the commonwealth.

2252 SECTION 72. Section 23 of chapter 32 of the General Laws, as so appearing, is hereby
2253 amended by inserting after the word “section”, in line 361, the following words:-

2254 ; provided, however, that consistent with sound investment policy and in accordance with
2255 the procedures and processes employed to oversee the allocation of traditional investment of
2256 funds, the director shall whenever reasonably possible ensure that funds are invested in banks or
2257 financial institutions which directly or through any subsidiary may make loans to small
2258 businesses, as defined in clause (A) of subdivision (7), and that when electing to make such
2259 investments the board shall review the guidelines for investing in small businesses contained in
2260 subdivision (7) and monies shall be invested as much as reasonably possible in such banks,
2261 financial institutions or companies which provide capital to small businesses under those
2262 guidelines so long as such use is consistent with sound investment policy.

2263 SECTION 73. Said section 23 of said chapter 32, as so appearing, is hereby further
2264 amended by adding the following subdivision:-

2265 (7) The guidelines for investing in small businesses with a principal place of business in
2266 the commonwealth shall be:

2267 For the purposes of this section small business shall be a business entity, including its
2268 affiliates, that (i) is independently owned and operated; (ii) has a principal place of business in
2269 the commonwealth; and (iii) if in a manufacturing industry, employs fewer than 500 full-time
2270 employees, if in a wholesale trade industry, employs fewer than 100 full-time employees or, if in
2271 any other industry, has less than \$7,000,000 in annual receipts; provided, however, that for

2272 purposes of this definition, the industry of a business shall be primarily classified according to
2273 the Table of Small Business Size Standards of the Small Business Administration, including all
2274 exceptions to such standards as set forth in said table.

2275 Investments shall be made by banks or financial institutions with demonstrated
2276 experience making capital available to small businesses with good management, which are fast
2277 growing and identify the potential to use increased capital to create jobs and which are
2278 experiencing difficulty in accessing capital.

2279 Capital shall be provided to small businesses in a variety of financial instruments,
2280 including but not limited to: working capital and expansion loans to businesses, both secured and
2281 non-secured; provide lines of credit; capital expenditure loans; term loans; project finance loans;
2282 grants; loan guarantees; and mezzanine and structured finance loans.

2283 Capital shall not be provided unless financial and managerial advisory services are also
2284 provided to the business that is served.

2285 SECTION 74. Section 59 of chapter 40 of the General Laws, as so appearing, is hereby
2286 amended by striking out clause (iii) and inserting in place thereof the following clause:-

2287 (iii) authorizes tax increment exemptions from property taxes, under clause Fifty-first of
2288 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
2289 property which is located in the TIF zone and for which an agreement has been executed with the
2290 owner of the real property under clause (v); provided, however, that the TIF plan shall specify
2291 the level of the exemptions expressed as exemption percentages, not to exceed 100 per cent to be
2292 used in calculating the exemptions for the parcel, and for personal property situated on that
2293 parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided,

2294 further, that the exemption for each parcel of real property shall be calculated using an
2295 adjustment factor for each fiscal year of the specified term equal to the product of the inflation
2296 factors for each fiscal year since the parcel first became eligible for an exemption under this
2297 clause; provided, further that the inflation factor for each fiscal year shall be a ratio;

2298 (a) the numerator of which shall be the total assessed value of all parcels of commercial
2299 and industrial real estate that are assessed at full and fair cash value for the current fiscal year
2300 minus the new growth adjustment for the current fiscal year attributable to the commercial and
2301 industrial real estate as determined by the commissioner of revenue under subsection (f) of
2302 section 21C of chapter 59; and

2303 (b) the denominator of which shall be the total assessed value for the preceding fiscal
2304 year of all the parcels included in the numerator; provided, however, that the ratio shall not be
2305 less than 1;.

2306 SECTION 74A. Said section 59 of said chapter 40, as so appearing, is hereby by adding
2307 the following clause:-

2308 (viii) requires a report to the city or town clerk and the economic assistance coordinating
2309 council detailing the status of the construction laid out in the plan; the current value of the
2310 property; the total number of jobs created as a result of the plan; the salaries of newly created
2311 positions; and the plans, if any, to create additional jobs due to the exemption; provided,
2312 however, that such a report shall be filed every 5 years for the term of the tax increment
2313 exemption.; provided, further, that a final report shall be filed in the final year of the exemption.

2314 SECTION 75. Clause (iii) of subsection (a) of section 60 of said chapter 40, as so
2315 appearing, is hereby amended by striking out the introductory paragraph and inserting in place
2316 thereof the following introductory paragraph:-

2317 (iii) authorize tax increment exemptions from property taxes, under clause Fifty-first of
2318 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
2319 property which is located in the UCH-TIF zone and for which an agreement has been executed
2320 under clause (v); provided, however, that the UCH-TIF plan shall specify the level of exemptions
2321 expressed as exemption percentages, not to exceed 100 per cent to be used in calculating the
2322 exemptions for the parcel, and for personal property situated on that parcel, as provided under
2323 said clause Fifty-first of said section 5 of said chapter 59; provided, further, that the exemption
2324 for each parcel of real property shall be calculated using an adjustment factor for each fiscal year
2325 of the specified term equal to the product of the inflation factors for each fiscal year since the
2326 parcel first became eligible for such exemption under this clause; provided, further, that the
2327 inflation factor for each fiscal year shall be a ratio:—

2328 SECTION 76. Clause (iii) of Section 60A of said chapter 40, as so appearing, is hereby
2329 amended by striking out the introductory paragraph and inserting in place thereof the following
2330 introductory paragraph: -

2331 (iii) authorize tax increment exemptions from property taxes, under clause Fifty-first of
2332 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
2333 property which is located in the MWT-TIF zone and for which an agreement has been executed
2334 with the owner of the parcel under clause (iv); provided, however, that the MWT-TIF plan shall
2335 specify the level of exemptions expressed as exemption percentages, not to exceed 100 per cent,

2336 to be used in calculating the exemptions for the parcel, and for personal property situated on that
2337 parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided,
2338 further, that the exemption for each parcel of real property shall be calculated using an
2339 adjustment factor for each fiscal year of the specified term equal to the product of the inflation
2340 factors for each fiscal year since the parcel first became eligible for such exemption pursuant to
2341 this clause; provided, further, that the inflation factor for each fiscal year shall be a ratio:

2342 SECTION 76A. Section 3 of chapter 40A of the General Laws, as so appearing, is hereby
2343 amended by inserting after the word “more”, in line 25, the following words:- or to parcels 1 acre
2344 or more if the sale of products produced from the agriculture, aquaculture, silviculture,
2345 horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per
2346 acre based on gross sales dollars.

2347 SECTION 77. Chapter 40E of the General Laws is hereby repealed.

2348 SECTION 78. The General Laws are hereby amended by striking out chapter 40F and
2349 inserting in place thereof the following chapter:-

2350 Chapter 40F. Massachusetts Growth Capital Corporation

2351 Section 1. For the purposes of this chapter the following words and terms shall, except
2352 where the context clearly indicates otherwise, have the following meanings:

2353 “Capital participation instruments”, purchase of stock, both common and preferred,
2354 convertible securities, warrants, subscriptions, options to acquire, capital loans, and working
2355 capital or inventory loans, royalties, and other lawful derivations of the foregoing.

2356 “Community Development Corporation” or “CDC”, a certified community development
2357 corporation, as defined in section 2 of chapter 40H.

2358 “Corporation” or “GCC”, the Massachusetts Growth Capital Corporation created by
2359 section 2.

2360 “Equity investment”, any of the following types of investment activity: (a) a purchase of
2361 stock; (b) a purchase of a partnership interest; (c) a purchase of a limited liability company
2362 membership interest; or (d) a loan made on such terms that it has sufficient characteristics of
2363 equity.

2364 “Financial products”, loans, equity investments and other similar financing activities
2365 including, but not limited to, the purchase of loans originated by a certified community
2366 development financial institution, the provision of loan guarantees, or the provision of surety
2367 bond guarantees.

2368 “Project”, (a) the act of making available financial products to small businesses and
2369 nonprofit corporations; (b) manufacturing, wholesale, retail, service, or other business activity;
2370 (c) economic development activity involving the financing of commercial, industrial or other real
2371 estate activity; or (d) other activity from which a community will derive economic benefit.

2372 “Small business”, a business entity, including its affiliates, that (a) is independently
2373 owned and operated; (b) has a principal place of business in the commonwealth; and (c) if in a
2374 manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade
2375 industry, employs fewer than 100 full-time employees or, if in any other industry, has less than
2376 \$7,000,000 in annual receipts; provided, however, that for purposes of this definition, the
2377 industry of a business shall be primarily classified according to the Table of Small Business Size

2378 Standards of the Small Business Administration, including all exceptions to such standards as set
2379 forth in said table..

2380 Section 2. (a) There is hereby created a body politic and corporate to be known as the
2381 Massachusetts Growth Capital Corporation. The GCC is hereby constituted a public
2382 instrumentality and the exercise by the GCC of the powers conferred by this chapter shall be
2383 deemed to be the performance of an essential governmental function.

2384 The GCC shall be placed within the executive office of housing and economic
2385 development but shall not be subject to the supervision and control of an executive office,
2386 department, division, commission, board, bureau or agency except to the extent and in the
2387 manner provided by law.

2388 (b) The corporation shall consist of 12 directors; 1 of whom shall be the secretary of
2389 housing and economic development, who shall serve as chair; 1 of whom shall be the secretary
2390 of administration and finance, or the secretary's designee; and 10 of whom shall be appointed by
2391 the governor. Of the 10 directors appointed by the governor; 3 shall be persons who together
2392 shall be experienced in small business financing, other financial instruments, turnarounds of
2393 troubled businesses, and the organization and operation of employee owned businesses;
2394 provided, however, that each such director shall be experienced and knowledgeable in at least 1
2395 such area; 1 shall be a representative of an organization of small businesses or manufacturing
2396 companies in the commonwealth; 1 shall be a representative of a community bank in the
2397 commonwealth and nominated by the Massachusetts Bankers Association; 1 shall be
2398 experienced in community economic development and employed by a CDC or a representative
2399 of the Massachusetts Association of Community Development Corporations; 1 shall be a current

2400 or retired certified public accountant or chief financial officer; 1 shall be a practicing or retired
2401 attorney with a business financing experience; 1 shall be a small business owner; and 1 shall be a
2402 representative of organized labor. Each member appointed by the governor shall serve a term of
2403 5 years, except that in making the governor's initial appointments the governor shall appoint 2
2404 members to serve for a term of 1 year, 2 members to serve for a term of 2 years, 2 members to
2405 serve for a term of 3 years, 2 members to serve for a term of 4 years, and 2 members to serve for
2406 a term of 5 years.

