

# HOUSE . . . . . No. 3983

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## The Commonwealth of Massachusetts

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CHARLES D. BAKER  
GOVERNOR

OFFICE OF THE GOVERNOR  
COMMONWEALTH OF MASSACHUSETTS  
· , MA

KARYN POLITO  
LIEUTENANT GOVERNOR

*January 28, 2016*

To the Honorable Senate and House of Representatives,

Last month, we filed our economic development plan, “Opportunities for All, the Baker-Polito Strategy and Plan for Making Massachusetts Great Everywhere.” Today we are submitting for your consideration “An Act to Provide Opportunities for All.” This legislation is the first step in implementing our administration’s plan to promote economic prosperity for our citizens, economic vitality for our communities, and economic growth for our businesses. Through this legislation, we ask you to authorize approximately \$1 billion in capital investments in our communities, our businesses and our citizens over the next five years. We will leverage these funds through public-private partnerships and, when available, federal grants to bring economic opportunities to every corner of the state.

First, we ask you to invest in our communities so that they can prepare themselves for success. The original capital authorization for the tremendously successful MassWorks program expires this year. This bill authorizes an additional \$500 million over five years for MassWorks to empower our cities and towns to build the infrastructure necessary for economic development and job creation. The bill also includes the following provisions to help municipalities succeed:

- \$50 million over five years for the Transformative Development Fund to enhance redevelopment projects in our Gateway Cities and catalyze private investments
- \$75 million over five years for the Brownfields Redevelopment Fund to facilitate the redevelopment of contaminated properties

- \$25 million over five years for a new site assembly and pre-development fund to better position our communities, especially in regions outside of the Boston metropolitan area, to compete for new businesses with other states and countries
- \$25 million over five years for the Smart Growth Trust Fund which, combined with proposed improvements and expansions to Chapter 40R, to encourage cities and towns to help meet the Commonwealth's need for dense, smart growth housing and more moderately priced family "starter homes"
- Cities and towns will be given the option of creating parking management districts, using demand-based pricing for parking, and using parking revenues for a broader range of public purposes
- Market rate housing production in our Gateway Cities will be supported by expanding and reforming the Housing Development Incentive Program (HDIP), including by making new construction eligible for the HDIP credit, in addition to rehabilitation projects, and increasing the amount of the credit from 10 percent of qualified expenditures to 25 percent of qualified expenditures
- The Urban Center Housing Tax Increment Financing Program will be made more flexible to encourage greater utilization and associated production of needed housing
- The Infrastructure Investment Incentive Program (i-Cubed) will be made more flexible to increase the number of projects it is able to support

Second, we ask you to invest in our innovation economy. Our world-class universities are well positioned to win federal grants to bring industry and academia together to accelerate growth in advanced manufacturing. This bill authorizes up to \$118 million of capital expenditures for a new Massachusetts Manufacturing Innovation Initiative (M2I2) to be administered by the MassTech Collaborative. State funds will be matched by federal and industry funds, multiplying the impact on our economy. In addition to advancing our manufacturing sector, this bill expands the mandate of the Massachusetts eHealth Institute to expand its work promoting development of eHealth businesses.

The bill also provides for an additional \$25 million for the Scientific and Technology Research and Development Matching Grant Fund and alters that fund's enabling statute in order to allow for support of a greater diversity of projects. Finally, the bill authorizes \$25 million for MassDevelopment to create a new program to create and enhance innovation infrastructure by providing grants and loans to municipalities, private property owners and business operators to spur entrepreneurial activity across the state.

Third, we ask you to invest in our citizens, helping connect people to jobs. Too many good-paying jobs are going unfilled because of a gap between the skills of people who want to

work and the job requirements of employers who want to hire them. Our Workforce Skills Cabinet—bringing together the Secretaries of Education, Labor and Workforce Development, and Housing and Economic Development—is focused on helping bridge this gap. Building on the \$9.2 million Skills Capital grant program we launched in December, this bill authorizes an additional \$75 million over five years to fund grants for equipment to expand and improve career technical education programs. These programs, particularly when they provide participants with access to post-secondary educational opportunities, have tremendous potential to help close this gap. In addition to funding this grant program, the bill also reorients Regional Economic Development Organizations to focus on the needs of employers in order to support workforce development across the entire Commonwealth.

Finally, the bill will enhance our competitiveness by modernizing, clarifying and simplifying a number of our statutes. Most importantly, the bill streamlines and simplifies the Economic Development Incentive Program, making the program more flexible and transparent, and allowing the Commonwealth to compete for truly extraordinary economic development opportunities. Other provisions double—from \$500,000 to \$1,000,000—the limit on loan guarantees from the Massachusetts Export Development Fund; clarify the “blue law” exemption relating to transporting goods in commerce to eliminate any doubt that it applies to warehouses and fulfillment centers; and eliminate unnecessary restrictions on retailers, restaurants and small brewers to increase consumer choice and market access in the sale of alcoholic beverages.

Each of these capital authorizations and updates to the law will bring us closer to achieving the goals set out in our economic development plan. We urge your prompt enactment of this legislation.

Respectfully submitted,

Charles D. Baker,  
*Governor*

The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Eighty-Ninth General Court  
(2015-2016)  
\_\_\_\_\_

An Act to provide opportunities for all.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to forthwith finance improvements to the Commonwealth's economic infrastructure and promote economic opportunity, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*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. To provide for a program of economic development and job creation, the  
2       sums set forth in sections 2A, 2B and 2C, for the several purposes and subject to the conditions  
3       specified in this act, are hereby made available, subject to the laws regulating the disbursement  
4       of public funds; provided, however, that the amounts specified in an item or for a particular  
5       project may be adjusted in order to facilitate projects authorized in this act. These sums shall be  
6       in addition to any amounts previously authorized and made available for these purposes.

7           SECTION 2A.

8           EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

9           Office of the Secretary

10           7002-8006     For the MassWorks infrastructure program established by section 63 of  
 11 chapter 23A of the General Laws ..... \$500,000,000

12           7002-8007     For matching grants to enable institutions of higher education located in  
 13 the commonwealth to participate in and receive federal funding from the National Network for  
 14 Manufacturing Innovation ..... \$118,000,000

15           7002-8008     For a program administered by the Massachusetts Development Finance  
 16 Agency for site assembly, site assessment, pre-development permitting and other pre-  
 17 development and marketing activities that enhance a site’s readiness for commercial or industrial  
 18 development; provided that a portion of such funds shall be used to facilitate the expansion or  
 19 replication of successful industrial parks; and provided further that a portion of such funds shall  
 20 be used to support the revitalization of downtown areas.  
 21 .....\$25,000,000

22           7002-8009     For a program to be administered by the Massachusetts Development  
 23 Finance Agency to make grants and loans to municipalities, private property owners and  
 24 business operators for design, construction and, improvement of buildings and for equipment to  
 25 spur innovation and entrepreneurship across the state, including but not limited to co-working  
 26 spaces, innovation centers, maker spaces and artist spaces ..... \$25,000,000

27           7002-8011     For the Brownfields Redevelopment Fund established by section 29A of  
 28 chapter 23G of the General Laws ..... \$75,000,000

29           7002-8012     For the Transformative Development Fund established by section 46 of  
 30 chapter 23G of the General Laws ..... 50,000,000

31           7002-8013     For the Scientific and Technology Research and Development Matching  
32   Grant Fund established by section 4G of chapter 40J of the General Laws .....\$25,000,000

33           SECTION 2B.

34           EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

35           Department of Housing and Community Development

36           7004-8014     For the Smart Growth Housing Trust Fund established by section 35AA of  
37   chapter 10 of the General Laws..... \$25,000,000

38           SECTION 2C.

39           EXECUTIVE OFFICE OF EDUCATION

40           Office of the Secretary

41           7009-2005     For a competitive grant program to be administered by the executive  
42   office of education, in consultation with the executive office of housing and economic  
43   development and the executive office of labor and workforce development, to provide funding  
44   for the purchase and installation of equipment, and any related improvements and renovations to  
45   facilities necessary for the installation and use of such equipment, for the purpose of establishing,  
46   upgrading and expanding career technical education and training programs that are aligned to  
47   regional economic and workforce development priorities; provided further, that grant  
48   applications may facilitate collaboration to provide students enrolled in eligible vocational-  
49   technical schools with post-secondary opportunities, consistent with the principles recognized in  
50   subsection (o) of section 22 of chapter 15A and section 37A of chapter 74 of the General Laws;  
51   and provided further, that the executive office of education, in consultation with the executive

office of housing and economic development and the executive office of labor and workforce development, shall adopt additional guidelines as necessary for the administration of the program..... \$75,000,000

SECTION 3. Notwithstanding any general or special law to the contrary, to meet the expenditures necessary in carrying out section 2A, the state treasurer shall, upon receipt of a request by the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$818,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Opportunities for All Act of 2016, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2051. All interest and payments on account of principal on such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provision of this act, be general obligations of the commonwealth.

SECTION 4. Notwithstanding any general or special law to the contrary, to meet the expenditures necessary in carrying out section 2B, the state treasurer shall, upon receipt of a request by the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$25,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Opportunities for All Act of 2016, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not

75 later than June 30, 2051. All interest and payments on account of principal on such obligations  
76 shall be payable from the General Fund. Bonds and interest thereon issued under the authority of  
77 this section shall, notwithstanding any other provision of this act, be general obligations of the  
78 commonwealth.

79 SECTION 5. Notwithstanding any general or special law to the contrary, to meet the  
80 expenditures necessary in carrying out section 2C, the state treasurer shall, upon receipt of a  
81 request by the governor, issue and sell bonds of the commonwealth in an amount to be specified  
82 by the governor from time to time but not exceeding, in the aggregate, \$75,000,000. All bonds  
83 issued by the commonwealth, as aforesaid, shall be designated on their face, Opportunities for  
84 All Act of 2016, and shall be issued for a maximum term of years, not exceeding 30 years, as the  
85 governor may recommend to the general court pursuant to Section 3 of Article LXII of the  
86 Amendments to the Constitution; provided, however, that all such bonds shall be payable not  
87 later than June 30, 2051. All interest and payments on account of principal on such obligations  
88 shall be payable from the General Fund. Bonds and interest thereon issued under the authority of  
89 this section shall, notwithstanding any other provision of this act, be general obligations of the  
90 commonwealth.

91 SECTION 6. Section 18 of chapter 21A of the General Laws, as appearing in the 2014  
92 Official Edition, is hereby amended by striking out, in line 269, the figure “3D” and inserting in  
93 place thereof the following figure:- 3G.

94 SECTION 7. Section 2 of chapter 21E of the General Laws, as so appearing, is hereby  
95 amended by striking out, in line 80, the figure“3D” and inserting in place thereof the following  
96 figure:- 3G.



SECTION 8. Chapter 23A of the General Laws, as so appearing, is hereby amended by striking out sections 3A to 3G inclusive and inserting in place thereof the following 9 sections:-

Section 3A. (a) The Economic Development Incentive Program shall be administered by the economic assistance coordinating council, under the oversight of the secretary of the executive office of housing and economic development, to provide incentives that stimulate job creation and investment of private capital and to promote economic growth and expand economic opportunity to all areas of the commonwealth. EDIP tax credits and other incentives shall be administered to stimulate job creation, attract new business activity and promote investment that would not otherwise occur in the commonwealth.

(b) As used in sections 3A to 3H, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Affiliate”, any business which directly or indirectly controls or is controlled by or is under direct or indirect common control with another business, including, but without limitation, any business with whom a business is merged or consolidated, or which purchases all or substantially all of the assets of a business.

“Alternative EDIP tax credits”, tax credits that may be awarded to the controlling business of a certified project that has been designated as an extraordinary economic development opportunity, or to an affiliate of the controlling business, as allowed by paragraph (2) of subsection (g) of section 6 of chapter 62, or subsection (b) of section 38N of chapter 63.

“Business”, a corporation, partnership, firm, unincorporated association or other entity engaging or proposing to engage in economic activity within the commonwealth, and any affiliate thereof, which is subject to taxation under chapter 62 or chapter 63.

“Certified project”, a proposed project that is certified by the economic assistance coordinating council pursuant to section 3C.

“Controlling business”, a business that owns, leases or has the power to direct the operation or management of all or a portion of a facility at which the business employs, or intends to employ, permanent full-time employees.

“Economic assistance coordinating council” or “EACC”, the council established pursuant to section 3B.

“EDIP contract”, a written and enforceable agreement between MOBD and the recipient of EDIP tax credits setting forth the amount of credits awarded, the schedule on which the credits may be claimed, any restriction on the carryover of unused credits, the consequences for failing to produce the projected new jobs or new investment, and such other terms and conditions as MOBD may in its discretion require.

“EDIP tax credits”, the tax credits authorized by the EACC pursuant to section 3D of this chapter and claimed by a taxpayer pursuant to subsection (g) of section (6) of chapter 62 or section 38N of chapter 63.

“Expansion of an existing facility”, the relocation of business functions and employees from one location in the commonwealth to another location in the commonwealth, or the expansion of an existing facility located in the commonwealth, provided that such relocation or expansion results in a net increase in the number of permanent full-time employees at the relocated or expanded facility.

