HOUSE DOCKET, NO. 3048 FILED ON: 1/21/2011

# HOUSE . . . . . No. 2763

## The Commonwealth of Massachusetts

PRESENTED BY:

***Thomas A. Golden, Jr.***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act making the deposit of public monies uniform.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---|---|---|
| *Thomas A. Golden, Jr.* | *16th Middlesex* | *1/21/2011* |

HOUSE DOCKET, NO. 3048 FILED ON: 1/21/2011

# HOUSE . . . . . No. 2763

By Mr. Golden of Lowell, a petition (accompanied by bill, House, No. 2763) of Thomas A. Golden, Jr. for legislation to establish uniformity in the deposit of public monies in certain financial institutions. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *918* OF 2009-2010.]

## The Commonwealth of Massachusetts

**In the Year Two Thousand Eleven**

An Act making the deposit of public monies uniform.

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

SECTION 1. Section 22 of Chapter 35 is hereby amended by striking the section and inserting in place thereof the following section:

Section 22. Except as otherwise provided, county treasurers, clerks of the courts, clerks of the district courts, sheriffs and superintendents of jails and houses of correction, probation officers, registers of probate and insolvency and register of deeds, having more money in their hands than is required for immediate use, shall deposit it, in their official names, in national banks, trust companies, savings banks, co-operative banks, federal savings banks or banking companies, lawfully doing business in the Commonwealth and qualified to receive demand deposits under the provisions of section six A of chapter one hundred and seventy-two A, at the best practicable interest rates. County treasurers may also deposit in time deposits in

such national banks, trust companies, savings banks, co-operative banks, federal savings banks or banking companies, and invest in United State treasury bills. Interest thereon shall be paid to the county, except that interest accruing to deposits by registers of probate and clerks of courts shall be paid to the Commonwealth; provided, that interest accruing on the deposit as aforesaid of any money paid to any official mentions in this section which is so paid under order of a court or which is otherwise subject to the direction of a court shall, if the court so directs, be paid to the parties entitled to the principal fund of such deposit.

SECTION 2: Section 4 of chapter 40G of the General Laws is hereby amended by striking the section and inserting in place thereof the following section:

Section 4. There is hereby established an investment fund to which shall be credited any state appropriations or other moneys made available to the fund.

The corporation shall hold the investment fund in an account or accounts separate from other funds. The corporation shall invest and reinvest the fund and the income thereof, in only two ways: (1) in the purchase of qualified securities issued by enterprises for the purpose of raising seed capital, provided that such investment complies with the requirements of this chapter and the board makes the findings in connection with such investment required by this section 5; and (2) in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth. All appropriations, grants, contractual reimbursements and all other funds designated for this purpose, and the proceeds of all investments made pursuant to the preceding sentence, may be used to pay for the proper general expenses of the MTDC.

Unless otherwise specified, all moneys of the MTDC from whatever source derived shall be paid to the treasurer of the MTDC. Said moneys shall be deposited in the first instance

by the treasurer in one or more national banks, trust companies, savings banks, cooperative banks, federal savings banks or banking companies in compliance with section 34 of chapter 29. Funds in said accounts shall be paid out on the warrant or other order of the treasurer of the MTDC or of such other person or persons as the board may authorize to execute such warrants or orders.

The corporation shall purchase qualified securities issued by an enterprise only after (a) receipt of an application from the enterprise which contains a business plan including a description of the enterprise and its management, product and market, a statement of the amount, timing and projected use of the capital required, a statement of the potential economic impact of the enterprise, including the number, location and types of jobs expected to be created, and such other information as the board shall request, and (b) approval of the investment by the board after the board shall find, based upon the application submitted by the enterprise and such additional investigation as the staff of the MTDC shall make, and incorporate in its minutes that:

(1) the proceeds of the investment will only be used to cover the seed capital needs of the enterprise except as hereinafter authorized;

(2) the enterprise has a reasonable chance of success;

(3) MTDC participation is necessary to the success of the enterprise because funding for the enterprise is unavailable in the traditional capital markets, or because funding has been offered on terms that would substantially hinder the success of the enterprise;

(4) the enterprise has the reasonable potential to create a substantial amount of primary employment within the commonwealth;

(5) the entrepreneur and other founders of the enterprise have already made or are prepared to make a substantial financial and time commitment to the enterprise;

(6) the securities to be purchased are qualified securities;

(7) there is a reasonable possibility that the MTDC will recoup at least its initial investment; and

(8) binding commitments have been made to the MTDC by the enterprise for adequate reporting of financial data to the MTDC, which shall include a requirement for an annual or other periodic audit of the books of the enterprise, and for such control on the part of the MTDC as the board shall consider prudent over the management of the enterprise, so as to protect the investment of the MTDC, including, in the discretion of the board and without limitation, right of access to financial and other records of the enterprise.

If the MTDC makes a direct investment, the board shall also find that:

(9) a reasonable effort has been made to find a professional investor to make an investment in the enterprise as a co-venture, and that such effort was unsuccessful. Such findings when made by the board shall be conclusive.

The corporation shall not make investments in qualified securities issued by enterprises in excess of the following limits:

(1) Not more than $1,000,000 shall be invested in the securities of any one enterprise, except that not more than a total of $2,000,000 may be invested in the securities of any one enterprise, if the board shall find, after the initial investment by the MTDC, that additional investments in such enterprise are required to protect the initial investment of the MTDC. If the

additional investment does not meet all the conditions set forth in clauses (1) to (9), inclusive, in the fourth paragraph for initial investments, the additional investment may only be made if the board of directors, after considering the purposes of this chapter, makes a good faith determination that its fiduciary responsibility to protect the initial investment in an entity requires that the additional investment be made. From time to time, the board of directors may adjust these limits to reflect changes in annual inflation of the dollar.

(2) At least 50 per cent of all MTDC investments shall be made in enterprises that will:

(a) locate in, or provide substantial employment to residents of, economic target areas as defined in section 3D of chapter 23A or municipalities that satisfy the criteria for economic target areas;

(b) provide substantial employment opportunities to unskilled or semi-skilled individuals;

(c) provide substantial employment opportunities for individuals undertaking job retraining as a consequence of technological change or corporate restructuring; or

(d) provide a service that primarily benefits residents of low and moderate income communities.