2407 (c) A person appointed to fill a vacancy in the office of a director shall be appointed in a
2408 like manner and shall serve for only the unexpired term. A director shall be eligible for
2409 reappointment. A director may only be removed from the director's appointment by the governor
2410 for good cause. The directors shall annually elect 1 director as vice-chair and designate a
2411 secretary-treasurer who need not be a director. The secretary-treasurer shall keep a record of the
2412 proceedings of the corporation and shall be the custodian of all books, documents, and papers
2413 filed with the corporation, the minute books of the corporation and of its official seal.

2414 (d) Six of the directors of the corporation shall constitute a quorum and 6 affirmative
2415 votes shall be necessary for the transaction of business or the exercise of a power or function of
2416 the corporation. Each director shall be entitled to reimbursement for the director's actual and
2417 necessary expenses incurred in the performance of the director's official duties.

2418 (e) The corporation, its directors, officers and employees shall be subject to sections 1 to
2419 4, inclusive, of chapter 268A except that the corporation may purchase from, sell to, borrow
2420 from, loan to, contract with or otherwise deal with a person in which a director of the corporation
2421 is interested or involved; provided, however, that such interest or involvement is disclosed in

2422 advance to the directors and recorded in the minutes of the corporation; provided, further, that no
2423 director having such an interest or involvement may participate in a decision of the directors
2424 relating to such person. Employment by the commonwealth or service in an agency of the
2425 commonwealth shall not be deemed to be such an interest or involvement.

2426 (f) The president of the corporation shall be appointed and the president's salary
2427 established by the directors. The president shall be the chief administrative and operational
2428 officer of the corporation and shall direct and supervise administrative affairs and the general
2429 management of the corporation. The president may employ such other employees as shall be
2430 designated by the directors, shall attend meetings of the directors, shall cause copies to be made
2431 of all minutes and other records and documents of the corporation and shall certify that such
2432 copies are true copies and all persons dealing with the corporation may rely upon such
2433 certification.

2434 (g) All officers and employees of the corporation having access to its cash and negotiable
2435 securities shall give bond to the corporation at its expense in such amounts and with such surety
2436 as the directors may prescribe. The persons required to give bond may be included in 1 or more
2437 blanket or scheduled bonds.

2438 (h) Directors shall not be liable to the commonwealth, to the agency or to any other
2439 person as a result of the director's activities, whether ministerial or discretionary, as such
2440 directors, except for willful dishonesty or intentional violations of the law. The corporation may
2441 purchase liability insurance for directors, officers, and employees and may indemnify said
2442 persons against claims of others.

2443 (i) Documentary materials, data or conversations made or received by a director or
2444 employee of the corporation and consisting of, or to the extent that such materials, data or
2445 conversations consist of, trade secrets or commercial or financial information regarding the
2446 operation of a business conducted by an applicant for assistance which the corporation is
2447 empowered to render or regarding the competitive position of such applicant in a particular field
2448 of endeavor, shall not be public records of the corporation and shall not be subject to section 10
2449 of chapter 66. A discussion or consideration of such trade secrets or commercial or financial
2450 information may be held by the directors in executive session closed to the public
2451 notwithstanding chapter 30A, but the purpose of such an executive session shall be set forth in
2452 the official minutes of the corporation and no business which is directly related to such purpose
2453 shall be transacted nor shall a vote be taken in such an executive session.

2454 Section 3. The GCC shall have the power to:

2455 (a) adopt by-laws for the regulation of its affairs and the conduct of its business;

2456 (b) adopt an official seal;

2457 (c) sue and be sued in its own name;

2458 (d) make and execute contracts and all other instruments necessary or convenient for the
2459 exercise of its power and functions;

2460 (e) acquire, hold and dispose of personal property for its corporate purposes;

2461 (f) enter into agreements or other transactions with federal and state agencies;

2462 (g) acquire real property, or an interest in real property, by purchase or foreclosure, if
2463 such acquisition is necessary or appropriate to protect or secure an investment or loan in which

2464 the agency has an interest; to sell, transfer and convey such property to a buyer and in the event
2465 such sale, transfer or conveyance cannot be effected with reasonable promptness or at a
2466 reasonable price, to lease such property to a tenant;

2467 (h) invest funds held in reserves or sinking funds, or funds not required for immediate
2468 disbursement, in such investments as may be lawful for fiduciaries in the commonwealth;

2469 (i) borrow money by the issuance of debt obligations whether tax exempt or taxable and
2470 secure such obligations by the pledge of its revenues or of the revenues, mortgages and notes of
2471 others; provided, however, that the corporation shall not issue debt obligations if the principal
2472 amount of those debt obligations, when added to the principal amount of existing debt
2473 obligations issued by the corporation, excluding debt obligations previously refunded or to be
2474 refunded by the corporation, would exceed 30 million dollars;

2475 (j) employ and fix the compensation of a president, who shall be the chief executive
2476 officer of the corporation and such other agents, employees, professional and business advisers
2477 as may be necessary in the judgment of the directors; provided, however, that the president,
2478 professional advisers and business advisers shall not be subject to chapter 31 or section 9A of
2479 chapter 30.

2480 (k) appear in its own behalf before boards, commissions, departments or other agencies
2481 of municipal, state or federal government;

2482 (l) procure insurance against any loss in connection with its property in such amounts,
2483 and from such insurers, as may be necessary or desirable;

2484 (m) consent, subject to any contract with noteholders or bondholders, whenever it deems
2485 it necessary or desirable in the fulfillment of the purposes of this chapter, to the modification,
2486 with respect to rate of interest, time of payment of an installment of principal or interest, or other
2487 terms, of a mortgage, mortgage loan, mortgage loan commitment, contract or other agreement to
2488 which the GCC is a party;

2489 (n) do any and all things necessary or convenient to carry out its purposes and exercise
2490 the powers expressly given and granted in this chapter;

2491 (o) receive and accept from federal and state agencies and public or private entities
2492 grants, loans or advances for or in aid of the purposes of this chapter and to receive and accept
2493 contributions from a source of either money, property, labor or other things of value, to be held,
2494 used and applied for the purposes of this chapter;

2495 (p) create, issue, buy and sell stock and other capital participation instruments; to hold
2496 such stock and capital participation instruments and to underwrite the creation of a capital market
2497 for these securities;

2498 (q) provide advisory services, technical assistance and training programs to small
2499 businesses as may be necessary or desirable to carry out the purposes of this chapter;

2500 (r) exercise other powers, rights or responsibilities of a corporation organized under
2501 chapter 156B.

2502 (s) create and issue shares which a person, firm or corporation may purchase; provided,
2503 however, that each share issued shall be in the form of non-voting common stock with each share

2504 having a par value of \$10 ; provided, further, that the total value of the shares issued shall not
2505 exceed \$25,000,000;

2506 (t) make loans or grants to, or otherwise finance or invest in, a business to further the
2507 purposes of this chapter; provided, further, that such loans or grants may be made to certified
2508 community development corporations or other community based nonprofit entities for the
2509 purpose of such corporations or entities providing financing to businesses;

2510 (u) provide loan guarantees to public or private entities for the purpose of causing such
2511 entities to provide financing to a business;

2512 (v) establish and collect such fees, charges and interest rates as the corporation
2513 determines to be reasonable; and

2514 (w) require, by contract in a financing agreement, or otherwise, specific operational
2515 activities, financial actions or management changes, as conditions for the receipt of a loan,
2516 financing or investment by the corporation.

2517 No debt obligation issued under paragraph (i), stock or capital participation instrument
2518 created under paragraph (p) or share issued under paragraph (s) shall be or become an
2519 indebtedness or obligation of the commonwealth, and it shall be plainly stated on the face of
2520 each bond, capital participation instrument, share or other evidence of indebtedness that it does
2521 not constitute an indebtedness or obligation of the commonwealth but is payable solely from the
2522 revenues or income of the Massachusetts Growth Capital Corporation.

2523 Section 4. The corporation shall contract with another public authority for the
2524 performance by that authority of core administrative functions, as determined by the secretary of

2525 housing and economic development which may include but shall not be limited to, human
2526 resources, financial management, information technology, legal, procurement and asset
2527 management, to minimize the administrative costs and expenses of the corporation.

2528 Section 5.

2529 The corporation may participate in a project; provided that, the corporation shall find and
2530 incorporate in the official records of the corporation that the project will be of a public benefit
2531 such that the project is reasonably expected to:

2532 support or promote economic development, revitalization or stability;

2533 promote employment opportunities for residents of the commonwealth;

2534 promote the creation or retention of jobs; or,

2535 support the creation or expansion of a business sector whose success would enhance the
2536 economic development of the commonwealth, enhance the quality of life of residents of the
2537 commonwealth or enhance the employment opportunities for residents of the commonwealth.

2538 The corporation shall not participate in a project unless it determines, in writing, that its
2539 participation is necessary because funding for the project is not available in the traditional capital
2540 markets or that credit has been offered on terms that would preclude the success of the project.

2541 The corporation shall endeavor to participate in projects each year that provide financial
2542 products, which in the aggregate total not less than 30 percent of the total capital committed by
2543 the corporation over a 3 year period, to projects which enhance the economic development of a
2544 target area, as defined in section 2 of chapter 40H, or enhance the quality of life and promote
2545 employment opportunities for low and moderate income residents of the commonwealth. If a

2546 certified CDC requests that the corporation participate in a project, the corporation shall make a
2547 determination of the likelihood that the project: (i) will provide employment opportunities to low
2548 and moderate income residents of the commonwealth; (ii) is likely to enhance the quality of life
2549 of low and moderate income residents of the commonwealth; or (iii) supports the creation or
2550 expansion of the business sector in the region served by the CDC. If the corporation enters into
2551 an agreement to participate in such a project, the terms of the financial products made available
2552 shall favorably reflect the economic and social benefits which inures to the commonwealth from
2553 the project.

2554 Each contract shall include a requirement for adequate reporting of financial and other
2555 data to the corporation. The contract shall require that a business receiving financial products
2556 shall participate in financial and managerial consulting services and the contract shall include a
2557 requirement for an annual or other periodic audit of the project books.

2558 Section 6. The corporation shall endeavor to participate in projects each year that provide
2559 financial products, which in the aggregate total not less than 20 percent of the total capital
2560 committed by the corporation in that year, to minority-owned or women-owned contractors
2561 notwithstanding the conditions described in section 5, except that the corporation shall have
2562 determined, in writing; (a) that the project plans conform to applicable environmental, zoning,
2563 building, planning and sanitation laws; (b) that there is a reasonable expectation that the project
2564 will be successful; and (c) that the participation of the corporation is necessary for the successful
2565 completion of the proposed project because funding for the project is unavailable in the
2566 traditional capital markets, or that credit has been offered on terms that would preclude the
2567 success of the project.

2568 Section 7. (a) The GCC may establish or invest in the capital stock of 1 or more
2569 corporations organized for the purposes of increasing capital available to small businesses or to
2570 engage local residents and businesses to work together to undertake programs, projects and
2571 activities which develop and improve urban, rural and suburban communities by creating and
2572 expanding economic opportunities for low and moderate income people. Without limitation,
2573 such a corporation may:

2574 (1) serve as a financial intermediary between entities undertaking projects and small
2575 businesses and public or private sources of capital including, without limitation, direct lenders,
2576 guarantors or grant makers. Any corporation so organized may accomplish its purposes by means
2577 of (i) investing in the equity capital of, (ii) making direct loans to, or (iii) issuing loan guarantees
2578 to entities undertaking projects or to small businesses; and

2579 (2) provide financial and managerial consulting services to entities undertaking projects,
2580 small businesses and minority-owned or women-owned contractors.