“Extraordinary economic development opportunity”, a proposed project that is jointly designated by the secretary of the executive office of housing and economic development and the secretary of the executive office for administration and finance as an extraordinary economic development opportunity as provided in subsection (d) of section 3C.

“Facility”, the real property, which may include multiple buildings or locations, owned or leased, on which a business is undertaking or will undertake a commercial, manufacturing or industrial activity.

“Gateway municipality”, a municipality with a population greater than 35,000 and less than 250,000, a median household income below the commonwealth’s average and a rate of educational attainment of a bachelor’s degree or above that is below the commonwealth’s average.

“Material non-compliance”, the failure of a controlling business to substantially achieve the capital investment, job creation, job retention or other economic benefits set forth in the EDIP contract, or any other act, omission or misrepresentation by the controlling business that frustrates the public purpose of the economic development incentive program.

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

“Municipal project endorsement”, an endorsement of a proposed project by the municipality in which a proposed project will be located, which must include (i) a finding by the municipality that the proposed project is consistent with the municipality’s economic development objectives; (ii) a finding by the municipality that the proponent of the proposed project has the means to undertake and complete the proposed project; (iii) a finding by the municipality that the proposed project will have a reasonable chance of increasing or retaining

employment opportunities as advanced in the proposal; (iv) a determination by the municipality that the proposed project will not overburden the municipality's infrastructure and other supporting resources; and (v) a description of the local tax incentive, if any, offered by the municipality in support of the proposed project, together with a copy of the fully executed tax increment financing agreement or agreement setting forth the terms of the special tax assessment, as applicable.

"Municipality", a city or town in the commonwealth or, in a case in which two or more cities or towns agree to act jointly for some purpose hereunder then, collectively, all cities and towns participating in such a collaborative agreement.

"Permanent full-time employee", an individual who is paid wages by a controlling business and who (i) at the inception of the employment relationship does not have a termination date which is either a date certain or determined with reference to the completion of some specified scope of work; (ii) works at least 35 hours per week; and (iii) receives employee benefits at least equal to those provided to other full-time employees of the controlling business. For purposes of this chapter, the term permanent full-time employee shall not include any contractors or part-time employees who may be included in a calculation of the controlling business's full-time equivalent workforce.

"Proportion of compliance", a fraction which has as its numerator the number of actual permanent full-time employees at a facility and which has as its denominator the number of permanent full-time employees required to be employed at the facility under the terms of an EDIP contract.

182 “Proposed project”, a proposal submitted by a controlling business to the EACC for  
183 designation as a certified project.

184 “Real estate project”, the construction, rehabilitation or improvement of one or more  
185 buildings or other structures on a parcel of real property, which, when completed, will result in  
186 an increase in the assessed value of the real property of at least 100 per cent over the assessed  
187 value of said real property prior to the project.

188 “Refundable credit”, a tax credit awarded pursuant to this chapter that is not limited by  
189 the amount of the controlling business’s tax liability and which may result in a payment from the  
190 department of revenue to the controlling business.

191 “Replacement of an existing facility”, the relocation of business functions and personnel  
192 from one facility located in the commonwealth to another facility in the commonwealth, or the  
193 improvement of an existing facility, provided that such relocation or improvement does not  
194 qualify as an expansion of the existing facility as defined in this chapter.

195 “Special tax assessment”, a temporary reduction in real property tax offered by a  
196 municipality and approved by the EACC in accordance with subsection (c) of section 3E of this  
197 chapter.

198 “Tax increment financing agreement”, a binding agreement between a municipality and a  
199 real property owner consistent with the requirements of subsection (b) of section 3E of this  
200 chapter, and with section 59 of chapter 40.

201 Section 3B. (a) There shall be an economic assistance coordinating council  
202 established within MOBD consisting of: the secretary of the executive office of housing and

economic development or the secretary's designee, who shall serve as co-chairperson; the director of housing and community development or a designee, who shall serve as co-chairperson; a second person designated by the secretary of the executive office of housing and economic development; the director of career services or a designee; the secretary of labor and workforce development or a designee; the director of the office of business development or a designee; the president of the Commonwealth Corporation or a designee; and 7 persons to be appointed by the governor, 1 of whom shall be from the western region of the commonwealth, 1 of whom shall be from the central region of the commonwealth, 1 of whom shall be from the eastern region of the commonwealth, 1 of whom shall be from Cape Cod or the Islands, 1 of whom shall be a representative of a higher educational institution within the commonwealth and 1 of whom shall be from the Merrimack Valley, all of whom shall have expertise in issues pertaining to training, business relocation and inner-city and rural development, and all of whom shall be knowledgeable in public policy and international and state economic and industrial trends. Each member appointed by the governor shall serve at the pleasure of the governor. The council shall adopt by-laws to govern its affairs.

(b) The EACC shall administer the economic development incentive program and, in so doing, shall be empowered to exercise the following powers and duties:

(1) promulgate regulations and adopt policies and guidance to effectuate the purposes of sections 3A to 3H, inclusive;

(2) certify projects for participation in the economic development incentive program and establish regulations for evaluating the proposals of said projects;

225           (3)     certify and approve tax increment financing agreements and special tax  
226 assessments pursuant to section 3E and section 59 of chapter 40;

227           (4)     authorize municipalities to make application to the foreign trade zone board for  
228 the privilege of establishing, operating and maintaining a foreign trade zone in accordance with  
229 section 3G;

230           (5)     assist municipalities in obtaining state and federal resources and assistance for  
231 certified projects and other job creation and retention opportunities within the commonwealth;

232           (6)     provide appropriate coordination with other state programs, agencies, authorities  
233 and public instrumentalities to enable certified projects and other job creation and retention  
234 opportunities to be more effectively promoted by the commonwealth; and

235           (7)     monitor the implementation of the economic development incentive program.

236           (c)     The secretary of the executive office of housing and economic development shall  
237 appoint within MOBD a director of economic assistance who shall be responsible for  
238 administering the EDIP in consultation with the secretary of the executive office of housing and  
239 economic development, the director of MOBD and the EACC. The director of economic  
240 assistance shall advise the EACC on matters related to the EDIP, but shall not serve as a member  
241 of the EACC. MOBD shall annually submit to the governor, the senate and the house ways and  
242 means committees, and the joint committee on economic development and emerging  
243 technologies, within ninety days after the end of its fiscal year, a report setting forth its  
244 operations and accomplishments, including a listing of all projects certified under the EDIP.  
245 Such report shall also include recommended policies or actions, if any, to improve the  
246 effectiveness of the EDIP.

Section 3C. (a) A controlling business may petition the EACC to certify a proposed project that will create new permanent full-time employees within the commonwealth. Every proposed project submitted by a controlling business to the EACC for review and certification shall include a detailed description of the proposed project; a representation by the controlling business regarding the amount of capital investment to be made, the number of new jobs to be created, the number of existing jobs to be retained; a representation by the controlling business regarding any other economic benefits or other public benefits expected to result from the construction of the proposed project; a municipal project endorsement; and such other information as the EACC shall require by regulation, policy or guidance.

(b) Upon receipt of a complete project proposal and municipal project endorsement, the EACC may certify the proposed project, deny certification of the proposed project, or certify the proposed project with conditions. In order to certify a proposed project, with or without conditions, the EACC shall make the following required findings based on the project proposal, the municipal project endorsement, and such additional investigation, if any, as the EACC shall make and incorporate in its minutes:

(1) The proposed project is located or will be located within the commonwealth;

(2) If the controlling business has one or more existing facilities in the commonwealth, then the proposed project is an expansion of an existing facility and not merely the replacement of an existing facility, except in the case of a proposed project that will enable a controlling business to retain jobs in a gateway city as provided in subclause (ii) of clause (3) below, or



(3) The proposed project will either (i) enable the controlling business to hire new permanent full-time employees in the commonwealth, or (ii) enable the controlling business to retain at least 50 permanent full-time jobs at a facility located in a gateway city, or in an adjacent city or town that is accessible by public transportation to residents of a gateway city, and such jobs otherwise would be relocated outside of the commonwealth;

(4) The controlling business shall commit to maintain new and retained jobs for a period of at least 5 years after the completion of the proposed project;

(5) The proposed project appears to be economically feasible, and the controlling business has the financial and other means to undertake and complete the proposed project,

(6) Unless the proposed project will be located in a gateway municipality, a duly authorized representative of the controlling business has certified to the EACC that the controlling business would not undertake the proposed project but for the EDIP tax credits and local tax incentives available to it under this chapter; and

(7) The proposed project complies with all applicable statutory requirements and with such other criteria that EACC may from time to time prescribe by regulation, policy or guidance.

The EACC shall by regulation, policy or guidelines provide for the contents of an application for project certification, which may include a requirement that the controlling business provide written evidence to support the certification provided for in clause (6) of this subsection.

(c) A certified project shall retain its certification for the period specified by the EACC in its certification decision; provided, however, that such specified period shall be not less than 5 years from the date of certification nor more than 20 years from such date.

(d) The secretary of the executive office of housing and economic development and the secretary of the executive office for administration and finance may from time to time jointly designate a proposed project as an extraordinary economic development opportunity if the secretaries jointly determine that the proposed project involves the construction or substantial rehabilitation of a new facility or expansion of an existing facility within the commonwealth that is not a replacement of an existing facility in the commonwealth, or involves the relocation of an existing business to the commonwealth from a facility located outside of the commonwealth, and the proposed project meets at least one of the following additional criteria:

(1) The proposed project, if approved and constructed, will create at least 400 new jobs; or

(2) The proposed project, if approved and constructed, will result in the creation of at least 200 new jobs in a gateway municipality or in an adjacent city or town that is accessible by public transportation to residents of a gateway municipality.

The decision by the secretaries to designate or not to designate a proposed project as an extraordinary economic development opportunity shall be a decision that is within the sole discretion of each of the secretaries, and may include such conditions as the secretaries shall in their discretion impose. Such decisions shall be final and shall not be subject to administrative appeal or judicial review under chapter 30A or give rise to any other cause of action or legal or equitable claim or remedy.

Section 3D. (a) The EACC may award to the controlling business of a certified project, or to its affiliate, tax credits available under subsection (g) of section 6 of chapter 62 or section 38N of chapter 63. The amount of any such credits awarded, and the schedule on which such credits may be claimed, shall be determined by the EACC based on the following criteria:

(1) The degree to which the certified project is expected to increase employment opportunities for residents of the commonwealth, with consideration given to the number of new full-time jobs to be created, the number of full-time jobs to be retained, the salary or other compensation that will be paid to the employees, and the amount of new state income tax to be generated;

(2) The timeframe within which new jobs will be created and the commitment of the controlling business for how long they will be maintained, with preference given to certified projects in which a significant portion of the new jobs shall be created within 2 years;

(3) The amount of capital to be invested by the controlling business in the certified project;

(4) The degree to which the certified project is expected to generate net new economic activity within the commonwealth by generating substantial sales from outside of the commonwealth;

(5) The extent to which the certified project is expected to contribute to the economic revitalization of a Gateway municipality or increase employment opportunities to residents of a Gateway municipality;

329           (6)     The economic need of the municipality or region in which the certified project is  
330 located, as determined by income levels, employment levels, or educational attainment level; and

331           (7)     Commitments, if any, made by the controlling business to use Massachusetts  
332 firms, suppliers and vendors, or to retain women or minority-owned businesses, during the  
333 construction of the certified project.

334           The EACC shall have discretion as to how to weigh and apply these criteria. When  
335 making an award of tax credits pursuant to subsection (g) of section 6 of chapter 62 and section  
336 38N of chapter 63, the EACC may at its sole discretion limit the award to a specific dollar  
337 amount, may specify the schedule on which such credits may be claimed, and may limit or  
338 restrict the right of the controlling business to carry unused credits forward to future tax years.  
339 When a controlling business expects that new jobs will be created over a period of multiple  
340 years, the EACC award of tax credits may allocate and make such credits available to the  
341 taxpayer on a schedule that ensures credits are claimed on or after the date that the jobs are  
342 created.

343           (b)     A certified project that has been designated as an extraordinary economic  
344 development opportunity shall be eligible, at the discretion of the secretary of housing and  
345 economic development and the secretary of administration and finance, for the alternative EDIP  
346 tax credit provided for in paragraph (2) of subsection (g) of section 6 of chapter 62 and  
347 subsection (b) of section 38N of chapter 63. The EACC shall not make an award of alternative  
348 EDIP tax credits unless the award of such credits is expressly authorized by the secretaries in  
349 their decision to designate a certified project as an extraordinary economic development

350 opportunity. A controlling business that receives an award of alternative EDIP tax credits shall  
351 not be eligible to receive any other EDIP tax credits for the same certified project.

352 (c) The EACC shall have the discretion to grant refundable credits to a certified  
353 project; provided that the council shall not authorize more than \$5,000,000 in refundable credits  
354 for any single calendar year. Refundable credits awarded to a certified project that has been  
355 designated as an extraordinary economic development opportunity shall not be counted against  
356 the cap set forth in this subsection.