2581 (b) The GCC may have a controlling or a minority interest in such a corporation, as the
2582 directors of the GCC shall determine in the board's discretion; provided, however, that at least 1
2583 director of the GCC shall sit on the board of directors of the corporation.

2584 (c) A corporation established under this section or in which the GCC has invested under
2585 this section shall, prior to making an investment in the capital stock of, or loans or loan
2586 guarantees to entities undertaking projects or to small businesses, make the following findings:

2587 (1) That such action is consistent with the objectives of this section and may reasonably
2588 be expected to contribute to the redevelopment and economic well-being of the commonwealth,
2589 will create or retain jobs or will assist minority or women-owned businesses.

2590 (2) That the funds provided by the GCC will be used solely in connection with the costs
2591 of the project or the operation of the small business.

2592 (3) That the contract for participation in a project requires adequate reporting of financial
2593 data from the small business or project to such corporation. The contract shall require that a
2594 business receiving financial products shall participate in financial and managerial consulting
2595 services and the contract shall include a requirement for an annual or other periodic audit of the
2596 books of the project or the small business.

2597 (4) That its participation is necessary to the successful completion of the proposed project
2598 or to the success of the small business because funding for the project or small business is
2599 unavailable in the traditional capital markets, or that credit has been offered on terms that would
2600 preclude the success of the project or the small business.

2601 (5) That should the GCC desire to sell or otherwise dispose of stock received under such
2602 a contract, the small business or entity undertaking a project, or the small business or entity's
2603 nominee, shall within 120 days have the right of first refusal upon the sale and the right to meet a
2604 subsequent bona fide offer by a third party.

2605 (d) The GCC shall not, nor shall the GCC in combination with such a corporation, own
2606 more than 49 percent of the voting stock in a small business.

2607 (e) Upon the request of the GCC, the commissioner of banks shall examine the books of a
2608 corporation established or invested in by the GCC under this section if such examination is a
2609 condition of the particular investment, lending, loan guaranty or grant program administered by
2610 such corporation.

2611 Section 8. (a) The corporation shall establish a program to support the provision of
2612 financial and managerial consulting and technical assistance to eligible companies which receive
2613 financial assistance from the commonwealth or any of the commonwealth's public authorities.
2614 Services supported may include, but are not limited to, procurement of investment capital,
2615 management, administration, production, product marketing, assisting business in securing
2616 federal contracts and business expansion, renovation and diversification. The program shall
2617 include: (i) referrals to technical assistance provided without charge to eligible companies by
2618 public and private small business support organizations; (ii) financial support to engage private
2619 consultants; and (iii) a directory of organizations, experts and consultants available to be engaged
2620 to offer financial or managerial consulting services.

2621 (b) The corporation shall coordinate the program with the United State Small Business
2622 Administration, the Massachusetts Small Business Development Center Network and other
2623 private for profit and nonprofit providers of consulting and technical assistance to small
2624 businesses. The corporation shall consult with the commonwealth's public authorities, private
2625 business associations and regional economic development organizations in administering the
2626 program.

2627 (c) The corporation may provide matching grants to fund consulting and technical
2628 assistance to small businesses who receive financial assistance from the commonwealth or any of
2629 the commonwealth's public authorities. The grants shall be used by the recipient businesses to
2630 pay for mandated small business consulting and technical assistance services. Prior to awarding
2631 a grant, the corporation shall have determined that the financial or managerial consulting services
2632 mandated as a condition of financial support of the small business are not available without
2633 charge from an entity participating in the program and that procuring such services creates a

2634 hardship and impedes the likelihood of success of a project. Grants awarded shall require a 100
2635 percent match by the recipient.

2636 Section 9.(a) The GCC may establish an economic stabilization program for the
2637 following purposes:

2638 (1) To provide flexible high risk financing necessary to implement a change of
2639 ownership, a corporate restructuring or a turnaround plan for an economically viable, but
2640 troubled business which faces the likelihood of a large employment loss, plant closure or failure
2641 without such a change of ownership, corporate restructuring or turnaround plan. The program
2642 shall provide assistance to firms in specific mature industries for the purpose of technological
2643 investment or upgrading of management operations in order for the business to maintain future
2644 economic stability. The financial participation of the GCC shall aim to supplement private
2645 financial institutions and public economic development agencies when such institutions are
2646 unable to provide all the financing or bear all of the risk necessary to transfer ownership,
2647 restructure or turnaround a business in a situation where the business might otherwise fail or
2648 greatly reduce its employment.

2649 (2) To provide flexible high risk financing in connection with the start-up of employee-
2650 owned businesses or the implementation of employee-ownership projects. The financial
2651 participation of the GCC shall aim to supplement private financial institutions and public
2652 economic development agencies when such institutions are unable to provide all the financing or
2653 bear all of the risk necessary to start-up an employee-owned business or implement an employee-
2654 ownership project.

2655 (b) The GCC shall endeavor to direct at least 10 percent of the financing provided by the
2656 economic stabilization program to businesses that are employee-owned businesses in order to
2657 fulfill the purposes of this section.

2658 (c) The GCC may participate in projects under this section, provided that, the corporation
2659 shall find and incorporate in the official records of the corporation that the project will be of a
2660 public benefit and:

2661 (1) when providing assistance in connection with the purchase of a troubled business, the
2662 directors shall determine and incorporate in the minutes of a meeting of the directors that:

2663 (i) the business is likely to experience a large loss of employment, plant closure, or
2664 failure without the loan financing or investment by corporation;

2665 (ii) the business within a specific mature industry requires assistance for the purpose of
2666 technological investment or upgrading of management operations in order for the business to
2667 maintain future economic stability;

2668 (iii) the business or person seeking to purchase the business has taken or will take such
2669 actions as the directors deem necessary to ensure the business has a reasonable chance to
2670 continue as a successful business, including, but not limited to, changes in its operations,
2671 financing, or management and that said actions are included as a condition for financing by the
2672 corporation in the financing agreement; and

2673 (iv) the business or person seeking to purchase the business has made diligent efforts to
2674 obtain the financing necessary to continue its operations or transfer ownership of the business
2675 from private financial institutions and public economic development agencies and such financing

2676 is unavailable or has been offered on terms that would prevent the successful continuation or
2677 change in ownership of the business; or

2678 (2) when providing assistance in connection with an employee-owned business or an
2679 employee-ownership project, the directors shall determine and incorporate in the minutes of a
2680 meeting of the directors that:

2681 (i) the business or person seeking assistance has taken or will take such actions as the
2682 directors deem necessary to ensure that the employee-ownership project has a reasonable chance
2683 to succeed; and

2684 (ii) except with respect to assistance for pre-feasibility and feasibility studies, that such
2685 business or person has made diligent efforts to obtain the financing necessary to institute or
2686 implement the employee-ownership project from private financial institutions and public
2687 economic development agencies, and such financing is unavailable or has been offered on terms
2688 that would prevent the successful institution or implementation of the project.

2689 Section 10. The GCC shall be subject to section 16G of chapter 6A and section 56 of
2690 chapter 23A.

2691 SECTION 78A. Section 24 of chapter 40B of the General Laws, as appearing in the
2692 2008 Official Edition, is hereby amended by striking out, in line 17, the words “director of
2693 economic development” and inserting in place thereof the following words: secretary of housing
2694 and economic development.

2695 SECTION 79. Section 2 of chapter 40G of the General Laws, as so appearing, is hereby
2696 amended by striking out, in lines 19 and 20, the words “eleven directors: the director of

2697 economic development, the secretary of administration, one” and inserting in place thereof the
2698 following words:- 11 directors: the secretary of housing and economic development, who shall
2699 serve as chair, the secretary of administration and finance, 1.

2700 SECTION 80. The fifth paragraph of said section 2 of said chapter 40G, as so appearing,
2701 is hereby amended by striking out the fourth sentence.

2702 SECTION 81. Subsection (d) of section 3 of said chapter 40G, as so appearing, is hereby
2703 amended in by adding the following words:- provided, however, that the MTDC shall contract
2704 with another public authority for the performance by that authority of core administrative
2705 functions, as determined by the secretary of housing and economic development, which may
2706 include but shall not be limited to, human resources, financial management, information
2707 technology, legal, procurement and asset management, to minimize the administrative costs and
2708 expenses of the MTDC.

2709 SECTION 82. Chapter 40G of the General Laws is hereby amended by adding the
2710 following section:-

2711 Section 11. The MTDC shall be subject to section 16G of chapter 6A and section 56 of
2712 chapter 23A.

2713 SECTION 83. Section 2 of chapter 40H of the General Laws, as appearing in the 2008
2714 Official Edition, is hereby amended by striking out the definition of “CDC” and inserting in
2715 place thereof the following definition:-

2716 “CDC” or “Community Development Corporation”, a non-profit corporation organized
2717 under chapter 180, and exempt from taxation under section 501(c) of the Internal Revenue Code
2718 and which:

2719 (a) focuses a substantial majority of the corporation’s efforts on serving 1 or more
2720 specific neighborhoods or municipalities, a region of the commonwealth, or a constituency that
2721 is economically disadvantaged;

2722 (b) has as the corporation’s purpose to engage local residents and businesses to work
2723 together to undertake community development programs, projects and activities which develop
2724 and improve urban, rural and suburban communities in sustainable ways that create and expand
2725 economic opportunities for low and moderate income people;

2726 (c) demonstrates to the department of housing and community development that the
2727 corporation’s constituency, including low and moderate income people, is meaningfully
2728 represented on the board of directors of the corporation; provided, however, that in making this
2729 determination, the department shall consider the following criteria (1) the percentage, if any, of
2730 the board that is elected by the general membership; (2) the percentage of the board members
2731 that are residents of the service area; (3) the percentage of board members that are people of low
2732 or moderate income; (4) the racial and ethnic composition of the board in comparison to the
2733 racial and ethnic composition of the community being served; (5) other mechanisms, including
2734 committees, membership meetings, that the organization uses to ensure that their constituency
2735 has a meaningful role in the governance and direction of the organization; and (6) other criteria
2736 as determined by the department.

2737 SECTION 84. The definition of “Eligible organization” in section 2 of chapter 40H, as
2738 so appearing, is hereby amended by striking out the second sentence.

2739 SECTION 85. Section 2 of chapter 40H, as so appearing, is hereby amended by striking
2740 out the definition of “Target Area” and inserting in place thereof the following definition:-

2741 “Target area”, a contiguous geographic area in which the project is located and is:(1) an
2742 economic target area designated under section 3D of chapter 23A; (2) the service area of
2743 community development corporation; or (3) a zip code whose current unemployment rate
2744 exceeds the state unemployment rate by at least 25 per cent or whose mean household income is
2745 at or below 80 per cent of the state mean household income as of the most recent decennial
2746 census.