357 (d) The total amount of credits that may be authorized by the EACC under this  
358 section for any single calendar year shall not exceed \$30,000,000, to be calculated in accordance  
359 with the relevant provisions of subsection (g) of section 6 of chapter 62 and section 38N of  
360 chapter 63. Notwithstanding the cap set forth in the preceding sentence, the EACC may  
361 authorize credits in excess of the annual cap of \$30,000,000 for a certified project that is  
362 designated as an extraordinary economic development opportunity; provided that the total  
363 amount awarded shall not exceed \$50,000,000 in a calendar year. The EACC may authorize an  
364 award of credits to a controlling business that spans multiple years so long as the total amount of  
365 credits due to be taken in any single calendar year does not exceed the applicable cap.

366 (e) MOBD shall require the recipient of tax credits awarded pursuant to this section  
367 to execute an EDIP contract after the EACC awards tax credits under this section.

368 (f) The decision by the EACC to certify or deny certification to a proposed project  
369 pursuant to section 3C, and the decision by the EACC to award or deny tax credits to the  
370 controlling business of a certified project pursuant to this section, including without limitation  
371 the amount of such award, and any conditions or limitations on such award, shall be decisions

that are within the sole discretion of the EACC. Such decisions by the EACC shall be final and shall not be subject to administrative appeal or judicial review under chapter 30A or give rise to any other cause of action or legal or equitable claim or remedy.

Section 3E. (a) A municipality may offer a local tax incentive to the owner or controlling business of a certified project, or to the owner of a real estate project, if the municipality determines such project is consistent with the municipality's economic development objectives and is likely to increase or retain employment opportunities for residents of the municipality.

(b) Tax increment financing may be offered by a municipality in accordance with section 59 of chapter 40 to the controlling business of a certified project, or to any person or entity undertaking a real estate project, or to any person or entity expanding a facility in an area designated by the EACC as a TIF-eligible area. The EACC may designate an area as a TIF-eligible area if it finds, upon petition from the municipality, that there is a strong likelihood that any of the following will occur within the area in question within a specific and reasonably proximate period of time: (i) a significant influx or growth in business activity; (ii) the creation of a significant number of new jobs and not merely a replacement or relocation of current jobs within the commonwealth; or (iii) a private project or investment that will contribute significantly to the resiliency of the local economy.

If a municipality offers tax increment financing to the owner of a certified project, the municipal project endorsement for said certified project shall include a fully executed copy of the tax increment financing agreement adopted in accordance with section 59 of chapter 40. Any TIF agreement shall be approved by the EACC before it shall be valid and enforceable. The

394 EACC may approve such tax increment financing agreement pursuant to regulations adopted by  
395 the EACC. Any such approval shall include a finding, reflected in the EACC's minutes, that the  
396 tax increment financing agreement complies with section 59 of chapter 40 and will further the  
397 public purpose of encouraging increased industrial and commercial activity in the  
398 commonwealth.

399 (c) A municipality may offer a special tax assessment to the controlling business of a  
400 certified project, or to a person or entity undertaking a real estate project, or to a person or entity  
401 proposing to retain permanent full-time jobs at a facility that otherwise would be at risk of  
402 relocating outside of the commonwealth. Any special tax assessment shall be set forth in a  
403 written agreement between the municipality and the property owner. Such agreement shall set  
404 forth the amount of the tax reduction and the period of time over which such reduction shall be in  
405 effect, which shall be not fewer than 5 years or more than 20 years. Every special tax assessment  
406 approved by the EACC shall provide for a reduction of the real property tax that otherwise would  
407 be due based on a percentage reduction in the tax that otherwise would be due based on the full  
408 assessed value of the affected property. The special tax assessment shall provide for tax  
409 reduction at least equal to the following:

410 (1) in the first year, the tax reduction shall be at least 50 per cent of the tax that would  
411 be due based on the full assessed value of the affected property;

412 (2) in the second and third years, the tax reduction shall be at least 25 per cent of the  
413 tax that would be due based on the full assessed value of the affected property;

414 (3) in the fourth and fifth years, the tax reduction shall be at least 5 per cent of the tax  
415 that would be due based on the full assessed value of the affected property.

416 The municipality may at its discretion provide for greater real property tax reductions  
417 than provided in clauses (1) to (3) above.

418 The written agreement required by the first paragraph of this subsection (c) shall be  
419 approved by the EACC before it shall be valid and enforceable. The EACC may approve such  
420 special tax assessments pursuant to rules or regulations adopted by the EACC if the EACC shall  
421 determine: (i) the municipality has made a formal determination that the property owner is either  
422 undertaking a project or making other investment that will contribute to economic revitalization  
423 of the municipality and will significantly increase employment opportunities for residents of the  
424 municipality, or is retaining permanent full-time employees that otherwise would be relocated to  
425 a facility outside the commonwealth, (ii) the special tax assessment is reasonably necessary to  
426 enable the owner's investment in the project or to retain the jobs that otherwise would be  
427 relocated; and (iii) the total amount of local tax foregone is reasonably proportionate to the  
428 public benefits resulting from the special tax assessment. Any such approval shall include a  
429 finding, reflected in the EACC's minutes, that the special tax assessment complies with the  
430 requirements of this section 3E.

431 (d) Any tax increment financing agreement or special tax assessment approved by the  
432 EACC may not be amended without the approval of the EACC.

433 Section 3F. (a) No later than 2 years after the initial certification of a project by  
434 the EACC, and annually thereafter, the controlling business or affiliate awarded EDIP tax credits  
435 shall file with MOBD a report, signed by an authorized representative of the controlling business  
436 or affiliate, certifying whether the controlling business or affiliate has achieved the job creation



projections, job retention projections and other material obligations or representations set forth in the EDIP contract.

(b) In the event that MOBD shall find that a controlling business or an affiliate is in material non-compliance with a representations made to the EACC in its application for project certification or the obligations set forth in an EDIP contract, MOBD may recommend to the EACC that it revoke the project certification. Prior to making such recommendation, MOBD shall provide written notice to the controlling business stating the basis for the recommended revocation and offering the controlling business an opportunity for a hearing at which the controlling business may contest the basis for the recommendation or establish mitigating circumstances which may be relevant to the recommendation.

(c) The EACC may revoke a project certification if it determines that a controlling business or affiliate is in material non-compliance with a representations made in its application for project certification or the obligations set forth in an EDIP contract. The EACC shall have the discretion to determine whether material non-compliance shall result in revocation of a project certification, taking into account:

(1) the conduct of the controlling business subsequent to the project certification;

(2) the extent to which the material non-compliance is the result of unforeseen conditions that are outside the control of the controlling business;

(3) the potential impact on the municipality in which the certified project is located;  
and

(4) such other considerations as the EACC shall establish by regulation or policy.

Where the EACC determines that material non-compliance is due to factors outside the control of the controlling business, the EACC may elect to provide the controlling business with reasonable opportunity to cure the material non-compliance. If the EACC revokes a project's certification, it shall determine the proportion of compliance with job creation requirements applicable to the certified project, and shall report the proportion of compliance to the controlling business and to the department of revenue.

(d) Revocation of a project certification shall take effect on the first day of the tax year in which the material non-compliance occurred, as determined by the EACC. If the EACC revokes a project certification, then (i) all EDIP tax credits available to the controlling business shall be recaptured in accordance with subsection (g) of section 6 of chapter 62 and subsection (h) of section 38N of chapter 63, and (ii), the local tax incentive, if any, shall terminate unless the written agreements between the municipality and the controlling business provide otherwise. In the event of such termination, the municipality may, at its discretion, preserve the local tax incentive by amending the written agreement with the controlling business in same manner as the municipality approved it, and submitting such amendment to the EACC for approval in accordance with this section.

(e) If a controlling business has claimed tax credits awarded under this chapter prior to the date on which the EACC makes a determination to revoke project certification, then the recapture provisions of subsection (g) of section 6 of chapter 62 and subsection (h) of section 38N of chapter 63 shall apply. If a controlling business has benefited from a local tax incentive under this chapter prior to the revocation of a project certification, then notwithstanding any provision of the general laws to the contrary, the municipality that offered the local tax incentive may recapture the value of the tax not paid by making a special assessment on the controlling

business in the tax year that follows the EACC's decision to revoke project certification. The assessment, payment and collection of the special assessment shall be governed by procedures provided for the taxation of omitted property under section 75 of chapter 59 notwithstanding the time period set forth in said chapter 59 for which omitted property assessments may be imposed for each of the fiscal years included in the special assessment.

Section 3G. (a) The EACC shall have the authority to designate one or more areas of the commonwealth as an economic target area or economic opportunity area in connection with an application from a municipality seeking such designation under the federal empowerment zones and enterprise communities program, so called, or other local, state or federal programs that contemplate such designations. Designations of new economic target areas, if any, shall be made in accordance with the criteria set forth in subsection (b) of this section. Designations of new economic opportunity areas, if any, shall be made at the discretion of the EACC in accordance with regulations to be promulgated by the EACC, or rules or policies adopted by the EACC.

(b) The EACC may from time to time designate as an economic target area an area of the commonwealth comprised of 3 or more contiguous census tracts or 1 or more contiguous municipalities, provided that the area proposed for designation meets one of the following criteria:

(1) the proposed economic target area has an unemployment rate that exceeds the statewide average by at least 25 percent; or

(2) if the proposed economic target area is located in a metropolitan area, then at least fifty-one percent of the households in the proposed economic target area have incomes that are below 80 per cent of the median income for households in the metropolitan area; or

(3) if the proposed economic target area is not located in a metropolitan area, then at least 51 per cent of the households in the proposed economic target area have incomes that are below 80 per cent of the median income for households in the commonwealth; or

(4) the proposed economic target area has a poverty rate which is at least 20 per cent higher than the average poverty rate for the commonwealth; or

(5) the area proposed for designation has heightened economic need due to an industrial or military base closure; presence of underutilized maritime or electric generation facilities; or a commercial vacancy rate exceeding 20 percent; or

(6) the area proposed for designation has exceptional potential for economic development as a result of the proposed redevelopment of blighted real estate or abandoned buildings totaling at least 1,000,000 square feet; the proposed establishment of a regional technology center of 3,000,000 or more square feet; or the proposed development of a Class I renewable energy generating facility.

(c) Any municipality which contains an economic opportunity area is hereby authorized to make application to the foreign trade zone board established by an act of Congress, Public Law 397, 19 U.S.C. sections 81(a) to 81(u), inclusive, for a grant to said city or town for the privilege of establishing, operating and maintaining a foreign trade zone within its economic opportunity area. Upon petition from a city or town, the EACC may authorize any other city or

town to make application to said foreign trade zone board for a grant to said city or town for the privilege of establishing, operating and maintaining a foreign trade zone.

SECTION 9. Section 3J of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 1 to 22 inclusive, the first paragraph of subsection (a) and inserting in place thereof the following paragraph:-

The Massachusetts office of business development shall establish a plan to support regionally-based efforts to grow and retain existing businesses and attract new business to the commonwealth. To implement the regional plan and to provide efficient and consistent response to businesses seeking assistance from the commonwealth, the office shall contract with regional economic development organizations, as defined in section 3K. The contracts and reimbursements shall be designed to support regionally-based efforts to stimulate, encourage, facilitate and nurture economic growth and prosperity in the commonwealth, including, but not limited to, the identification of regional competitive strengths, challenges and opportunities, regional cluster development strategies, long-range regional skills pipeline, transportation and land use planning, and other systems-based activities related to the growth and retention of existing businesses and the attraction of new businesses into the commonwealth. The contracts shall support a network of partnerships between regional economic development organizations and the Massachusetts office of business development.

SECTION 10. Said section 3J of said chapter 23A, as so appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:-

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

commonwealth: (i) assess regional competitive strengths, weaknesses and opportunities; (ii) represent the regional business community in long-range skills pipeline planning efforts to ensure robust skills and talent pipelines that meet regional needs; (iii) represent the regional business community in collaborative, long-range skills, transportation and land use planning; (iv) promote regionally significant industry clusters; (v) promote connections across sectors of the regional economy; (vi) maintain an inventory of key development parcels; (vii) market the region in coordination with the Massachusetts marketing partnership established under section 13A; and (viii) furnish advice and assistance to businesses and industrial prospects which may locate in the region.

SECTION 11. Section 7 of chapter 23G of the General Laws, as so appearing, is hereby amended by striking out, in line 31, the figure “\$500,000” and inserting in place thereof the following figure:- \$1,000,000.

SECTION 12. Section 8 of chapter 23H of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 to 8, the words “persons residing in economic opportunity areas,”.

SECTION 13. Section 5 of chapter 23I of the General Laws, as so appearing, is hereby amended by striking out, in lines 69 to 70, the words “in an economic opportunity area pursuant to section 3F” and inserting in place thereof the following words:- as defined in section 3A.

SECTION 14. Section 49 of chapter 23K of the General Laws, as so appearing, is hereby amended by striking out in line 3, the figure “3F” and inserting in place thereof the following figure:- 3C.

SECTION 15. Said section 49 of said chapter 23K, as so appearing, is hereby further amended by striking out, in line 5, the figure “3E” and inserting in place thereof the following figure:- 3G.

SECTION 16. Said section 49 of said chapter 23K, as so appearing, is hereby further amended by striking out, in lines 25 to 26, the words, “the economic opportunity area credit” and inserting in place thereof the following words:- EDIP tax credit and alternative EDIP tax credit.