2747 SECTION 86. Chapter 40H of the General Laws, is hereby amended by inserting, after
2748 section 2, the following section:-

2749 Section 2A (a) The director of housing and community development shall establish and
2750 maintain a list of organizations that have been certified as CDCs consistent with this chapter and
2751 develop a process for certifying said organizations; provided, however, that the organizations
2752 must be recertified at least once every 4 years. The process shall include an analysis of the
2753 organization’s governance and a determination of whether the organization’s constituency,
2754 including low and moderate income persons, is meaningfully represented on the board of
2755 directors of the organization. In making such determination, the director shall consider the
2756 following criteria: (a) the percentage, if any, of the board that is elected by the general
2757 membership; (b) the percentage of the board members who are residents of the service area; (c)
2758 the percentage of board members that are persons of low or moderate income; (d) the racial and

2759 ethnic composition of the board in comparison to the racial and ethnic composition of the
2760 community that the organization serves; (e) other mechanisms, including committees,
2761 membership meetings and others that the organization uses to ensure that the organization’s
2762 constituency has a meaningful role in the governance and direction of the organization; and (f)
2763 other criteria as determined by the director of housing and community development.

2764 (b) The director of housing and community development shall file an annual report on
2765 December 15 with the speaker of the house of representatives, the president of the senate, the
2766 chairs of the house and senate committees on ways and means, the chairs of the joint committee
2767 on housing, and the chairs of the joint committee on community development and small business
2768 providing:

2769 a list of certified CDCs in the commonwealth; and

2770 a summary of programs, initiatives or partnerships operated by the executive office of
2771 housing and economic development, its agencies and quasi-public agencies organized under the
2772 executive office, that are designed to build the capacity of CDCs, provide training or technical
2773 assistance to CDC employees or board members, provide funding to support CDCs and their
2774 programs, projects and initiatives and otherwise help CDCs to engage local residents and
2775 businesses to work together to undertake programs, projects and activities which develop and
2776 improve urban, rural and suburban communities by creating and expanding economic
2777 opportunities for low and moderate income persons together with recommendations for action to
2778 enhance the ability of CDCs to advance those activities.

2779 SECTION 87. Section 3 of chapter 40H of the General Laws, as appearing in the 2008
2780 Official Edition, is hereby amended by striking out, in line 13, the words “nine directors, four”

2781 and inserting in place thereof the following words:- 9 directors, 1 of whom shall be the secretary
2782 of the housing and economic development, who shall serve as chair, 3.

2783 SECTION 88. Subsection (b) of said section 3 of said chapter 40H, as so appearing, is
2784 hereby amended by striking out the sixth sentence.

2785 SECTION 89. Chapter 40H of the General Laws is hereby amended by adding the
2786 following section:-

2787 Section 9. CEDAC shall be subject to section 16G of chapter 6A and section 56 of
2788 chapter 23A.

2789 SECTION 90. The third paragraph of section 3 of chapter 40J of the General Laws, as
2790 appearing in the 2008 Official Edition, is hereby amended by striking out the first sentence and
2791 inserting in place thereof the following 2 sentences:- The secretary of housing and economic
2792 development or the secretary's designee shall serve as chairperson. The board shall annually
2793 elect from among its members a vice-chairperson and may designate a treasurer and a secretary,
2794 who need not be members of the board.

2795 SECTION 91. Subsection (a) of section 6A of said chapter 40J of the General Laws, as so
2796 appearing, is hereby amended by striking out, in line 16, the words "undersecretary of business
2797 development" and inserting in place thereof the following words:- secretary of housing and
2798 economic development.

2799 SECTION 92. Subsection (c) of section 6B of said chapter 40J, as so appearing, is hereby
2800 amended by striking out, in line 32, the words "or his designee" and inserting in place thereof the
2801 following words:- , who shall serve as chair.

2802 SECTION 93. Sais subsection (c) of said section 6B of said chapter 40J, as so appearing,
2803 is hereby further amended by striking out the second sentence.

2804 SECTION 94. The first paragraph of subsection (b) of section 6D of said chapter 40J, as
2805 so appearing, is hereby amended by striking out the second and third sentences and inserting in
2806 place thereof the following 2 sentences:- The council shall advise the institute on the
2807 dissemination of health information technology across the commonwealth, including the
2808 deployment of electronic health records systems in all health care provider settings that are
2809 networked through a statewide health information exchange. The council shall consist of 9
2810 members; 1 of whom shall be the secretary of health and human services, who shall serve as the
2811 chair; 1 of whom shall be the secretary of administration and finance, or the secretary's designee;
2812 1 of whom shall be the executive director of the health care quality and cost council; 1 of whom
2813 shall be the director of the office of Medicaid; 1 of whom shall be the secretary of housing and
2814 economic development or the secretary's designee; 4 of whom shall be appointed by the
2815 governor, of whom at least 1 shall be an expert in health information technology, 1 shall be an
2816 expert in law and health policy and 1 shall be an expert in health information privacy and
2817 security.

2818 SECTION 95. Chapter 40J of the General Laws is hereby amended by adding the
2819 following section:-

2820 Section 13. The corporation shall be subject to section 16G of chapter 6A and section 56
2821 of chapter 23A.

2822 SECTION 96. Section 1 of chapter 40Q of the General Laws, as appearing in the 2008
2823 Official Edition, is hereby amended by striking out the definition of "Base date" and inserting in

2824 place thereof the following 2 definitions:- “Adjustment factor”, for each fiscal year of the term
2825 of a given development program, the product of the inflation factors for each fiscal year
2826 subsequent to the first fiscal year immediately following the base date.

2827 “Base date”, the last assessment date of the real property tax immediately preceding the
2828 creation of the district.

2829 SECTION 97. The definition of “Development program” of said section 1 of said
2830 chapter 40Q, as so appearing, is hereby amended, in lines 31 and 32, by striking out clause (8)
2831 and inserting in place thereof the following clause:- (8) the duration of the program which shall
2832 not exceed the longer of (i) 30 years from the date of designation of the district or (ii) 30 years
2833 from project stabilization, as defined in the development program.

2834 SECTION 98. Said section 1 of said chapter 40Q, as so appearing, is hereby amended by
2835 striking out the definition of “Inflation factor” and inserting in place thereof the following
2836 definition:- "Inflation factor", a ratio: (1) the numerator of which shall be the total assessed
2837 value of all parcels of residential, commercial and industrial real estate that are assessed at full
2838 and fair cash value for the current fiscal year minus the new growth adjustment factor for the
2839 current fiscal year attributable to the residential, commercial and industrial real estate as
2840 determined by the commissioner of revenue under paragraph (f) of section 21C of chapter 59;
2841 and (2) the denominator of which shall be the total assessed value for the preceding fiscal year of
2842 all the parcels included in the numerator; provided, however, the ratio shall not be less than 1;
2843 provided, further, that if the proposed Invested Revenue District does not include residential
2844 property, the assessed value attributable to residential property shall not be included in either the
2845 numerator or the denominator in calculating the inflation factor.

2846 SECTION 99. The definition of “Invested revenue district development program” of said
2847 section 1 of said chapter 40Q, as so appearing, is hereby amended by striking out, in line 59, the
2848 word “and”.

2849 SECTION 100. Said definition of “Invested revenue district development program” of
2850 said section 1 of said chapter 40Q, as so appearing, is hereby further amended by adding the
2851 following words:- ;and (8) if applicable, a statement of the city or town electing that the original
2852 assessed value not be increased by the adjustment factor. SECTION 101. Said section 1 of
2853 said chapter 40Q, as so appearing, is hereby further amended by striking out the definition of
2854 “Original assessed value” and inserting in place thereof the following definition:-

2855 "Original assessed value", the aggregate assessed value of the invested revenue district as
2856 of the base date; provided, however, that if the city or town has not included an election
2857 statement in its investment district development program, the original assessed value in any year
2858 shall be equal to the original assessed value as of the base date multiplied by the adjustment
2859 factor for that fiscal year.

2860 SECTION 102. Section 92 of chapter 41 of the General Laws, as so appearing, is hereby
2861 amended by striking out, in line 13, the words “two thousand five hundred dollars”, and inserting
2862 in place thereof the following figure:- \$7,000.

2863 SECTION 103. Said section 92 of said chapter 41 is hereby further amended by striking
2864 out, in lines 14 and 15, the words “two thousand five hundred dollars”, and inserting in place
2865 thereof the following figure: \$7,000.

2866 SECTION 104. Clause sixteenth of section 5 of chapter 59 of the General Laws, as so
2867 appearing, is hereby amended by striking out paragraph (3) and inserting in place thereof the
2868 following paragraph:-

2869 (3) In the case of (i) a manufacturing corporation or a research and development
2870 corporation, as defined in section 42B of chapter 63, or (ii) a limited liability company that; (a)
2871 has its usual place of business in the commonwealth; (b) is engaged in manufacturing in the
2872 commonwealth and whose sole member is a manufacturing corporation as defined in section 42B
2873 of chapter 63 or is engaged in research and development in the commonwealth and whose sole
2874 member is a research and development corporation as defined in said section 42B; and (c) is a
2875 disregarded entity, as defined in paragraph 2 of section 30 of chapter 63, all property owned by
2876 the corporation or the limited liability company other than real estate, poles and underground
2877 conduits, wires and pipes; provided, however, that no property, except property entitled to a
2878 pollution control abatement under clause forty-fourth or a cogeneration facility, shall be exempt
2879 from taxation if it is used in the manufacture or generation of electricity and it has not received a
2880 manufacturing classification effective on or before January 1, 1996. For the purposes of this
2881 section, a cogeneration facility shall be an electrical generating unit having power production
2882 capacity which, together with any other power generation facilities located at the same site, is not
2883 greater than 30 megawatts and which produces electric energy and steam or other form of useful
2884 energy utilized for industrial, commercial, heating or cooling purposes. For purposes of this
2885 paragraph, in determining whether the sole member of a limited liability company treated as a
2886 disregarded entity is a manufacturing corporation or a research and development corporation, the
2887 attributes and activities of the limited liability company shall be taken into account by the
2888 member along with the member's other attributes and activities. This clause as it applies to a

2889 research and development corporation, as defined in section 42B of said chapter 63, and as it
2890 applies to a limited liability company that is a disregarded entity and whose sole member is a
2891 manufacturing corporation or a research and development corporation shall take effect only upon
2892 its acceptance by the city or town in which the real estate, poles and underground conduits, wires
2893 and pipes are located.

2894 SECTION 105. Said section 5 of said chapter 59, as so appearing, is hereby amended by
2895 striking out clause Fifty-first and inserting in place thereof the following clause: -

2896 Fifty-first, the value of a parcel of real property which is included within an executed
2897 agreement under clause (v) of section 59, clause (v) of subsection (a) of section 60 or clause (iv)
2898 of subsection (a) of section 60A of chapter 40, and the value of personal property situated on that
2899 parcel, but taxes on real and personal property eligible for exemption under this clause shall be
2900 assessed only on that portion of the value of the property that is not exempt under section 59,
2901 section 60 or section 60A of chapter 40, and this exemption shall be for a term not longer than
2902 the period specified for the exemption in the agreement. The amount of the exemption under this
2903 clause for a parcel of real property shall be the exemption percentage adopted under clause (iii)
2904 of section 59, subsection (a) of section 60 or of section 60A of said chapter 40 multiplied by the
2905 amount by which the parcel's value exceeds the product of its assessed value for the last fiscal
2906 year before it became eligible for exemption under this clause multiplied by the adjustment
2907 factor determined under said section 59, section 60 or section 60A of said chapter 40. The
2908 amount of the exemption under this clause for personal property shall be the exemption
2909 percentage adopted under clause (iii) of section 59, subsection (a) of section 60 or of section 60A
2910 of said chapter 40 multiplied by the fair cash valuation of the personal property. Taxes on

2911 property eligible for exemption under this clause shall be assessed only on that portion of the
2912 value of the property that is not exempt under this clause.

2913 SECTION 106. Subsection (c) of section 45 of chapter 75 of the General Laws, as so
2914 appearing, is hereby amended by striking out, in line 15, the words, “director of business and
2915 technology” and inserting in place thereof the following words:- secretary of housing and
2916 economic development.

2917 SECTION 107. Said subsection (c) of said section 45 of said chapter 75, as so appearing,
2918 is hereby further amended by striking out, in line 19, the words, “department of business
2919 technology” and inserting in place thereof the following words:- Massachusetts office of
2920 business development.

2921 SECTION 108. Subsection (d) of said section 45 of said chapter 75, as so appearing, is
2922 hereby amended by striking out, in lines 25 to 27, inclusive, the words “director of business and
2923 technology, or his designee, the director of science and technology within the department of
2924 business and technology and 7” and inserting in place thereof the following words:- secretary of
2925 housing and economic development, who shall serve as chair, the executive director of the
2926 Massachusetts development finance agency, the president of the Massachusetts life sciences
2927 center, the executive director of the Massachusetts clean energy center, the director of the John
2928 Adams Innovation Institute, the president of the Massachusetts Technology development
2929 corporation and 8.

2930 SECTION 109. Chapter 75 of the General Laws is hereby amended by inserting after
2931 section 45 the following section:-

2932 Section 45A. The center shall be subject to section 16G of chapter 6A and section 56 of
2933 chapter 23A.

2934 SECTION 109A. Section 52C of chapter 149 of the General Laws, as so appearing, is
2935 hereby amended by striking out the fifth paragraph and inserting in place thereof the following
2936 paragraph: -

2937 An employer shall notify an employee within 10 days of the employer placing in the
2938 employee’s personnel record any information to the extent that the information is, has been used
2939 or may be used to negatively affect the employee’s qualification for employment, promotion,
2940 transfer, additional compensation or disciplinary action. An employer receiving a written request
2941 from an employee shall provide the employee with an opportunity to review such employee’s
2942 personnel record within 5 business days of such request. The review shall take place at the place
2943 of employment and during normal business hours. An employee shall be given a copy of the
2944 employee’s personnel record within 5 business days of submission of a written request for such
2945 copy to the employer. An employer shall not be required to allow an employee to review the
2946 employee’s personnel record on more than 2 separate occasions in a calendar year; provided,
2947 however, that the notification and review caused by the placing of negative information in the
2948 personnel record shall not be deemed to be 1 of the 2 annually permitted reviews.

2949 SECTION 110. Section 1H of chapter 164 of the General Laws, as appearing in the 2008
2950 official edition, is hereby amended by striking out the definition of the word “department” and
2951 inserting in place thereof the following definition:- “Department”, the department of public
2952 utilities.

2953 SECTION 111. The second paragraph of section 14 of chapter 167 of the General Laws,
2954 as so appearing, is hereby amended, in line 22, by striking out the words “8, 29 and 30” and
2955 inserting in place thereof the following words:- 8, 29, 30 and 30A.

2956 SECTION 112. Section 2 of chapter 167F of the General Laws, as so appearing, is hereby
2957 amended by inserting after paragraph 30 the following paragraph: --

2958 30A. To participate in the activities of the Massachusetts Growth Capital Corporation
2959 created under chapter 40F by making capital available to the corporation by making an
2960 investment or deposit in or grant to said corporation, an affiliate or subsidiary of said corporation
2961 or any fund managed by said corporation.

2962 SECTION 113. Paragraph 13 of said section 2 of said chapter 167F, as so appearing, is
2963 hereby amended by striking out the first sentence and inserting in place thereof the following
2964 sentence:- To act as trustee for the holders of a bond issued by the Massachusetts Industrial
2965 Finance Agency, under chapter 23A or by any industrial development authority of a city or town
2966 under chapter 40D or by the Massachusetts Health and Educational Facilities Authority, under
2967 chapter 23K.

2968 SECTION 113A. The first paragraph of section 168 of chapter 175 of the General Laws,
2969 as so appearing, is hereby amended by inserting after the sixth sentence the following sentence:-

2970 Any insurance policy procured under this section shall contain the following disclosure
2971 notice to the policyholder: This policy is insured by a company which is not admitted to transact
2972 insurance in the commonwealth, is not supervised by the commissioner of insurance and, in the
2973 event of an insolvency of such company, a loss shall not be paid by the Massachusetts Insurers

2974 Insolvency Fund under chapter 175D. The commissioner may by regulation amend the
2975 foregoing disclosure notice.

2976 SECTION 113B. Said section 168 of said chapter 175, as so appearing, is hereby further
2977 amended by striking out, in line 61, the word 'or'.

2978 SECTION 113C. Said section 168 of said chapter 175, as so appearing, is hereby further
2979 amended by inserting after the figure '20A' the following words:- ; or (c) such company is an
2980 eligible alien unauthorized insurer as defined in section 168A.

2981 SECTION 113D. Said chapter 175 is hereby further amended by inserting after section
2982 168 the following section:-

2983 Section 168A. (a) As used in this section "eligible alien unauthorized insurer" shall mean
2984 a company formed under the laws of any government or state other than the United States or 1 of
2985 its states or its territories that has filed an application with the commissioner pursuant to
2986 subsection (c)(4) of this section, which application has been approved by the commissioner.

2987 (b) Notwithstanding any general or specific law to the contrary, a special broker
2988 licensed by the commissioner pursuant to section 168 of this chapter may procure insurance from
2989 any company formed under the laws of any government or state other than the United States or
2990 one of its states or its territories that is not authorized to transact business in the commonwealth
2991 if:

2992 (1) such company has been determined by the commissioner to be an eligible alien
2993 unauthorized insurer pursuant to clause (4) of subsection (c);

2994 (2) the special broker has executed and filed an affidavit with the commissioner within 20
2995 days after procuring such insurance stating that the full amount or type of insurance
2996 cannot be obtained from among companies admitted to transact insurance in the
2997 commonwealth after a diligent effort has been made to do so and that the amount of
2998 insurance procured in such company is only the excess over the amount so procurable
2999 from admitted companies;

3000 (3) the procured policy contains the disclosure notice required by section 168; and

3001 (4) all other requirements of this section and section 168 that are not inconsistent with
3002 this subsection have been met.

3003 Insurance procured under this section shall be valid and enforceable as to all parties.

3004 Nothing in this section shall be deemed to amend or modify any of the provisions of, or
3005 any of the exemptions specified in, section 168 that are inconsistent with this section.

3006 (c) No company shall be determined to be an eligible alien unauthorized insurer unless it:

3007 (1) has provided satisfactory evidence to the commissioner of its good reputation and
3008 financial integrity;

3009 (2) has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction
3010 in an amount not less than \$20,000,000;

3011 (3) has in force a United States trust fund of not less than the greater of:

3012 (i) \$5,400,000; or

3013 (ii) a percentage of its United States surplus lines gross liabilities arising from business
3014 written on or after January 1, 1998, excluding aviation, wet marine, transportation insurance and
3015 direct procurement placements, such percentage to equal to the percentage and subject to any cap
3016 employed by the International Insurers Department of the National Association of Insurance
3017 Commissioners, as of December 31 next preceding the date of determination, where: (A) the
3018 liabilities are maintained in an irrevocable trust account in the United States in a qualified
3019 financial institution, on behalf of United States policyholders consisting of cash, securities,
3020 letters of credit or other investments of substantially the same character and quality as those
3021 which are eligible investments pursuant to this chapter for the capital and statutory reserves of
3022 admitted insurers to write like kinds of insurance in the commonwealth; provided, however, that
3023 the trust fund, which shall be included in any calculation of capital and surplus or its equivalent,
3024 shall satisfy the requirements of the Standard Form Trust Agreement required for listing with the
3025 International Insurers Department of the National Association of Insurance Commissioners; (B)
3026 the company may request approval from the commissioner to use the trust fund to pay valid
3027 surplus lines claims; provided, however, that the balance of the trust fund shall never be less than
3028 the minimum amount required by this subsection; and (C) in calculating the trust fund amount
3029 required by this subsection, credit shall be given for surplus lines deposits separately required
3030 and maintained for a particular state or territory of the United States, not to exceed the amount
3031 of the company's loss and loss adjustment reserves in that particular state or territory; and

3032 (4) has submitted to the commissioner an application evidencing the company's
3033 compliance with the requirements of this section that has been approved by the commissioner.

3034 (d) The application required by clause (4) subsection (c) shall be on forms issued or
3035 approved by the commissioner and shall include the following information regarding the alien
3036 unauthorized insurer applicant:

3037 (1) evidence that the unauthorized alien insurer has been listed by the International
3038 Insurers Department of the National Association of Insurance Commissioners;

3039 (2) a certified audited financial statement of the eligible alien unauthorized insurer
3040 reflecting information as of a date not more than 12 months prior to the submission of the
3041 application evidencing compliance with the capital and surplus requirements of clause (2) of
3042 subsection (c) and an actuarial opinion as to the adequacy of and methodology used to determine
3043 the insurer's loss reserves;

3044 (3) a copy, certified by the trustee, of the United States trust agreement required by clause
3045 (3) of subsection (c) prepared in accordance with the National Association of Insurance
3046 Commissioner's Standard Form Trust Agreement for Alien Excess or Surplus Lines Insurers;

3047 (4) a copy, certified by the trustee, of the most recent quarterly statement of account or
3048 list of assets in the trust account required by clause (3) of subsection (c) evidencing that the alien
3049 unauthorized insurer has in force, as of the end of the most recent quarter, assets in the amounts
3050 required by said (clause (3) of said subsection (c));

3051 (5) a certified copy of the eligible alien unauthorized insurer's current license or
3052 certificate of authority issued by its domiciliary jurisdiction indicating that the company is
3053 authorized to insure the types of risks in its domiciliary jurisdiction that it proposes to insure in
3054 the commonwealth;

3055 (6) a Certificate of Good Standing or substantially similar documentation issued by the
3056 eligible alien unauthorized insurer's domiciliary jurisdiction;

3057 (7) biographical affidavits, on forms promulgated by the National Association of
3058 Insurance Commissioners or approved by the commissioner for all executive officers, directors
3059 and senior management personnel of the eligible alien unauthorized insurer, prepared not more
3060 than 12 months prior to the submission date of the application required by clause (4) of
3061 subsection (c); and

3062 (8) such additional information as the commissioner may require in order to determine
3063 that the eligible alien unauthorized insurer complies with the requirements of this section.