SECTION 17. Section 22A of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out, in lines 22 to 27 inclusive, the third sentence and inserting in place thereof the following 3 sentences:-

Such fees shall be established and charged at rates determined by the city or town. Rates may be set for the purpose of managing the parking supply. The revenue therefrom may be used for acquisition, installation, maintenance and operation of parking meters and other parking payment and enforcement technology; salaries of parking management personnel; improvements to publicly-owned land, public rights of way and other areas open and accessible to the public; and public transportation improvements, including but not limited to the operation and maintenance of public mass transit facilities and facilities for biking and walking.

SECTION 18. Said chapter 40, as so appearing, is hereby amended by inserting after section 22A the following section:-

Section 22A1/2. A city or town may establish one or more parking benefit districts, as a geographically defined area, in which parking revenue collected therein may be designated in whole or in part for use in said district through a dedicated fund in accordance with the purposes and uses listed in section 22A of this chapter. A parking benefit district may be managed by a

587 body designated by the municipality, including but not limited to a business improvement district  
588 or main streets organization.

589 SECTION 19. Section 22C of said chapter 40, as so appearing, is hereby amended by  
590 inserting after the word “services” in line 15 the following words:- , or any of the purposes and  
591 uses set forth in section 22A of this chapter.

592 SECTION 20. Section 59 of said chapter 40, as so appearing, is hereby amended by  
593 striking out, in lines 11 to 15, the words “an economic target area or an area presenting  
594 exceptional opportunities for increased economic development, as defined by section 3D of  
595 chapter 23A and as may be defined further by regulations adopted by the economic assistance  
596 coordinating council” and inserting in place thereof the following words:-

597 an economic target area as defined in section 3G of chapter 23A, or an area designated by  
598 the economic assistance coordinating council as a TIF-eligible area pursuant to subsection (b) of  
599 section 3E of said chapter 23A.

600 SECTION 21. Said section 59 of said chapter 40, as so appearing, is hereby further  
601 amended by striking out, in lines 84 and 88, the figure “3F” and inserting in place thereof, in  
602 each instance, the figure:- 3E.

603 SECTION 22. Section 60 of said chapter 40, as so appearing, is hereby amended by  
604 striking out, in lines 5 to 7, the words “the director of housing and community development, in  
605 consultation with the department of economic development and the department of revenue” and  
606 inserting in place thereof the following words:- the department of housing and community  
607 development, in consultation with the department of revenue.



SECTION 23. Said section 60 of chapter 40, as so appearing, is hereby further amended by striking out, in lines 15 to 18, the words “characterized by a predominance of commercial land uses, a high daytime or business population, a high concentration of daytime traffic and parking and a need for multi-unit residential properties” and inserting in place thereof the following words:-

located within an area of concentrated development, as that term is defined in section 2 of chapter 40R, characterized by a predominance of commercial land uses and a need for multi-unit residential properties.

SECTION 24. Said section 60 of said chapter 40, as so appearing, is hereby further amended by striking out clause (ii) of subsection (a) and inserting in place thereof the following clause:-

(ii) describe the construction, reconstruction, rehabilitation and related activities, public and private, contemplated for such UCH-TIF zone as of the date of the adoption of the UCH-TIF plan; provided, however, that in the case of public construction as aforesaid, the UCH-TIF plan shall include a detailed projection of the costs and a betterment schedule for the defrayal of such costs; provided further, that the UCH-TIF plan shall provide that no costs of such public construction shall be recovered through betterments or special assessments imposed on a party which has not executed an UCH-TIF agreement in accordance with clause (v); and provided, further, that in the case of private construction as aforesaid, the UCH-TIF plan shall include the types of affordable housing and residential and commercial growth which are projected to occur within such UCH-TIF zone together with such documentary evidence of the projected public benefits as are required by the regulations;

SECTION 25. Said section 60 of said chapter 40, as so appearing, is hereby further amended by striking out subclause (1) of clause (iii) of subsection (a), in lines 60 to 65 inclusive, and inserting in place thereof the following subclause:-

(1) the numerator of which shall be:

In an UCH-TIF zone where the property includes primarily residential uses, the total assessed value of all parcels of all residential real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential real estate as determined by the commissioner of revenue under paragraph (f) of section 21C of said chapter 59; or

In an UCH-TIF zone where the property includes a mix of residential and commercial uses, the total assessed value of all parcels of all residential and commercial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential and commercial real estate as determined by the commissioner of revenue under said paragraph (f) of said section 21C of said chapter 59; and

SECTION 26. Said section 60 of said chapter 40, as so appearing, is hereby further amended by striking out clause (v) of subsection (a) and inserting in place thereof the following clause:-

(v) that each owner of property located in an UCH-TIF zone seeking to establish eligibility for tax increment exemptions from annual property taxes under clause (iii) shall execute an agreement, hereinafter referred to as an UCH-TIF agreement, with the city or town, the form of which shall be included as an attachment to the UCH-TIF plan, which agreement

shall include, but not be limited to, the following: (1) all material representations of the parties which served as a basis for the granting of a UCH-TIF exemption; (2) any terms deemed appropriate by the city or town relative to compliance with the UCH-TIF agreement including, but not limited to, what shall constitute a default by the property owner and what remedies shall be allowed between the parties for any such defaults, including an early termination of the agreement; (3) provisions requiring that one of the affordability thresholds described in subsection (b) below is met; (4) provisions stating that housing units that meet the affordability requirements of subsection (b) shall be subject to use restrictions as defined in this section; (5) a detailed recitation of the tax increment exemptions and the maximum percentage of the cost of public improvements that can be recovered through betterments or special assessments regarding a parcel of real property pursuant to clauses (iii) and (iv); (6) a detailed recitation of all other benefits and responsibilities inuring to and assumed by the parties to an agreement; and (7) a provision that the agreement shall be binding upon subsequent owners of the parcel of real property; and

SECTION 27. Said section 60 of said chapter 40, as so appearing, is hereby further amended by striking out subsections (b) to (f), inclusive, and inserting in place thereof the following 5 subsections:-

(b) As a condition of the granting of an UCH-TIF exemption, a property owner must satisfy 1 of the following affordability thresholds:

(i) At least 15 per cent of the housing units assisted by the UCH-TIF agreement shall be affordable to occupants or families with incomes at or below 80 per cent of the median

673 income for the area in which the city or town is located as defined by the United States  
674 Department of Housing and Urban Development (“AMI”); or

675 (ii) At least 25 per cent of the housing units assisted by the UCH-TIF agreement shall  
676 be affordable to occupants or families with incomes at or below 110 per cent of the AMI; or

677 (iii) The property shall satisfy the requirements of an existing inclusionary zoning  
678 ordinance or bylaw in the city or town, under which the property owner is required to make a  
679 portion of the housing units assisted by the UCH-TIF agreement affordable to low- and  
680 moderate-income households.

681 In addition, to support a finding of public benefit based on residential and commercial  
682 growth in an urban center, at least one of the following additional conditions must be met:

683 The UCH-TIF zone has either (1) an unemployment rate that exceeds the statewide  
684 average by at least 25 per cent, (2) a commercial vacancy rate of 15 per cent or more; or (3) an  
685 average household income below 115 per cent of the AMI, or

686 At least 51% of the land area within the UCH-TIF zone is located within a qualified  
687 census tract as defined in Section 42(d)(5) of the Internal Revenue Code, or

688 At least 51% of the land area within the UCH-TIF zone constitutes a blighted open,  
689 decadent or sub-standard area as defined in G.L. c. 121A.

690 (c) The department shall review each UCH-TIF plan to determine whether it  
691 complies with the terms of this section and any regulations which may be adopted by the  
692 department; provided further, that the department shall certify, based upon the information  
693 submitted in support of the UCH-TIF plan by the city or town and through such additional

investigation as the department may make, that the plan is consistent with the requirements of this section and will further the public purpose of encouraging increased residential growth, affordable housing and commercial growth in the commonwealth; provided further, that a city or town may, at any time, revoke its designation of a UCH-TIF zone and, as a consequence of such revocation, shall immediately cease the execution of any additional agreements under clause (v) of subsection (a); provided, further, that a revocation shall not affect agreements relative to property tax exemptions and limitations on betterments and special assessments under said clause (v) of said subsection (a) or use restrictions or options to purchase and rights of first refusal required by this section which were executed before the revocation.

(d) The board, agency, or officer of the city or town authorized under clause (vi) of said subsection (a) to execute UCH-TIF agreements shall submit each executed UCH-TIF agreement to the department of housing and community development for its approval. The department shall, as a condition of such approval, certify that the UCH-TIF agreement complies with the terms of this section and furthers the public purpose of encouraging increased residential growth, affordable housing and commercial growth in the Commonwealth. Upon receipt of the department's certification, the board, agency or officer of the city of town authorized under clause (vi) of said subsection (a) to execute UCH-TIF agreements shall forward to the board of assessors a copy of the approved UCH-TIF agreement, together with a list of the parcels included therein. An executed and approved UCH-TIF shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies.

(e) Notwithstanding any other general or special law to the contrary, an affordable housing development benefiting from a real estate tax exemption under this section that meets the affordability requirements of subsection (c) and subclause (3) of clause (v) of subsection (a)

shall continue to meet those requirements for 30 years or for the term of any municipal bonds issued to finance the construction, reconstruction or rehabilitation of such development, whichever is shorter as may be specified in the recorded restriction. Such restriction shall be approved by the department of housing and community development in accordance with section 32 of chapter 184 and shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies.

(f) The owner of property subject to an UCH-TIF agreement shall certify to the city or town the incomes of the families or occupants, upon initial occupancy, of the affordable housing units designated in the UCH-TIF agreement and such certification shall be provided to the department on an annual basis. If the owner fails to provide certification or otherwise fails to comply with the UCH-TIF agreement, including failing to maintain the affordability of housing units assisted under this section, the city or town may place a lien on the property in the amount of the real estate tax exemptions granted pursuant to the UCH-TIF agreement for any year in which the owner is not in compliance with this subsection. If the city or town determines, with the approval of the department of housing and community development, that the owner is unlikely to come into compliance with the affordability requirements of subsection (c) and subclause (3) of clause (v) of subsection (a), the city or town may place a lien on the property in the amount of the total real estate tax exemption granted pursuant to the UCH-TIF agreement. Any such lien shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies.

SECTION 28. Section 4 of chapter 40G of the General Laws, as so appearing, is hereby amended by striking out, in line 85, the words “as defined in section 3D” and inserting in place thereof the following words:- designated pursuant to section 3G.

SECTION 29. Section 2 of chapter 40H of the General Laws, as so appearing, is hereby amended by striking out, in lines 59 to 60, the words “section 3D of chapter 23A” and inserting in place thereof the following words:- section 3G of chapter 23A, or meeting the criteria for such designation.

SECTION 30. Section 4G of chapter 40J of the General Laws, as so appearing, is hereby amended by striking out the figure “\$3” in lines 19 and 24 and inserting in place thereof, in each instance, the following figure:- \$1.

SECTION 31. Section 6D of said chapter 40J, as so appearing, is hereby amended by adding the following subsection:-

(g) The institute shall, in consultation with the secretary of housing and economic development and informal advisers from the public and private sectors, develop strategies and action plans to facilitate the continued development and accelerating growth of the e-health cluster in the commonwealth involving a range of products, services and systems at the intersection of medicine/healthcare and information technology, including without limitation electronic health records, consumer wearable devices, care systems, payment management systems, healthcare robotics, telemedicine and big data analytics, for the purpose of improving health care quality, reducing costs and supporting the expansion of economic opportunities for the citizens of the commonwealth. Without limiting the generality of the foregoing, the institute is authorized (i) to develop a market access program connecting provider and payer needs with ideas and products through pilot programs, (ii) to undertake a healthcare big data initiative designed to improve healthcare data transparency and availability, and (iii) to create opportunities for e-health cluster stakeholders, including investors, entrepreneurs and healthcare

providers, to convene to exchange ideas and make connections. In furtherance of the purposes of this subsection, the institute shall coordinate and collaborate with such other commonwealth agencies, authorities and public instrumentalities as the secretary of housing and economic development may suggest and shall endeavor to identify moneys and resources that could be made available for such purposes. The corporation is authorized to expend moneys credited to the e-Health Institute Fund established in section 6E for the purposes of this subsection, without compliance with any further restrictions contained in section 6E, and to expend for such purposes any other moneys available to the corporation that are not otherwise expressly restricted by law.

SECTION 32. Section 2 of chapter 40R of the General Laws, as so appearing, is hereby amended by inserting after the definition of “Approved smart growth zoning district” the following definition:

“Approved starter home zoning district”, a starter home zoning district that has been adopted by a city or town and approved by the department in accordance with this chapter and the regulations of the department, so as to be eligible for the receipt of financial and other incentives. The department may revoke its approval if the obligations of the city or town are not met.

SECTION 33. Said section 2 of said chapter 40R, as so appearing, is hereby further amended by inserting after the definition of “Approving authority” the following definition:-

“Area of concentrated development”, a center of commercial activity within a municipality, including town and city centers, other existing commercial districts in cities and towns, and existing rural village districts.