3064 (e) The commissioner may refuse to approve an application pursuant to this section if the
3065 commissioner is of the opinion that such refusal will be in the public interest. In reviewing an
3066 application, the commissioner may consider such factors as:

3067 (1) the length of time the insurer has been authorized in its domiciliary jurisdiction and
3068 elsewhere;

3069 (2) the unavailability of the particular coverages from authorized insurers or unauthorized
3070 insurers meeting the requirements of this section and section 168;

3071 (3) the size of the company as measured by its assets, capital and surplus, reserves,
3072 premium writings, insurance in force or other appropriate criteria;

3073 (4) the kinds of business the company writes, its net exposure and the extent to which the
3074 company's business is diversified among several lines of insurance and geographic locations; and

3075 (5) the past and projected trend in the size of the company's capital and surplus
3076 considering such factors as premium growth, operating history, loss and expense ratios or other
3077 appropriate criteria

3078 (f) The commissioner may revoke a company's status as an eligible alien unauthorized
3079 insurer in accordance with the terms and conditions of section 5 the commissioner has
3080 determined that the insurer:

3081 (1) is in unsound financial condition or has acted in an untrustworthy manner;

3082 (2) no longer meets the standards set forth in subsection (c);

3083 (3) has willfully violated the laws of the commonwealth; or

3084 (4) does not conduct a proper claims practice.

3085 SECTION 114. Section 21 of chapter 218 of the General Laws, as so appearing, is hereby
3086 amended by striking out, lines 6 and 35, the following words, "two thousand dollars" and
3087 inserting in place thereof the following figure:- \$7,000.

3088 SECTION 115. Section 22 of said chapter 218, as so appearing, is hereby amended by
3089 adding the following paragraph:-

3090 The entry fee shall be \$75 for a party that has filed 5 statements of claim in a small-
3091 claims session of the court during the calendar year, \$150 for a party that has previously filed 10
3092 statements of claim in a small-claims session of the court during the calendar year and \$240 for a
3093 party that has previously filed 100 statements of claim in a small-claims session of the court
3094 during the calendar year.

3095 SECTION 116. Chapter 465 of the acts of 1956 is hereby amended by inserting after
3096 section 21 the following section:-

3097 Section 21A. The authority shall be subject to section 16G of chapter 6A and section 56
3098 of chapter 23A of the General Laws.

3099 SECTION 117. Chapter 614 of the acts of 1968 is hereby repealed.

3100 SECTION 118. Section 33 of chapter 190 of the acts of 1982 is hereby amended by
3101 striking out the second paragraph, as appearing in chapter 23 of the acts of 1998, and inserting in
3102 place thereof the following paragraph:-

3103 The authority shall consist of 13 members, 9 of whom shall be appointed by the
3104 governor, 1 of whom shall be the secretary of housing and economic development or the
3105 secretary's designee, who shall serve as chair, 1 of whom shall be appointed from a list of 3
3106 nominees recommended by the Massachusetts Visitors Industry Council, 1 of whom shall be
3107 appointed from a list of 3 nominees recommended by the Massachusetts Lodging Association, 1
3108 of whom shall be a resident of the city of Cambridge and 1 of whom shall be a resident of
3109 Hampden county. Two persons shall be appointed by the mayor of the city of Boston, 1 of whom
3110 shall be a resident of South Boston. The remaining 2 persons shall be the secretary of
3111 administration and finance or the secretary's designee and the collector-treasurer of the city of
3112 Boston or the collector-treasurer's designee, both of whom shall serve ex officio and shall have
3113 the right to exercise or vote on matters before the authority. Three of the members of the
3114 authority first appointed by the governor shall continue in office for a term expiring December
3115 31, 2000 and 3 members of the authority first appointed by the governor shall continue in office
3116 for a term expiring December 31, 2001 and 3 members of the authority first appointed by the

3117 governor shall continue in office for a term expiring December 31, 2003. The term of each such
3118 member shall be designated by the governor and shall continue until the member's successor is
3119 duly appointed and qualified. The members appointed by the mayor shall continue in office for a
3120 term expiring December 31, 1999, and shall continue until their successors are duly appointed
3121 and qualified. The successor of each such member shall be appointed for a term of 6 years and
3122 until his successor is duly appointed and qualified, except that a person appointed to fill a
3123 vacancy shall serve only for the unexpired term and until the appointee's successor is duly
3124 appointed and qualified. Each member of the authority shall be eligible for reappointment. Each
3125 member of the authority shall serve at the pleasure of the governor, if appointed by the governor,
3126 and each member of the authority may be removed by the governor, if appointed by the
3127 governor, or by the mayor, if appointed by the mayor. Each member of the authority before
3128 entering upon such member's duties shall take an oath before the governor to administer the
3129 duties of the member's office faithfully and impartially, and a record of such oaths shall be filed
3130 in the office of the secretary of the commonwealth. Members of the authority shall serve without
3131 compensation, but service as a member of the authority shall be credited to such member's years
3132 in service for pension and retirement purposes.

3133 SECTION 119. Chapter 190 of the acts of 1982 is hereby amended by inserting after
3134 section 40 the following section:-

3135 Section 40A. The Authority shall be subject to section 16G of chapter 6A and section 56
3136 of chapter 23A of the General Laws.

3137 SECTION 120. Sections 6, 7A, 7B and 8 of chapter 324 of the acts of 1987 are hereby
3138 repealed.

3139 SECTION 121. Section 64 of chapter 365 of the acts of 1996, as amended by chapter
3140 352 of the acts of 2004, is hereby amended by adding the following sentence:-

3141 The corporation shall be subject to section 16G of chapter 6A and section 56 of chapter
3142 23A of the General Laws.

3143 SECTION 122. Notwithstanding any general or special law to the contrary, certain
3144 regulatory approvals are hereby extended as provided in this section.

3145 (a) For purposes of this section, the following words shall, unless the context clearly
3146 requires otherwise, have the following meanings:

3147 “Approval” except as otherwise provided in subsection (b), any permit, certificate, order,
3148 excluding enforcement orders, license, certification, determination, exemption, variance, waiver,
3149 building permit, or other approval or determination of rights from any municipal, regional or
3150 state governmental entity, including any agency, department, commission, or other
3151 instrumentality of the municipal, regional or state governmental entity, concerning the use or
3152 development of real property, including certificates, licenses, certifications, determinations,
3153 exemptions, variances, waivers, building permits, or other approvals or determination of rights
3154 issued or made under chapter 21, chapter 21A excepting section 16, chapter 21D, sections 61 to
3155 62H, inclusive, of chapter 30, chapters 30A, 40, 40A to 40C, inclusive, 40R, 41, 43D, section 21
3156 of chapter 81, chapter 91, chapter 131, chapter 131A, chapter 143, sections 4 and 5 of chapter
3157 249, or chapter 258, of the General Laws or chapter 665 of the acts of 1956, or any local by-law
3158 or ordinance.

3159 “Development”, division of a parcel of land into 2 or more parcels, the construction,
3160 reconstruction, conversion, structural alteration, relocation or enlargement of a building or other

3161 structure or facility, or any grading, soil removal or relocation, excavation or landfill or any use
3162 or change in the use of any building or other structure or land or extension of the use of land.

3163 “Tolling period”, the period beginning January 1, 2008 and continuing through January 1,
3164 2011.

3165 (b) (1) Notwithstanding any general or special law to the contrary, an approval in effect
3166 or existence during the tolling period shall be extended for a period of 3 years, in addition to the
3167 lawful term of the approval.

3168 (2) Nothing in this section shall be deemed to extend or purport to extend:

3169 (i) a permit or approval issued by the government of the United States or an agency or
3170 instrumentality of the government of the United States or to a permit or approval, of which the
3171 duration of effect or the date or terms of its expiration are specified or determined by or under
3172 law or regulation of the federal government or any of its agencies or instrumentalities;

3173 (ii) an enforcement order issued by the department of environmental protection; or

3174 (iii) a permit, license, privilege or approval issued by the division of fisheries and wildlife
3175 under chapter 131 for hunting, fishing or aquaculture.

3176 (3) Nothing in this section shall affect the ability of a municipal, regional or state
3177 governmental entity, including an agency, department, commission or other instrumentality of a
3178 municipal, regional or state governmental entity to revoke or modify a specific permit or
3179 approval or extension of a specific permit or approval under this section, when that specific
3180 permit or approval or the law or regulation under which the permit or approval was issued
3181 contains language authorizing the modification or revocation of the permit or approval.

3182 (4) In the event that an approval tolled under this section is based upon the connection to
3183 a sanitary sewer system, the approval’s extension shall be contingent upon the availability of
3184 sufficient capacity, on the part of the treatment facility, to accommodate the development whose
3185 approval has been extended. If sufficient capacity is not available, those permit holders whose
3186 approvals have been extended shall have priority with regard to the further allocation of
3187 gallonage over those approval holders who have not received approval of a hookup prior to the
3188 effective date of this section. Priority regarding the distribution of further gallonage to a permit
3189 holder who has received the extension of an approval under this section shall be allocated in
3190 order of the granting of the original approval of the connection.

3191 (5) Nothing in this section shall be construed or implemented in such a way as to modify
3192 a requirement of law that is necessary to retain federal delegation to, or assumption by, the
3193 commonwealth of the authority to implement a federal law or program.

3194 SECTION 123. Notwithstanding any general or special law to the contrary, within 4
3195 years of the effective date of this act, each agency shall review the agency’s rules and regulations
3196 currently existing to determine whether such rules and regulations should be continued without
3197 change or should be amended or rescinded to minimize economic impact of those rules and
3198 regulations on small businesses in a manner consistent with the stated objective of applicable
3199 statutes. If the head of the agency determines that completion of the review of existing rules is
3200 not feasible by the established date the agency shall publish a statement certifying that
3201 determination. The agency may extend the completion date by 1 year at a time for a total of not
3202 more than 5 years.

3203 SECTION 124. Notwithstanding any general or special law to the contrary, the executive
3204 office of housing and economic development shall conduct a study to examine the cost reliability
3205 and economic impact of electricity. The study shall include, but not be limited to:

3206 (i) an analysis of the economic and reliability implications of implementing
3207 administrative, regulatory and legislative mandates as they pertain to electricity; and

3208 (ii) the extent to which efforts to achieve recently-established goals relating to zero net
3209 energy growth, greenhouse gas reductions or scheduled increases in renewable power, demand
3210 resources and energy efficiency contribute to the rates paid by residential, commercial and
3211 industrial customers in the commonwealth.

3212 The study shall be completed with stakeholder input, including representatives from
3213 various sectors of the commonwealth's economy. The study shall be completed and submitted to
3214 the joint committee on telecommunications, utilities and energy no later than December 31,
3215 2010.

3216 SECTION 125. Notwithstanding any general or special law to the contrary, all current
3217 members of the health and educational facilities authority established by section 4 of chapter 614
3218 of the acts of 1968 shall continue to serve, as if the member had been appointed under chapter
3219 23K, until the expiration of the term of that member.

3220 SECTION 126. Notwithstanding any general or special law to the contrary, all current
3221 assets, liabilities, obligations and debt of the authority shall be deemed to have been created
3222 under chapter 23K of the General Laws, and no existing rights of the holders of the bonds,
3223 revenue bonds, notes, bond anticipation notes, other notes or other obligations issued by HEFA

3224 under chapter 614 of the acts of 1968 shall be impaired and HEFA shall maintain the covenants
3225 of the trust indentures pertaining to those bonds so long as those bonds shall remain outstanding.

3226 SECTION 127. Notwithstanding any other general or special law to the contrary, the
3227 pension reserves investment management board established under section 23 of chapter 32 of the
3228 general laws shall review its investment portfolio and to the extent it is reasonably possible it
3229 shall invest not less than \$25,000,000 and not more than \$50,000,000 in banks or financial
3230 institutions which make capital available to small businesses under the guidelines of subdivision
3231 (7) of section 23 of chapter 32 of the general laws and shall make such investment a priority of
3232 the portfolio as long as such investment is consistent with sound investment policy.

3233 SECTION 128. Notwithstanding any other general or special law to the contrary a stock
3234 purchase agreement between the commonwealth and Community Development Finance
3235 Corporation (CDFC) in existence on the effective date of this act which contains outstanding
3236 obligations on the part of the commonwealth and which has been pledged as security for the
3237 payment of debt obligations issued by the CDFC which are also outstanding on the effective date
3238 of this act shall continue to constitute a general obligation of the commonwealth for which the
3239 faith and credit of the commonwealth remains pledged for the benefit of CDFC and of the
3240 holders of said debt obligations of CDFC until the terms of said debt obligations are satisfied.

3241 SECTION 129. (a) Notwithstanding any general or special law to the contrary, this
3242 section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations,
3243 property and legal obligations of the following functions of state government from the transferor
3244 agency to the transferee agency, defined as follows: (1) the functions of the Massachusetts Sports
3245 and Entertainment Commission, as the transferor agency, to the Massachusetts marketing

3246 partnership, as the transferee agency; (2) the functions of the Community Development Finance
3247 Corporation and the Economic Stabilization Trust, as transferor agencies, to the Massachusetts
3248 Growth Capital Corporation, as the transferee agency; (3) the functions of the department of
3249 business development, as the transferor agency, to the Massachusetts office of business
3250 development, as the transferee agency; (4) the functions of the office of travel and tourism in the
3251 department of business development, as the transferor agency, to the office of travel and tourism
3252 in the Massachusetts marketing partnership, as the transferee agency; (5) the functions of the
3253 office of international trade and investment in the department of business development, as the
3254 transferor agency, to the Massachusetts international trade office in the Massachusetts marketing
3255 partnership, as the transferee agency; and (6) the function of the office of small business and
3256 entrepreneurship, as the transferor agency, to the Massachusetts Office of Business
3257 Development, as the transferee agency. (b) The employees of each transferor agency,
3258 including those who immediately before the effective date of this act hold permanent
3259 appointment in positions classified under chapter 31 of the General Laws or have tenure in their
3260 positions as provided by section 9A of chapter 30 of the General Laws or do not hold such
3261 tenure, or hold confidential positions, are hereby transferred to the respective transferee agency,
3262 without interruption of service, without impairment of seniority, retirement or other rights of the
3263 employee, and without reduction in compensation or salary grade, notwithstanding any change in
3264 title or duties resulting from such reorganization, and without loss of accrued rights to holidays,
3265 sick leave, vacation and benefits,. The reorganization shall not impair the civil service status of
3266 any such reassigned employee who immediately before the effective date of this act either holds
3267 a permanent appointment in a position classified under chapter 31 of the General Laws or has
3268 tenure in a position by reason of section 9A of chapter 30 of the General Laws.

3269 Notwithstanding the provisions of any general or special law to the contrary, all such
3270 employees shall continue to retain their right to collectively bargain under chapter 150E of the
3271 General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing
3272 in this section shall be construed to confer upon an employee a right not held immediately before
3273 the date of said transfer, or to prohibit a reduction of salary grade, transfer, reassignment,
3274 suspension, discharge, layoff or abolition of position not prohibited before such date.

3275 (c) All petitions, requests, investigations and other proceedings appropriately and duly
3276 brought before each transferor agency or duly begun by each transferor agency and pending
3277 before it before the effective date of this act, shall continue unabated and remain in force, but
3278 shall be assumed and completed by the transferee agency. (d) All orders, rules and
3279 regulations duly made and all approvals duly granted by each transferor agency, which are in
3280 force immediately before the effective date of this act, shall continue in force and shall thereafter
3281 be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the
3282 transferee agency. (e) All books, papers, records, documents, equipment, buildings,
3283 facilities, cash and other property, both personal and real, including all such property held in
3284 trust, which immediately before the effective date of this act are in the custody of each transferor
3285 agency shall be transferred to the transferee agency. (f) All duly existing contracts, leases
3286 and obligations of each transferor agency shall continue in effect but shall be assumed by the
3287 respective transferee agency. No existing right or remedy of any character shall be lost, impaired
3288 or affected by this act.

3289 SECTION 129A. Notwithstanding any general or special law to the contrary, there shall
3290 be, within the executive office of housing and economic development, the Massachusetts
3291 business beacon award committee. The committee shall be chaired by the lieutenant governor,

3292 or the lieutenant governor's designee, and shall consist of the secretary of the executive office of
3293 housing and economic development, or the secretary's designee; the senate and house chairs of
3294 the joint committee on economic development and emerging technologies; the president of the
3295 Associated Industries of Massachusetts, or the president's designee; the executive director of the
3296 Massachusetts business roundtable; the Massachusetts state director of the national federation of
3297 independent business; the president of the small business association of New England; and 2
3298 representatives of chambers of commerce appointed by the governor for terms of 2 years,
3299 provided, however, that for the initial appointment, 1 chamber representative shall be appointed
3300 for 1 year, and the second chamber representative for 2 years. Vacancies may be filled in the
3301 same manner as the original appointment.

3302 The committee shall create and manage the Massachusetts Business Beacon Award
3303 program to honor businesses in the commonwealth providing employment and supporting the
3304 economy of the commonwealth for 50 or more years. Any person may nominate a business that
3305 meets said criteria for consideration by the committee to receive the award. The committee shall
3306 establish separate levels of recognition for businesses that have existed in the commonwealth
3307 providing employment and supporting the economy of the commonwealth for at least 50 years,
3308 for at least 75 years and for at least 100 years.

3309 The committee shall periodically select businesses to receive the Massachusetts Business
3310 Beacon Award for the various levels of recognition as the committee considers appropriate
3311 considering the significance of the contribution of each business to the commonwealth. The
3312 committee shall honor the recipient of a Massachusetts Business Beacon Award with a plaque
3313 that includes the business' level of recognition and other appropriate information.

3314 The committee shall notify the state senator and state representative in whose district the
3315 business' principal place of business in the commonwealth is located. The committee, the
3316 business and the notified state senator and state representative shall cooperate in determining the
3317 date and location of a presentation ceremony to present the award.

3318 SECTION 129B. There shall be a commission to develop an index of creative education
3319 in the public schools. The commission shall consist of the commissioner of elementary and
3320 secondary education, the secretary of housing and economic development, the secretary of labor
3321 and workforce development, or their designees, the executive director of the Massachusetts
3322 cultural council, 3 members to be appointed by the senate who shall reside in different
3323 geographic regions, 3 members to be appointed by the house who shall reside in different
3324 geographic regions and 5 persons to be appointed by the governor who shall reside in different
3325 geographic regions, 1 of whom shall be a representative of the Massachusetts Advocates for the
3326 Arts, Sciences and Humanities, 1 of whom shall be a representative of the Associated Industries
3327 of Massachusetts and 1 of whom shall be a representative of the Massachusetts Business. Each
3328 of the members shall be an expert or have experience in the fields of education, public policy,
3329 artistic development, workforce development or cultural development

3330 In the course of its deliberations, the commission shall develop recommendations on how
3331 to produce and implement an index of creative and innovative education in the public schools,
3332 what funding or finance measures the commonwealth would need to implement that index and
3333 any recommendations for interagency agreements, intermunicipal agreements or other
3334 cooperative agreements that would be required to foster creative and innovative education
3335 programs in the public schools. The index shall rate every public school on teaching,
3336 encouraging and fostering creativity in students. The index shall be based in part on the creative

3337 opportunities in each school as measured by the availability of classes and before-school and
3338 after-school programs offered by and through school districts that provide creative opportunities
3339 for students including, but not limited to, arts education, debate clubs, science fairs, theatre
3340 performances, concerts, filmmaking and independent research.

3341 The commission shall measure and encourage skill building in increasingly critical areas
3342 to employers such as creativity, creative thinking skills, innovation and teamwork. The
3343 commission may hold public hearings to assist in the collection and evaluation of data and
3344 testimony. The commission shall complete a written report detailing any factors to be
3345 considered in the index and any financial measures that would be necessary for implementation.
3346 The commission shall submit a report to the governor, the clerks of the senate and house of
3347 representatives, the joint committee on tourism, arts and cultural development and the joint
3348 committee on education not later than December 31, 2010.

3349 Any research, analysis or other staff support that the commission reasonably requires
3350 shall be provided by the department of elementary and secondary education, the executive office
3351 of housing and economic development and the executive office of labor and workforce
3352 development, in cooperation with the Massachusetts cultural council.

3353 Section 129C. Notwithstanding any general or special law to the contrary, agencies of
3354 the executive branch, constitutional offices and quasi-governmental agencies shall identify
3355 programs and services that support and enhance the development of cultural and creative districts
3356 and assures that they are accessible to such districts.

3357 The Massachusetts cultural council shall, in cooperation with the executive branch,
3358 constitutional offices, quasi-governmental agencies and the joint committee on tourism, arts and

3359 cultural development, identify additional and existing state incentives and resources that will
3360 enhance state designated cultural and creative districts and shall report their findings together
3361 with drafts of legislation as may be necessary to carry its recommendations into effect by filing
3362 the findings and recommendations with the clerks of the house of representatives and the senate,
3363 and the co-chairs of the joint committee on tourism, arts and cultural development not later than
3364 December 1, 2010.

3365 SECTION 130. The state secretary shall immediately notify all agencies required to file
3366 rules or regulations under section 5 of chapter 30A of the General Laws of the new requirements
3367 regarding small business impact statements.