SECTION 34. Said section 2 of said chapter 40R, as so appearing, is hereby further amended by striking out the definition of “eligible locations” and inserting in place thereof the following definition:-

“Eligible locations”, areas that by virtue of their infrastructure, transportation access, existing underutilized facilities, and/or location make highly suitable locations for residential or mixed use smart growth zoning districts or starter home zoning districts, including without limitation (1) areas near transit stations, including rapid transit, commuter rail and bus and ferry terminals; or (2) areas of concentrated development, including town and city centers, other existing commercial districts in cities and towns, and existing rural village districts.

SECTION 35. Said section 2 of said chapter 40R, as so appearing, is hereby further amended by inserting after the definition of “Historic district” the following 2 definitions:-

“Housing production plan”, an affordable housing plan adopted by a municipality and approved by the department in accordance with its regulations.

“Housing production summary”, a detailed summary of the city or town’s affordable housing production history, housing needs and housing demand assessment, analysis of development constraints and capacity, current housing goals and strategy for achieving those goals, and proposed locations for affordable housing production.

SECTION 36. Said section 2 of said chapter 40R, as so appearing, is hereby further amended by striking out the definition of “Mixed use development” and inserting in place thereof the following definition:-

“Mixed use development”, a development containing a mix of residential uses and non-residential uses (including without limitation commercial, institutional, industrial and/or other uses), all conceived, planned and integrated to create vibrant, workable, livable and attractive neighborhoods.

SECTION 37. Said section 2 of said chapter 40R, as so appearing, is hereby further amended by inserting after the definition of “Open space” the following definition:-

“Production bonus payment”, a one-time payment to a municipality from the trust fund established in section 35AA of chapter 10 for each housing unit of new construction that is created in a starter home zoning district pursuant to the starter home overlay provisions of the applicable zoning ordinance or bylaw.

SECTION 38. Said section 2 of said chapter 40R, as so appearing, is hereby further amended by inserting after the definition of “Smart growth zoning district certificate of compliance” the following 3 definitions:-

“Starter home”, a single family home not exceeding 1,850 square feet in heated living area; provided, that nothing herein shall preclude a city or town from adopting a starter home zoning district that would permit construction on a single lot in a starter home zoning district of an accessory dwelling unit of 600 square feet or less on the same lot as a starter home.

“Starter home zoning district”, a zoning district consisting of not less than three (3) contiguous acres of developable land area, adopted by a city or town under this chapter, that is superimposed over 1 or more zoning districts in an eligible location, within which a developer may elect to either develop starter homes in accordance with requirements of the starter home

825 zoning district ordinance or by-law, or develop a project in accordance with requirements of the  
826 underlying zoning district, and otherwise consistent with department guidance.

827 “Starter home zoning district certificate of compliance”, a written certification by the  
828 department in accordance with section 7.

829 SECTION 39. Section 3 of said chapter 40R, as so appearing, is hereby amended by  
830 inserting, after the word “district” in lines 2 and 7, in each instance, the following words:- or  
831 starter home zoning district.

832 SECTION 40. Said section 3 of said chapter 40R, as so appearing, is hereby further  
833 amended by inserting, after the word “districts” in line 15, the following words:- or starter home  
834 zoning districts.

835 SECTION 41. Section 4 of said chapter 40R, as so appearing, is hereby amended by  
836 inserting after the word “growth” in line 3 the following words:- or starter home.

837 SECTION 42. Said section 4 of said chapter 40R, as so appearing, is hereby further  
838 amended by inserting after the word “districts” in line 14 the following words:- or starter home  
839 zoning districts.

840 SECTION 43. Said chapter 40R, as so appearing, is hereby amended by striking out  
841 sections 5 to 10 inclusive and inserting in place thereof the following 6 sections:-

842 Section 5. The chief executive of a city or town desiring to adopt a smart growth zoning  
843 district or starter home zoning district ordinance or by-law shall submit the necessary materials  
844 to the department for a preliminary determination of eligibility for approval. The information in  
845 the application shall:

846           (a)     identify and describe the boundaries of the proposed smart growth zoning district  
847 or starter home zoning district;

848           (b)     identify and describe the developable land area within the proposed smart growth  
849 zoning district or starter home zoning district;

850           (c)     identify and describe other residential development opportunities for infill  
851 housing and the residential re-use of existing buildings and underutilized buildings within  
852 already developed areas (applicable to smart growth zoning districts only);

853           (d)     include any comprehensive housing plan or housing production plan previously  
854 adopted by the city town or, if the city or town has no comprehensive housing plan or housing  
855 production plan, a housing production summary, as set forth in section 8;

856           (e)     include a copy of the proposed smart growth district or starter home zoning  
857 district ordinance or by-law;

858           (f)     by narrative and exhibits, establish the elements set forth in section 6.

859           Section 6. (a) A proposed smart growth zoning district or starter home zoning district  
860 shall satisfy the following minimum requirements:

861           (1)     Each proposed district shall be located in an eligible location.

862           (2)     The zoning for each proposed smart growth zoning district shall provide for  
863 residential use to permit a mix of housing for families, individuals, persons with special needs  
864 and the elderly.

(3) Housing density in a proposed smart growth district shall be at least 20 units per acre for multi-family housing on the developable land area: 8 units per acre for single-family homes on the developable land area; and 12 units per acre for 2 and 3 family buildings on the developable land area. Housing density in a proposed starter home district shall satisfy the following criteria: (a) the density shall be no less than 4 units per acre of developable land area; (b) the development shall emphasize smart growth principles of development, such as cluster development and other forms of development providing for common open space usable for passive or active recreational activities, and/or the use of low-impact development techniques; and (c) at least 50% of the starter homes to be developed in a proposed starter home district (excluding accessory dwelling units) must contain 3 or more bedrooms.

(4) The zoning ordinance or by-law for each proposed smart growth zoning district shall provide that not less than 20 per cent of the residential units constructed in projects of more than 12 units shall be affordable, as defined in section 2, and shall contain mechanisms to ensure that not less than 20 per cent of the total residential units constructed in each proposed district shall be affordable.

(5) The zoning ordinance or by-law for each proposed starter home zoning district shall provide that, as a condition of the increased density permitted in a starter home zoning district, not less than 20 per cent of the residential units created as starter homes shall be affordable to and occupied by individuals and families whose annual income is less than 100 per cent of the area median income as determined by the United States Department of Housing and Urban Development, and shall contain mechanisms to ensure that the required percentage of the total residential units constructed in each proposed starter home district shall meet such

887 affordability requirements, including an affordable housing restriction as defined in section 31 of  
888 chapter 184 having a term of not less than 30 years.

889 (6) A proposed smart growth zoning district shall permit infill housing on existing  
890 vacant lots and shall allow the provision of additional housing units in existing buildings,  
891 consistent with neighborhood building and use patterns, building codes and fire and safety codes.

892 (7) A proposed smart growth zoning district or starter home zoning district shall not  
893 be subject to limitation of the issuance of building permits for residential uses or a local  
894 moratorium on the issuance of such permits. In addition, a proposed starter home zoning district  
895 shall not be subject to any municipal environmental or health ordinances, bylaws or regulations  
896 that exceed applicable requirements of state law or regulation, unless the department has  
897 determined, after consultation with the department of environmental protection or other agency  
898 having relevant expertise, that specific local conditions warrant imposition of more restrictive  
899 local standards, and the imposition of such standards would not render infeasible the  
900 development contemplated under the comprehensive housing plan, housing production plan or  
901 housing production summary submitted as part of the application for such district.

902 (8) A proposed smart growth zoning district or starter home zoning district shall not  
903 impose restrictions on age or any other occupancy restrictions on the district as a whole. This  
904 shall not preclude the development of specific projects within a smart growth zoning district that  
905 may be exclusively for the elderly, the disabled or for assisted living. Not less than 25 per cent of  
906 the housing units in such a project within a smart growth zoning district shall be affordable  
907 housing.

(9) Housing in a smart growth zoning district or starter home zoning district shall comply with federal, state and local fair housing laws.

(10) A proposed smart growth zoning district or starter home zoning district may not exceed 15 per cent of the total land area in the city or town. Upon request, the department may approve a larger land area if such approval serves the goals and objectives of the chapter.

(11) The aggregate land area of all approved smart growth zoning districts and starter home zoning districts in the city or town may not exceed 25 per cent of the total land area in the city or town. The department may approve a larger combined land area if the department determines that such approval serves the goals and objectives of this chapter.

(12) Housing density in any proposed district shall not over burden infrastructure as it exists or may be practicably upgraded in light of anticipated density and other uses to be retained in the district.

(13) A proposed smart growth zoning district or starter home zoning district ordinance or by-law shall define the manner of review by the approving authority in accordance with section 11 and shall specify the procedure for such review in accordance with regulations of the department.

(b) A city or town may modify or eliminate the dimensional standards contained in the underlying zoning in the smart growth zoning district or starter home zoning district ordinance or by-law in order to support desired densities, mix of uses and physical character. The standards that are subject to modification or waiver may include, but shall not be limited to, height, setbacks, lot coverage, parking ratios and locations and roadway design standards. Modified requirements may be applied as of right throughout all or a portion of the smart growth

930 zoning district or starter home zoning district, or on a project specific basis through the smart  
931 growth zoning district or starter home zoning district plan review process as provided in the  
932 ordinance or by-law. A city or town may designate certain areas within a smart growth zoning  
933 district or starter home zoning district as dedicated perpetual open space through the use of a  
934 conservation restriction as defined in section 31 of chapter 184 or such other means as may be  
935 created by state law. The amount of such open space shall not be included as developable land  
936 area within the smart growth zoning district or starter home zoning district. Open space may  
937 include an amount of land equal to up to 10 per cent of what would otherwise be the developable  
938 land area if the developable land would be less than 50 acres, and 20 per cent of what would  
939 otherwise be the developable land area if the developable land area would be 50 acres or more.

940 (c) The zoning for a proposed smart growth zoning district may provide for mixed  
941 use development.

942 (d) A smart growth zoning district or starter home zoning district may encompass an  
943 existing historic district or districts. A city or town, with the approval of the department, may  
944 establish a historic district in an approved smart growth zoning district or starter home zoning  
945 district in accordance with chapter 40C, so long as the establishment of the historic district meets  
946 requirements for such a historic district and does not render the city or town noncompliant with  
947 this chapter, as determined by the department. The historic districts may be coterminous or non-  
948 coterminous with the smart growth zoning district or starter home zoning district. Within any  
949 such historic district, the provisions and requirements of the historic district may apply to  
950 existing and proposed buildings.



951           (e)     A city or town may require more affordability than required by this chapter, both  
952     in the percentage of units that must be affordable, and in the levels of income for which the  
953     affordable units must be accessible, provided, however, that affordability thresholds shall not  
954     unduly restrict opportunities for development.

955           (f)     With respect to a city or town with a population of fewer than 10,000 persons, as  
956     determined by the most recent federal decennial census, for hardship shown, the department  
957     may, pursuant to regulations adopted under this chapter, approve zoning for a smart growth  
958     zoning district with lower densities than provided in this chapter, if the city or town satisfies the  
959     other requirements set forth in this section; provided, however, that such approval shall not be  
960     withdrawn solely because, in a future census, the population of the city or town exceeds 10,000.

961           (g)     Any amendment or repeal of the zoning for an approved smart growth zoning  
962     district or starter home zoning district ordinance or by-law shall not be effective without the  
963     written approval by the department. Each amendment or repeal shall be submitted to the  
964     department with an evaluation of the effect on the city or town's comprehensive housing plan or  
965     housing production plan, if any. Amendments shall be approved only to the extent that the  
966     district remains in compliance with this chapter. If the department does not respond to a  
967     complete request for approval of an amendment or repeal within 60 days of receipt, the request  
968     shall be deemed approved.

969           (h)     Nothing in this chapter shall affect a city or town's authority to amend its zoning  
970     ordinances or by-laws under chapter 40A, so long as the changes do not affect the smart growth  
971     zoning district or starter home zoning district.

Section 7. (a) On or before October 1 of each year after the year of approval of a district by the department, the department shall send a smart growth zoning district certificate of compliance or starter home zoning district certificate of compliance, as applicable, to each city or town with an approved district. In order to receive such a certificate, the city or town shall verify within the time specified by the department:

(1) that the city or town has adopted an approved a smart growth zoning district or a starter home zoning district, as applicable;

(2) that the certification has not been revoked by the department;

(3) that the district is being developed in a manner that reasonably complies with the applicable minimum requirements set forth in section 6 for housing density and affordability;

(4) that the approving authority has not unreasonably denied plans for projects, or has only denied plans for projects in a manner consistent with its smart growth zoning district ordinance or by-law or starter home zoning district ordinance or by-law, as applicable, the city or town's comprehensive housing plan, housing production plan, or the housing production summary submitted with the city or town's initial application for approval by the department, as applicable, and this chapter.

(b) If the department is unable to certify compliance, the department shall hold a public hearing subject to chapter 30A. If the department concludes that the city or town is in material noncompliance with the requirements set forth in this section, the department may revoke certification. A revocation of certification shall be recorded with the registry of deeds or land court registry district for the county or district within which the city or town is located, indexed in the grantor index under the name of the city or town. Any revocation of certification

994 or other sanctions imposed by the department shall not affect the validity of the smart growth  
995 zoning ordinance or by-law or starter home zoning district ordinance or by-law, as applicable, or  
996 the application of such ordinance or by-law to land, development or proposed development  
997 within the smart growth zoning district.”