3368 SECTION 131. (a) There shall be a commission to study the feasibility of establishing a
3369 bank owned by the commonwealth or by a public authority constituted by the commonwealth.

3370 (b) The commission shall consist of the secretary for administration and finance and the
3371 secretary of housing and economic development or their respective designees, who shall serve as
3372 co-chairs of the commission; the state treasurer or the treasurer's designee; the state comptroller
3373 or the comptroller's designee; 2 persons to be appointed by the president of the senate, 1 of
3374 whom shall be a member of the senate; 1 person to be appointed by the minority leader of the
3375 senate; 2 persons to be appointed by the speaker of the house of representatives; 1 of whom shall
3376 be a member of the house of representatives; 1 person to be appointed by the minority leader of
3377 the house; the executive directors of the Massachusetts Development Financing Agency and the
3378 Massachusetts Housing Finance Agency or their designees; president of the Massachusetts
3379 Growth Capital Corporation or the president's; and 8 persons to be appointed by the governor
3380 who shall not be employees of the executive branch, 3 of whom shall be drawn from a list of 5

3381 names submitted by the Massachusetts Bankers Association, at least 1 of whom shall be a
3382 representative of a community bank operating in the commonwealth, 1 of whom shall be drawn
3383 from a list of 3 names submitted by the Associated Industries of Massachusetts, 1 of whom shall
3384 be drawn from a list of 3 names submitted by the Small Business Association of New England
3385 and 1 of whom shall be a professor at an institution of higher education in the commonwealth
3386 who has researched and published articles on banking. Of the governor's remaining
3387 appointments, not more than 1 may be a representative of a financial services firm located in the
3388 commonwealth. The governor shall ensure geographic diversity in the governor's appointments
3389 to the commission. The members of the commission shall be appointed not later 90 days after the
3390 effective date of this act.

3391 (c) The commission shall examine the technical, legal and financial feasibility of
3392 establishing a commonwealth-owned bank, including but not limited to a commonwealth-owned
3393 bank for infrastructure investment purposes. The commission shall seek participation in its
3394 deliberations from the president of the Federal Reserve Bank of Boston or the president's
3395 designee. The commission shall evaluate the experiences of other states with state-owned banks,
3396 identifying the financial performance of such banks and evaluating the lending practices of such
3397 banks to show whether such banks successfully fill lending gaps not filled by the private sector.
3398 The commission shall also evaluate the manner in which public funds are invested or deposited
3399 by the commonwealth and its political subdivisions including funds managed by the state
3400 treasurer; the Massachusetts Municipal Depository Trust and state and local pension funds. The
3401 commission shall examine the infrastructure investment activities conducted by other states with
3402 state-owned banks. The commission shall also examine the lending practices, including lending
3403 to support infrastructure, of the existing public agencies in the commonwealth that perform

3404 lending services. The Massachusetts development finance agency, Massachusetts Housing
3405 Finance Agency, Health and Educational Facilities Authority, Massachusetts Growth Capital
3406 Corporation and any other public authority in the commonwealth that lends money shall
3407 cooperate fully with the commission and shall supply information reasonably required by the
3408 commission to carry out its charge.

3409 (d) The commission shall hold at least 3 public hearings in distinct geographic regions of
3410 the commonwealth.

3411 (e) The commission shall publish its findings and recommendations, together with drafts
3412 of legislation, if any, necessary to carry those recommendations into effect, in a written report
3413 not later than 1 year after the effective date of this act. The report shall be published on the
3414 official website of the commonwealth, and shall be contemporaneously filed with the house and
3415 senate committees on ways and means and the house and senate chairs of the joint committee on
3416 financial services.

3417 Section 131A. The governor, in conjunction with the Massachusetts Broadband Institute,
3418 shall submit a report to the clerks of the house of representatives and the senate not later than
3419 December 31, 2010, detailing the Massachusetts Broadband Institute's progress in expanding
3420 broadband access in the commonwealth. The report shall detail and explain what the
3421 administration has done to ensure broadband access in the commonwealth since the effective
3422 date of chapter 231 of the acts of 2008, notwithstanding any efforts that have been impacted by
3423 funding received from the American Recovery and Reinvestment Act. The report shall include,
3424 but not be limited to, explanations of the following: (i) which geographic areas have been
3425 identified as lacking broadband access; (ii) which geographic areas have been prioritized to

3426 receive broadband access; (iii) how the local economy of these areas has been affected by the
3427 lack of broadband access and how that local economy will be affected if the area receives
3428 broadband access; and (iv) how the administration will proceed to ensure all citizens of the
3429 commonwealth have access to high-speed internet by June 30, 2011.

3430 SECTION 131B. There shall be a commission to study on alternative, dependable
3431 sources for funding tourist visitor centers in order to improve tourism throughout the
3432 commonwealth.

3433 The commission shall be chaired jointly by the executive director of travel and tourism or
3434 the executive director's designee and the executive director of business development or the
3435 executive director's designee. The commission shall also include the house and the senate chairs
3436 of the joint committee on tourism, arts and cultural development or their designees, 1
3437 representative from the Massachusetts Visitor Industry Council, and 5 additional members to be
3438 appointed by the governor who shall be from geographically diverse areas and each of whom is a
3439 representatives of a regional tourism council, including the Berkshire Hills Visitors Bureau, the
3440 Bristol County Convention and Visitors Bureau, the Cape Cod Chamber of Commerce, the
3441 Franklin County Chamber of Commerce, the Greater Boston Convention and Visitors Bureau,
3442 the Worcester County Convention and Visitors Bureau, the Martha's Vineyard Chamber of
3443 Commerce, the Greater Merrimack Valley Convention and Visitors Bureau, the Mohawk Trail
3444 Association, the North of Boston Convention and Visitors Bureau, the Greater Springfield
3445 Convention and Visitors Bureau, the Plymouth County Development Council, Inc., and the
3446 Nantucket Island Chamber of Commerce.

3447 The study shall include but not be limited to effects of funding cuts on staffing and
3448 services, as well exploring alternative, dependable sources to fund tourist centers. The
3449 commission shall report the results of the study to the office of travel and tourism, the office of
3450 business development, the joint committee on tourism, arts and cultural development, and the
3451 house and senate committees on ways and means no later than December 31, 2010.

3452 SECTION 131C. The executive office of labor and workforce development shall conduct
3453 a study on the effects of altering the commonwealth's unemployment insurance statutes to
3454 maximize the share of federal dollars used to pay for unemployment benefits without impacting
3455 the benefits received by residents of the commonwealth, and shall report its findings to the joint
3456 committee on labor and workforce development not later than 1 year after the effective date of
3457 this act.

3458 SECTION 131D. No at-will employees of a state authority, as defined in section 1 of
3459 chapter 29 of the General Laws, may be provided compensation in salary or wages in excess of
3460 the salary provided to the governor, under section 1 of chapter 6 of the General Laws, unless
3461 there is a documented justification for such higher compensation, and said documentation is
3462 signed by the secretary of administration and finance.

3463 SECTION 131E. No state authority, as defined in section 1 of chapter 29 of the General
3464 Laws, may enter into a contract, executed after the effective date of this act, with an employee
3465 that provides compensation in salary or wages in excess of the salary provided to the governor,
3466 under section 1 of chapter 6 of the General Laws unless there is a documented justification for
3467 such higher compensation, and said documentation is signed by the secretary of administration
3468 and finance.

3469 SECTION 132. The Massachusetts office of business development shall within 180 days
3470 of the effective date of this act publish and release a solicitation for a competitive regional
3471 economic development bidding process under section 3K of chapter 23A. The solicitation shall
3472 seek applications from eligible organizations under said section 3K to act as the
3473 commonwealth's primary agents for business development in each region of the commonwealth.

3474 The Massachusetts office of business development may implement the bidding process as
3475 a phased, multi-step process that may include 1 or more of the following prior to the issuance of
3476 a request for proposals:

3477 a request for information that would inform the development of a request for proposals;

3478 a call for solutions that would focus on regional approaches to meet the needs of
3479 specified industry sectors or clusters or locations in the commonwealth; and

3480 a request for qualifications that would determine the pool of entities that would be
3481 eligible to apply for funding.

3482 The Massachusetts office of business development shall not initiate the bidding process
3483 under this section until the Massachusetts office of business development promulgates the
3484 formula for contractual reimbursement required in sections 3J and 3K of chapter 23A.

3485 SECTION 133. Within 90 days of the effective date of this act or at least 180 days before
3486 the expiration of the current contract with the Massachusetts business development corporation,
3487 whichever shall occur earlier, the Massachusetts office of business development shall initiate a
3488 competitive process seeking bidders to administer, either jointly or separately, the capital access
3489 program described in sections 57 and 58 of chapter 23A of the General Laws and the

3490 redevelopment access to capital program described in sections 60 and 61 of said chapter 23A.
3491 Contracts for the administration of the programs described in the preceding sentence shall be
3492 within the definition of “services,” as defined in section 1 of chapter 12A of the General Laws.

3493 SECTION 133A. The executive office of housing and economic development and the
3494 economic assistance coordinating council shall promulgate regulations that reflect the changes
3495 implemented in section 74A of this act.

3496 SECTION 134. The state comptroller shall transfer the balance of the Economic
3497 Stabilization Trust, established by section 8 of chapter 23D of the General Laws, to the
3498 Massachusetts Growth Capital Corporation, established in chapter 40F, to be used to provide
3499 financing and technical services to small business.

3500 SECTION 135. Sections 65 to 71 of this act shall only apply to regulations proposed
3501 after the effective date of this act.

3502 SECTION 135A. Sections 2, 4, 8, 9, 15 to 35, inclusive, 40 to 43, inclusive, 53, 54, 57,
3503 59, 60, 61, 74 to 76, inclusive, 78, 81 to 89, inclusive, 95, 105, 109 to 112, inclusive, 116, 119 to
3504 121, inclusive, 128, 129 and 134 shall take effect on July 1, 2010.

3505 SECTION 136. Sections 38 and 39 shall take effect upon the termination of the
3506 Massachusetts office of business development’s current contract with the Massachusetts business
3507 development corporation, without renewal or extension of those contracts.

3508 SECTION 136A. Sections 96 to 101 shall apply only to districts created on or after the
3509 effective date of this act.

3510 SECTION 136B. Sections 102, 103, 114 and 115 of this act shall take effect not later
3511 than December 31, 2010; provided, however, that said sections shall take effect earlier upon
3512 certification and 30 day notice from the chief justice for administration and management that the
3513 trial courts have the capacity to track the number of statements of claim filed by any party during
3514 a calendar year in a small-claims session of the court, in either the district court or the Boston
3515 municipal court; and provided further that if the capacity does not exist as of October 31, 2010,
3516 the chief justice for administration and management shall file a report with the president of the
3517 senate and the speaker of the house of representative detailing the status of such efforts and
3518 estimating when such capacity will exist.

3519 SECTION 136C. Section 104 shall apply only to taxes assessed on or after January 1,
3520 2011.