998           Section 8. A city or town shall submit to the department, concurrently with the city or  
999 town’s application for a letter of eligibility, either an existing comprehensive housing plan, an  
1000 existing housing production plan, or a housing production summary. The plan or summary shall  
1001 include an estimate of the projected number of units of new construction that could be built in  
1002 the proposed smart growth zoning district or starter home zoning district. If a city or town has  
1003 already completed a comprehensive housing plan or housing production plan, the city or town  
1004 shall submit with its application to the department a description of how the proposed smart  
1005 growth zoning district or starter home zoning district relates to and will further the goals of its  
1006 comprehensive housing plan or housing production plan, as well as an estimate of the projected  
1007 number of units of new construction that could be built within the district.

1008           Section 9. Each city or town with an approved smart growth zoning district or starter  
1009 home zoning district shall be entitled to payments as described below.

1010           (a)     The commonwealth shall pay from the trust fund a zoning incentive payment,  
1011 according to the following schedule:

1012	Projected Units of	
1013	New Construction	Payment
1014	Up to 20	\$10,000

1015	21 to 100	\$75,000
1016	101 to 200	\$200,000
1017	201 to 500	\$350,000
1018	501 or more	\$600,000

1019           Subject to any conditions imposed by the Department as a condition of approving a smart  
1020 growth zoning district or starter home zoning district, the zoning incentive payment shall be  
1021 payable upon confirmation of approval of the district by the department. The projected number  
1022 of units shall be based upon the zoning adopted in the smart growth zoning district or start home  
1023 zoning district, and consistent with either the city or town's comprehensive housing plan or  
1024 housing production plan, if any, or the housing production summary submitted in accordance  
1025 with Section 8.

1026           (b)     The commonwealth shall pay from the trust fund a one-time density bonus  
1027 payment to each city or town with an approved smart growth zoning district and a one-time  
1028 production bonus payment to each city or town with an approved starter home zoning district.  
1029 This payment shall be \$3,000 for each housing unit of new construction that is created in the  
1030 smart growth zoning district and \$3,000 for each housing unit of new construction that is created  
1031 in the starter home zoning district. The amount due shall be paid on a unit-by-unit basis in  
1032 accordance with department regulations, upon submission by a city or town of proof of issuance  
1033 of a building permit for a particular housing unit or units within the district.

1034           (c)     The executive office of environmental affairs, the executive office of  
1035 transportation, the department of housing and community development and the secretary of

administration and finance shall, when awarding discretionary funds, use a methodology of awarding such funds that favors cities or towns with approved smart growth zoning districts or starter home zoning districts over approved zoning policies or initiatives that encourage increased affordable housing production in the commonwealth including, but not limited to, inclusionary zoning.

Section 10. A city or town may adopt, in accordance with the regulations of the department, design standards applicable to projects undergoing review by the approving authority, to ensure that the physical character of development within the smart growth zoning district or starter home zoning district is complementary to adjacent buildings and structures and is consistent with the city or town's comprehensive housing plan or housing production plan, if any, and any applicable master plan or plans for the city or town. Such standards may address the scale and proportions of buildings, the alignment, width and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off-street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs and buffering in relation to adjacent properties. In a smart growth zoning district, the standards shall provide for high-density quality development consistent with the character of building types, streetscapes and other city or town features traditionally found in densely settled areas of the city or town or in the region of the city or town.

A design standard shall not be adopted if it will add unreasonable costs to residential or mixed-use developments. A design standard shall not unreasonably impair the economic feasibility of proposed projects. The department may disapprove a request for the determination of eligibility for a smart growth zoning district or starter home zoning district on account of a design standard adding such unreasonable costs or unreasonably impairing such feasibility.

1059           SECTION 44. Section 11 of said chapter 40R, as so appearing, is hereby amended by  
1060 striking out, in line 2, the words “district zoning” and inserting in place thereof the following  
1061 words:- zoning district or starter home zoning district.

1062           SECTION 45. Section 11 of said chapter 40R, as so appearing, is hereby amended by  
1063 inserting after the word “district”, in line 11, the following words:- or starter home zoning  
1064 district.

1065           SECTION 46. Said section 11 of said chapter 40R, as so appearing, is hereby further  
1066 amended by inserting after the word “zoning”, in line 17, the following words:- district or starter  
1067 home zoning district.

1068           SECTION 47. Said section 11 of said chapter 40R, as so appearing, is hereby further  
1069 amended by inserting after the word “district” in lines 70, 74 and 128, in each instance, the  
1070 following words:- or starter home zoning district.

1071           SECTION 48. Said chapter 40R, as so appearing, is hereby amended by striking out  
1072 section 12 and inserting in place thereof the following section:-

1073           Section 12. The department shall be responsible for the administration, review, and  
1074 reporting on the smart growth zoning district and starter home zoning district programs as  
1075 provided in this chapter. The department shall undertake or cause to be undertaken an annual  
1076 review and the preparation of a report on the programs set forth in this chapter and may require  
1077 data to be provided by cities and towns with smart growth zoning districts or starter home zoning  
1078 districts. The report shall be prepared on the basis of such data and shall be made available to  
1079 the general public and submitted to the general court annually not later than November 15 of  
1080 each year, and shall cover the status of the program through the end of the prior fiscal year. The

report shall identify and describe the status of cities and towns that are actively seeking letters of eligibility. It shall identify approved smart growth zoning districts and starter home zoning districts and the amounts and anticipated timing of one-time density bonus payments and one-time production bonus payments during the prior and current fiscal year. It shall summarize the amount of land areas zoned for particular types of projects in both proposed and approved districts, the number of projects being reviewed by cities and towns under section 11, including the number and type of proposed residential units, the number of building permits issued, the number of completed housing units and their type, and it shall set out the one-time density bonus payments and one-time production bonus payments made to each city or town. For the then current and the immediately succeeding fiscal years it shall make estimates for the: (i) number and size of proposed new districts; (ii) the potential number of residential units to be allowed in new districts; and (iii) anticipated construction activity.

SECTION 49. Said chapter 40R, as so appearing, is hereby further amended by striking out section 14 and inserting in place thereof the following section:-

Section 14. The department shall require the cities and towns, if within 3 years no construction has been started within the smart growth zoning district or starter home zoning district, to repay to the department all monies paid to the city or town under this chapter for said smart growth zone or starter home zone. The 3 years shall commence on the date of the payment of the zoning incentive payment for said smart growth zoning district or starter home zoning district. All monies returned to the department under this section shall be returned to the trust fund.

1102           SECTION 50. Section 1 of chapter 40V of the General Laws, as so appearing, is hereby  
1103 amended by striking out the definition of “Certified housing development project”, and inserting  
1104 in place thereof the following definition:-

1105           “Certified housing development project”, the new construction or substantial  
1106 rehabilitation of a housing development project that has been approved by the department for  
1107 participation in the housing development incentive program.

1108           SECTION 51. Said section 1 of said chapter 40V, as so appearing, is hereby further  
1109 amended by striking out the definitions of “Market rate residential unit” and “Qualified  
1110 substantial rehabilitation expenditure” and inserting in place thereof following 2 definitions:-

1111           “Market rate residential unit”, a residential unit that is not subject to a deed restriction  
1112 setting a maximum rent or sales price, or restricting occupancy based on the income of the tenant  
1113 or owner.

1114           “Qualified project expenditure”, an expenditure directly related to the construction or  
1115 substantial rehabilitation of a certified housing development project, including the cost of site  
1116 assessment and remediation of hazardous materials, but excluding the purchase of the property,  
1117 provided that: (i) the department has certified that the proposed project meets the definition of  
1118 certified housing development project; (ii) prior to construction, the department has certified that  
1119 all or a portion of the project costs are for new construction or substantial rehabilitation; and (iii)  
1120 after the construction of the project has been completed and occupied, the department has  
1121 certified that the project has been completed in compliance with this chapter and the  
1122 requirements and conditions of any prior certifications.



1123           SECTION 52. Said section 1 of said chapter 40V, as so appearing, is hereby further  
1124 amended by inserting after the word “property”, in line 34, the following words:-

1125           including site assessment and remediation of hazardous materials, but.

1126           SECTION 53. Section 4 of said chapter 40V, as so appearing, is hereby amended by  
1127 striking out, in line 12, the words “is a” and inserting in place thereof the following words:-

1128           involves either new construction or.

1129           SECTION 54. Said section 4 of said chapter 40V, as so appearing, is hereby further  
1130 amended by striking out, in line 13, the word “approve” and inserting in place thereof the  
1131 following word:- certify.

1132           SECTION 55. Said section 4 of said chapter 40V, as so appearing, is hereby further  
1133 amended by striking out, in line 35, the words “HDIP zone” and inserting in place thereof the  
1134 following words:- HD zone.

1135           SECTION 56. Said section 4 of said chapter 40V, as so appearing, is hereby further  
1136 amended further by inserting after the word “certified” in line 44 the following words:- housing  
1137 development.

1138           SECTION 57. Said section 4 of said chapter 40V, as so appearing, is hereby further  
1139 amended further by inserting after the word “certified” in lines 56, 57 and 83, in each instance,  
1140 the following words:- housing development.

1141

1142           SECTION 58. Section 5 of said chapter 40V, as so appearing, is hereby amended by  
1143 striking out the first sentence and inserting in place thereof the following sentence:-

1144           The department may award to a sponsor of a certified housing development project tax  
1145 credits available under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63  
1146 up to but not to exceed 25 per cent of the cost of qualified project expenditures allocable to the  
1147 market rate units in the project, as determined by the department.

1148           SECTION 59. Said section 5 of said chapter 40V, as so appearing, is hereby further  
1149 amended further by inserting before the word “project” in lines 9, 13 and 15, in each instance,  
1150 the following words:- certified housing development.

1151           SECTION 60. Section 3 of chapter 62 of the General Laws, as so appearing, is hereby  
1152 amended by striking out, in lines 114 to 115, the words “established by section three B of chapter  
1153 twenty-three A” and inserting in place thereof the following words:- pursuant to section 3G of  
1154 chapter 23A.

1155           SECTION 61. Section 6 of said chapter 62, as so appearing, is hereby amended by  
1156 striking out subsection (g) and inserting in place thereof the following subsection:-

1157           (g)(1) A credit shall be allowed against the tax liability imposed by this chapter on the  
1158 owner or lessee of a certified project, to the extent such credit is authorized by the economic  
1159 assistance coordinating council, up to an amount equal to 50 per cent of such liability in any  
1160 taxable year; provided, however, that the 50 per cent limitation shall not apply where the credit is  
1161 refundable under paragraph (6). The amount of the credit shall be determined by the economic  
1162 assistance coordinating council in accordance with criteria set forth in section 3D of chapter 23A  
1163 and such other criteria or guidelines as the council shall from time to time adopt; provided that a

1164 credit awarded in connection with a certified project that will retain permanent full-time  
1165 employees in a gateway city without creating a net increase in permanent full-time employees  
1166 shall not exceed \$5,000 per retained employee. A credit allowed under this section may be taken  
1167 only after the taxpayer executes an EDIP contract as set forth in section 3D of chapter 23A.

1168           (2) An alternative EDIP tax credit may be allowed against the tax liability imposed  
1169 by this chapter on the owner or lessee of a certified project that has been designated as an  
1170 extraordinary economic development opportunity, but only to the extent such alternative EDIP  
1171 tax credit is authorized by the economic assistance coordinating council, up to an amount equal  
1172 to 100 per cent of such liability in any taxable year; provided, however, that the 100 per cent  
1173 limitation shall not apply where the credit is refundable under paragraph (6). The amount of the  
1174 alternative EDIP tax credit shall be equal to a percentage of gross wages of the new permanent  
1175 full-time employees employed by the controlling business at the certified project as reportable on  
1176 employee Forms W-2 wage and tax statements. Such percentage shall be determined by the  
1177 EACC but shall in no event exceed 5 per cent of such gross wages. An alternative EDIP tax  
1178 credit allowed under this section shall reduce the liability of the taxpayer under this chapter for  
1179 the taxable year in which the new permanent full-time employee is first employed by the  
1180 taxpayer and any subsequent years authorized by the EACC. An alternative EDIP tax credit  
1181 allowed under this section may be taken only after the taxpayer executes an EDIP contract as set  
1182 forth in section 3D of chapter 23A.

1183           (3) The total amount of credits that may be authorized by the EACC in a calendar  
1184 year pursuant to this section and section 38N of chapter 63 shall not exceed an annual cap equal  
1185 to \$30,000,000 minus the credits granted pursuant to subsection (q)(5) of section of 6 of this  
1186 chapter and section 38BB(5) of said chapter 63, and shall include: refundable credits granted

1187 during the year pursuant to this section or said section 38N of said chapter 63; nonrefundable  
1188 credits granted during the year pursuant to this section or said section 38N of said chapter 63, to  
1189 the extent that such nonrefundable credits are estimated by the commissioner to offset tax  
1190 liabilities during the year; and carryforwards of credits from prior years under this section or said  
1191 section 38N of said chapter 63, to the extent that such credit carryforwards, if any, are estimated  
1192 by the commissioner to offset tax liabilities during the year. Any portion of the annual cap not  
1193 awarded by the economic assistance coordinating council in a calendar year shall not be applied  
1194 to awards in a subsequent year.

1195 Notwithstanding the cap set forth in the preceding paragraph, the EACC may authorize  
1196 credits in excess of the annual cap of \$30,000,000 for a project that is designated as an  
1197 extraordinary economic development opportunity; provided that the total amount awarded shall  
1198 not exceed \$50,000,000 in a calendar year.

1199 The economic assistance coordinating council shall provide the commissioner with any  
1200 documentation that the commissioner deems necessary to confirm compliance with the annual  
1201 cap and the commissioner shall provide a report confirming compliance with the annual cap to  
1202 the secretary of administration and finance and the secretary of housing and economic  
1203 development.

1204 (4) Any taxpayer entitled to a credit under this subsection for any taxable year may,  
1205 to the extent authorized by the economic assistance coordinating council, carry over and apply to  
1206 the tax for any one or more of the next succeeding 10 taxable years, the portion, as reduced from  
1207 year to year, of those credits which exceed the tax for the taxable year; provided, however, that  
1208 in no event shall the taxpayer apply the credit to the tax for any taxable year beginning more than

1209 5 years after the certified project ceases to qualify as such under the provisions of chapter 23A.  
1210 Notwithstanding the foregoing, the economic assistance coordinating council may limit or  
1211 restrict carryover of credits as set forth section 3D of said chapter 23A.

1212 (5) For purposes of this subsection, the commissioner of revenue may aggregate the  
1213 activities of all entities, whether or not incorporated, under common control as defined in  
1214 subsection (f) of section 41 of the Code.

1215 (6) If a credit allowed under paragraph (1) or paragraph (2) is designated by the  
1216 economic assistance coordinating council as a refundable credit, the credit shall first be applied  
1217 against the tax liability of the taxpayer under this section, and 100 per cent of the balance of such  
1218 credit may, at the option of the taxpayer and to the extent authorized by the economic assistance  
1219 coordinating council, be refundable to the taxpayer. The economic assistance coordinating  
1220 council shall in each case specify the timing of such refund, which may be for the taxable year in  
1221 which all or a portion of the certified project is placed in service, or the taxable year subsequent  
1222 to the year in which the required jobs are created. If such credit balance is refunded to the  
1223 taxpayer, the credit carryover provisions of paragraph (4) shall not apply.

1224 (7) If the economic assistance coordinating council revokes the certification of a  
1225 project as provided in section 3F of chapter 23A, then a portion of the tax credits otherwise  
1226 allowed by this section and claimed by the taxpayer prior to the date on which the economic  
1227 assistance coordinating council makes the determination to revoke project certification must be  
1228 added back as additional tax due and shall be reported as such on the return of the taxpayer for  
1229 the taxable period in which the economic assistance coordinating council makes the  
1230 determination to revoke project certification. The amount of credits subject to recapture shall be

1231 proportionate to the taxpayer's compliance with the job creation requirements applicable to the  
1232 certified project. The taxpayer's proportion of compliance shall be determined by the economic  
1233 assistance coordinating council as part of its revocation process and shall be reported to the  
1234 taxpayer and the department of revenue at the time certification is revoked.

1235           (8)     If a certified project is sold or otherwise disposed of, tax credits allowed under  
1236 this subsection may be transferred to the purchaser of the certified project, provided that the  
1237 EDIP contract is assigned to and assumed by the purchaser of the certified project, and such  
1238 assignment and assumption is approved in writing by the economic assistance coordinating  
1239 council.

1240           (9)     Nothing in this section shall limit the authority of the commissioner to make  
1241 adjustments to a taxpayer's liability upon audit.

1242           (10)    For purposes of this subsection (g), the terms certified project, proposed project,  
1243 economic assistance coordinating council, EDIP contract, alternative EDIP tax credit and  
1244 extraordinary economic development opportunity have the meanings ascribed to them in section  
1245 3A of chapter 23A.

1246           SECTION 62. Said section 6 of said chapter 62, as so appearing, is hereby further  
1247 amended by striking out the word "ten" in line 893, and inserting in place thereof the following  
1248 figure:- 25.

1249           SECTION 63. Said section 6 of said chapter 62, as so appearing, is hereby further  
1250 amended by striking out, in line 894, the words "substantial rehabilitation" and inserting in place  
1251 thereof the following word:- project.

1252           SECTION 64. Said section 6 of said chapter 62, as so appearing, is hereby further  
1253 amended by striking out, in lines 905 and 939 to 940, the word “rehabilitation” and inserting in  
1254 place thereof, in each instance, the following word:- project.

1255           SECTION 65. Said section 6 of said chapter 62, as so appearing, is hereby further  
1256 amended by striking out, in lines 923 and 935, the figure “5” and inserting in place thereof, in  
1257 each instance, the figure:- 10.

1258           SECTION 66. Section 6M of said chapter 62, as so appearing, is hereby amended by  
1259 striking out, in line 89, the words “as defined in section 3A” and inserting in place thereof the  
1260 following words:- designated under section 3G.

1261           SECTION 67. Chapter 63 of the General Laws, as so appearing, is hereby amended by  
1262 striking out section 38N and inserting in place thereof the following section:

1263           Section 38N. (a)     A corporation subject to tax under this chapter that is the  
1264 controlling business of a certified project, as defined in section 3A of chapter 23A, or an affiliate  
1265 of a controlling business, may take a credit against the excise imposed by this chapter to the  
1266 extent such credit is authorized by the economic assistance coordinating council, up to an  
1267 amount equal to 50 per cent of such liability in any taxable year; provided, however, that the 50  
1268 per cent limitation shall not apply where the credit is refundable under subsection (d). The  
1269 amount of the credit shall be determined by the economic assistance coordinating council based  
1270 on criteria set forth in section 3D of chapter 23A and such other criteria or guidelines as the  
1271 council shall from time to time adopt; provided that a credit awarded in connection with a  
1272 certified project that will retain permanent full-time employees in a gateway city without  
1273 creating a net increase in permanent full-time employees shall not exceed \$5,000 per retained

employee. A credit allowed under this section may be taken only after the corporation executes an EDIP contract as set forth in said section 3D of chapter 23A.

(b) An alternative EDIP tax credit may be allowed against the tax liability imposed by this chapter on the owner or lessee of a certified project that has been designated as an extraordinary economic development opportunity, but only to the extent such alternative EDIP tax credit is authorized by the economic assistance coordinating council, up to an amount equal to 100 per cent of such liability in any taxable year; provided, however, that the 100 per cent limitation shall not apply where the credit is refundable under paragraph (d). The amount of the alternative EDIP tax credit shall be equal to a percentage of gross wages of the new permanent full-time employees employed by the controlling business at the certified project as reportable on employee Forms W-2 wage and tax statements. Such percentage shall be determined by the EACC but shall in no event exceed 5 per cent of such gross wages. An alternative EDIP tax credit allowed under this section shall reduce the liability of the taxpayer under this chapter for the taxable year in which the new permanent full-time employee is first employed by the taxpayer and any subsequent years authorized by the EACC. An alternative EDIP tax credit allowed under this section may be taken only after the taxpayer executes an EDIP contract as set forth in section 3D of chapter 23A.

(c) The total amount of credits that may be authorized by the economic assistance coordinating council in a calendar year pursuant to this section and subsection (g) of section 6 of chapter 62 shall not exceed an annual cap equal to \$30,000,000 minus the credits granted pursuant to section 38BB of this chapter and subsection (q) of section 6 of chapter 62 and shall include: refundable credits granted during the year pursuant to this section or said section 38N of said chapter 63; nonrefundable credits granted during the year pursuant to this section or said



1297 section 38N of said chapter 63, to the extent that such nonrefundable credits are estimated by the  
1298 commissioner to offset tax liabilities during the year; and carryforwards of credits from prior  
1299 years under this section or said section 38N of said chapter 63, to the extent that such credit  
1300 carryforwards, if any, are estimated by the commissioner to offset tax liabilities during the year.  
1301 Any portion of the annual cap not awarded by the economic assistance coordinating council in a  
1302 calendar year shall not be applied to awards in a subsequent year.

1303 Notwithstanding the cap set forth in the preceding paragraph, the EACC may authorize  
1304 credits in excess of the annual cap of \$30,000,000 for a project that is designated as an  
1305 extraordinary economic development opportunity; provided that the total amount awarded shall  
1306 not exceed \$50,000,000 in a calendar year.

1307 The economic assistance coordinating council shall provide the commissioner with any  
1308 documentation that the commissioner deems necessary to confirm compliance with the annual  
1309 cap and the commissioner shall provide a report confirming compliance with the annual cap to  
1310 the secretary of administration and finance and the secretary of housing and economic  
1311 development.

1312 The credit allowed under this section may be taken by an eligible corporation; provided,  
1313 however, that the credit allowed by section 31A or section 31H shall not be taken by such  
1314 corporation.

1315 (d) Any corporation entitled to a credit under this section for any taxable year may, to  
1316 the extent authorized by the economic assistance coordinating council, carry over and apply to  
1317 the tax for any one or more of the next succeeding 10 taxable years, the portion, as reduced from  
1318 year to year, of those credits which exceed the tax for the taxable year; provided, however, that

in no event shall the corporation apply the credit to the tax for any taxable year beginning more than 5 years after the certified project ceases to qualify as such under the provisions of chapter 23A. Notwithstanding the foregoing, the economic assistance coordinating council may limit or restrict carryover of credits as set forth section 3D of said chapter 23A.

(e) If a credit allowed under subsection (a) or subsection (b) is designated by the economic assistance coordinating council as a refundable credit, the credit shall first be applied against the tax liability of the corporation under this chapter, and 100 per cent of the balance of such credit may, at the option of the corporation and to the extent authorized by the economic assistance coordinating council, be refundable to the corporation. The economic assistance coordinating council shall in each case specify the timing of such refund, which may be for the taxable year in which all or a portion of the certified project is placed in service, or the taxable year subsequent to the year in which the required jobs are created. If such credit balance is refunded to the corporation, the credit carryover provisions of subsection (d) shall not apply.

(f) In the case of a corporation that is subject to a minimum excise under any provision of this chapter, the amount of the credit allowed by this section shall not reduce the excise to an amount less than such minimum excise.

(g) In the case of corporations filing a combined return of income under section 32B, a credit generated by an individual member corporation under the provisions of this section shall first be applied against the separately determined excise attributable to that member, except as otherwise provided in this section. A member corporation with an excess credit may apply its excess credit against the excise of another group member, to the extent that such other member corporation can use additional credits. Unused, unexpired credits generated by member

corporations shall be carried over from year to year by the individual corporation that generated the credit, to the extent authorized by the economic assistance coordinating council.

(h) The commissioner of revenue may promulgate such rules and regulations as are necessary to implement the provisions of this section, including, but not limited to, provisions to prevent the generation of multiple credits with respect to the same property.

(i) If the economic assistance coordinating council revokes the certification of a project as provided in section 3F of chapter 23A, then a portion of the tax credits otherwise allowed by this section and claimed by the taxpayer prior to the date on which the economic assistance coordinating council makes the determination to revoke project certification must be added back as additional tax due and shall be reported as such on the return of the taxpayer for the taxable period in which the economic assistance coordinating council makes the determination to revoke project certification. The amount of credits subject to recapture shall be proportionate to the taxpayer's compliance with the job creation requirements applicable to the certified project. The taxpayer's proportion of compliance shall be determined by the economic assistance coordinating council as part of its revocation process and shall be reported to the taxpayer and the department of revenue at the time certification is revoked.

(j) If a certified project is sold or otherwise disposed of, tax credits allowed under this subsection may be transferred to the purchaser of the certified project, provided that the EDIP contract is assigned to and assumed by the purchaser of the certified project, and such assignment and assumption is approved in writing by the economic assistance coordinating council.

1362           (k)     Nothing in this section shall limit the authority of the commissioner to make  
1363 adjustments to a corporation's liability upon audit.

1364           (l)     For purposes of this section, the terms certified project, certified project proposal,  
1365 economic assistance coordinating council, EDIP contract, alternative EDIP tax credit and  
1366 extraordinary economic development opportunity shall have the meanings ascribed to them in  
1367 section 3A of chapter 23A.

1368           SECTION 68. Section 38O of said chapter 63, as so appearing, is hereby amended by  
1369 striking out, in lines 4 to 5, the words “as defined by section 3A” and inserting in place thereof  
1370 the following words:- designated under section 3G.

1371           SECTION 69. Section 38BB of said chapter 63, as so appearing, is hereby amended by  
1372 striking out, in line 5, the word “ten” and inserting in place thereof the following figure:- 25.

1373           SECTION 70. Said section 38BB of said chapter 63, as so appearing, is hereby amended  
1374 further by striking out, in line 6, the words “substantial rehabilitation” and inserting in place  
1375 thereof the following word:- project.

1376           SECTION 71. Said section 38BB of said chapter 63, as so appearing, is hereby amended  
1377 further by striking out, in line 17 and lines 38 to 39, the word “rehabilitation” and inserting in  
1378 place thereof, in each instance, the following word:- project.

1379           SECTION 72. Said section 38BB of said chapter 63, as so appearing, is hereby further  
1380 amended by striking out, in lines 23 and 34, the figure “5” and inserting in place thereof, in each  
1381 instance, the figure:- 10.

1382           SECTION 73. Section 38EE of said chapter 63, as so appearing, is hereby amended by  
1383 striking out, in line 76, the words “as defined in section 3A” and inserting in place thereof the  
1384 following words:- designated under section 3G.

1385           SECTION 74. Section 6 of chapter 136 of the General Laws, as so appearing, is hereby  
1386 amended by striking out paragraph (31) and inserting in place thereof the following paragraph:-

1387           (31) The transport or delivery of goods in commerce, or for consideration, by motor  
1388 truck or trailer or other means, and the performance of all activities incidental thereto, including  
1389 the operation of all facilities and warehousing necessary to prepare, stage, and effect such  
1390 transport or delivery; or the loading or unloading of same and the performance or labor, business  
1391 and work directly or indirectly related therewith.

1392           SECTION 75. Section 1 of chapter 138 of the General Laws, as so appearing, is hereby  
1393 amended by inserting after the definition of “Farmer-winery” the following definition:-

1394           “Host brewer”, any person or entity licensed under this chapter to manufacture malt  
1395 beverages who has entered into an alternating proprietorship arrangement with a tenant brewer  
1396 approved by the US Department of the Treasury Alcohol and Tobacco Tax Trade Bureau for the  
1397 purpose of producing or packaging beer on behalf of the tenant brewer.

1398           SECTION 76. Said section 1 of said chapter 138, as so appearing, is hereby further  
1399 amended by inserting after the definition of “Tavern” the following definition:-

1400           “Tenant Brewer”, a person or entity that has a brewer’s notice or other license who has  
1401 entered into an alternating proprietorship arrangement with a host brewer approved by the United

1402 States Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau for the purpose  
1403 of producing or packaging beer at a host brewer's premises.

1404 SECTION 77. Section 12 of said chapter 138, as so appearing, is hereby amended by  
1405 inserting after the word "state" in line 82 the following words:- or a farmer-brewery license  
1406 under section 19C or from any other state,.

1407 SECTION 78. Said section 12 of said chapter 138, as so appearing, is hereby further  
1408 amended by inserting after the word "wine" in line 84 the following words:- or beer.

1409 SECTION 79. Said section 12 of said chapter 138, as so appearing, is hereby further  
1410 amended by inserting after the word "winery" in line 85 the following words:- or brewery.

1411 SECTION 80. Section 15 of said chapter 138, as so appearing, is hereby amended by  
1412 inserting after the word "state" in line 21 the following words:- or a farmer-brewery under said  
1413 section 19C or in any other state.

1414 SECTION 81. Said section 15 of said chapter 138, as so appearing, is hereby further  
1415 amended by striking out, in line 97, the words "or connected therewith" and inserting in place  
1416 thereof the following words:-

1417 ; except that a common victualler duly licensed to operate a restaurant under chapter 140  
1418 and holding a license under section 12 of this chapter can be connected to a premises licensed  
1419 under this section, provided that at least 50 percent of the revenue generated at the premise  
1420 licensed under this section is derived from the sale of grocery items as defined in section 184B of  
1421 chapter 94; and provided further that the connection between, and design of, the two locations so  
1422 licensed, including interior connections, which shall be allowed, clearly delineates the two

1423 premises in such a way as to make the boundaries of each licensed premises clearly separate and  
1424 identifiable to customers, liquor distributors and regulatory authorities, and enables the  
1425 respective licensees to maintain control of the licensed area, egress, and the sale, storage and  
1426 service of alcoholic beverages, and otherwise in conformity with all sections of this chapter.

1427         SECTION 82. Said section 15 of said chapter 138, as so appearing, is hereby further  
1428 amended by striking out, in line 149, the words “or connected therewith” and inserting in place  
1429 thereof the following words:-

1430                 ; except that a common victualler duly licensed to operate a restaurant under chapter 140  
1431 and holding a license under section 12 of this chapter can be connected to a premises licensed  
1432 under this section, provided that at least 50 percent of the revenue generated at the premise  
1433 licensed under this section is derived from the sale of grocery items as defined in section 184B of  
1434 chapter 94; and provided further that the connection between, and design of, the two locations so  
1435 licensed, including interior connections, which shall be allowed, clearly delineates the two  
1436 premises in such a way as to make the boundaries of each licensed premises clearly separate and  
1437 identifiable to customers, liquor distributors and regulatory authorities, and enables the  
1438 respective licensees to maintain control of the licensed area, egress, and the sale, storage and  
1439 service of alcoholic beverages, and otherwise in conformity with all sections of this chapter.

1440         SECTION 83. Section 15F of said chapter 138, as so appearing, is hereby amended by  
1441 striking out, in lines 1 to 20 inclusive, the first paragraph and inserting in place thereof the  
1442 following paragraph:-

1443                 Notwithstanding any other provision of chapter 138, in any city or town wherein the  
1444 granting of licenses to sell wine, malt beverages or distilled products is authorized under this

chapter, the local licensing authority may issue to an applicant authorized to operate a farmer-winery under section 19B, a farmer-brewery under 19C or a farmer-distillery under section 19E, a special license for the sale of products produced by or for the licensee in sealed containers for off-premise consumption at an indoor or outdoor agricultural event. All sales of such products shall be conducted by an agent, representative, or solicitor of the licensee to customers who are at least 21 years of age. A licensee under this section may provide, without charge, samples of such products to prospective customers at an indoor or outdoor agricultural event. All samples shall be served by an agent, representative, or solicitor of the licensee to individuals who are at least 21 years of age and all samples shall be consumed in the presence of such agent, representative, or solicitor of the licensee; provided, however, that no sample shall exceed 1 ounce of such products and no more than 5 samples shall be served to an individual prospective customer. For the purposes of this section, the term “agricultural event” shall be limited to those events certified by the department of agricultural resources as set forth in this section.

SECTION 84. Section 17 of said chapter 138, as so appearing, is hereby amended by inserting after the word “chapter”, in line 293, the following words:-

, but this prohibition shall not preclude a person from holding an ownership interest in more than one business entity, registered with the Secretary of the Commonwealth or another state’s equivalent, holding a license granted pursuant to section 12 and section 15 of this chapter.

SECTION 85. Said section 17 of said chapter 138, as so appearing, is hereby amended by inserting after the word “applicant” in line 318 the following words:- or a farmer brewery license under section 19C or in any other state for the sale of beer produced by or for the applicant.



1467           SECTION 86. Section 18 of said chapter 138, as so appearing, is hereby amended by  
1468 striking out the words “and section 19F” in line 87 and inserting in place thereof the following  
1469 words:- section 19F and section 19G.

1470           SECTION 87. Section 19C of said chapter 138, as so appearing, is hereby amended by  
1471 inserting after the word “premises” in line 124 the following words:-

1472                   , except where a farmer-brewer obtains additional licenses for the sale of malt beverages  
1473 at additional locations off the brewery premises at locations authorized by a license issued  
1474 pursuant to section 15 and section 15F.

1475           SECTION 88. Said section 19C of said chapter 138, as so appearing, is hereby further  
1476 amended by adding the following subsection:-

1477           (o)     Notwithstanding any provision of this chapter to the contrary, a farmer brewer  
1478 shall be permitted to fill empty growlers, provided by consumers for retail sale, if said growler  
1479 was purchased for the purpose of holding malt beverages. For the purposes of this section, the  
1480 term “growler” shall mean a large glass, including bottles, jugs, or other containers, which can  
1481 hold a minimum of 32 ounces and up to 100 ounces of a malt beverage as defined in section 2,  
1482 and is purchased from any licensed malt beverages manufacturer or wholesaler.

1483           SECTION 89. Section 19D of said chapter 138, as so appearing, is hereby amended by  
1484 adding the following subsection:-

1485           (n)     Notwithstanding any provision of this chapter to the contrary, a pub brewer shall  
1486 be permitted to fill empty growlers, provided by consumers for retail sale, if said growler was  
1487 purchased for the purpose of holding malt beverages. For the purposes of this section, the term

1488 “growler” shall mean a large glass, including bottles, jugs, or other containers, which can hold up  
1489 to 100 ounces of a malt beverage as defined in section 2, and is purchased from any licensed  
1490 malt beverages manufacturer or wholesaler.

1491 SECTION 90. Said chapter 138, as so appearing, is hereby amended by adding the  
1492 following section:-

1493 Section 19G. The commission may issue a tenant brewer license which authorizes the  
1494 holder thereof to produce or package malt beverages on the premises of a host brewer to any  
1495 individual applicant who is a resident and citizen of the commonwealth and to any corporation,  
1496 partnership or other entity which complies with the requirements set forth in section 26.

1497 To be eligible for a tenant brewer license, the applicant must have a brewer's notice  
1498 approved by the United States Department of the Treasury Alcohol and Tobacco Tax and Trade  
1499 Bureau and must have an approved alternating proprietorship arrangement that allows the  
1500 applicant to use the facilities, equipment, and employees of a host brewer.

1501 A tenant brewer may import such raw materials as are required solely for the production  
1502 and packaging of the malt beverage, including without limitation bulk malt beverage produced  
1503 by the tenant brewer at its brewery of origin. The bulk malt beverage imported by the tenant  
1504 brewer must be packaged and shipped back to the tenant brewer's brewery of origin or to another  
1505 licensed premises designated by the tenant brewer within 10 days of receipt by the host brewer.

1506 Any product produced or packaged at the host brewer's premises must be removed from  
1507 the host brewer's premises within 10 days after the brewing or packaging process is completed.  
1508 The finished product must be returned to the tenant brewer's brewery of origin or to another  
1509 licensed premises designated by the tenant brewer.

1510           The Commission may require a tenant brewer to maintain a record or log indicating  
1511   which equipment is being used at any time by the tenant brewer in the production or packaging  
1512   of malt beverages and which employees are working on production or packaging of the tenant  
1513   brewer's product. A tenant brewer is subject to the same reporting requirements as the host  
1514   brewer.

1515           A tenant brewer's license issued pursuant to this section 19G does not grant the holder  
1516   thereof any right to sell its product in the commonwealth to any person or entity except a Section  
1517   18 license holder. A tenant brewer's license only permits the tenant brewer to produce or  
1518   package malt beverages as specifically set forth in this Section 19G.

1519           For the purposes of this section, a package means kegs, casks, barrels, bottles, cans and  
1520   all other packages approved by the United States Department of the Treasury Alcohol and  
1521   Tobacco Tax and Trade Bureau for malt beverages. A brewery of origin means any brewery at  
1522   which the tenant brewer's is duly licensed to manufacture of malt beverages other than at the  
1523   host brewer's premises.

1524           The annual fee for each license issued under this section shall be:

1525           5,000 barrels or less per year: \$ 22.00/per year

1526           More than 5,000 and less than 20,000 barrels per year: \$ 44.00/per year

1527           More than 20,000 barrels and less than 100,000 barrels per year: \$ 82.00/per year

1528           More than 100,000 and less than 1,000,000 barrels per year: \$110.00/per year

1529           Each additional 1,000,000 barrels per year: \$111.00/per year

1530 For the above purposes, a barrel shall be 31 gallons.

1531 SECTION 91. Notwithstanding any general or special law to the contrary, the term  
1532 “Massachusetts Industrial Finance Agency”, wherever it appears in the general and special laws,  
1533 shall be deemed to mean “Massachusetts Development Finance Agency.”

1534 SECTION 92. Section 7 of chapter 293 of the acts of 2006, as amended by section 6 of  
1535 chapter 129 of the acts of 2008, is hereby further amended by striking out clauses (ii), (iii) and  
1536 (iv) of subsection (c) and inserting in place thereof the following 2 clauses:-

1537 (ii) the secretary certifies that the developer has received commitments satisfactory to the  
1538 department for financing sufficient, with equity or other amounts to be provided by the developer  
1539 and other persons, to fund the costs of construction of the proposed economic development  
1540 project exclusive of those public infrastructure improvements to be financed by the agency, and  
1541 shall have obtained a blanket performance bond or other security satisfactory to the secretary and  
1542 payable to the agency securing the developer's obligation to complete the construction of the  
1543 public infrastructure improvements included in the economic development proposal in an  
1544 amount equal to or greater than the outstanding principal amount of any bonds to be issued by  
1545 the agency to finance costs of public infrastructure improvements; and (iii) the agency certifies  
1546 that it has approved the proposal.

1547 SECTION 93. Said section 7 of said chapter 293, as most recently amended by section  
1548 87 of chapter 287 of the acts of 2014, is hereby further amended by striking out in subsection (d)  
1549 the words, “; provided, further, that the secretary shall not approve more than 31 per cent of the  
1550 total amount for projects, in the aggregate, for any municipality” and inserting in place thereof

1551 the following words:- ; provided, further, that the secretary shall not approve more than 50 per  
1552 cent of the total amount for projects, in the aggregate, for any municipality.

1553 SECTION 94. Said section 7 of said chapter 293, as most recently amended by section  
1554 88 of said chapter 287, is hereby further amended by striking out the second sentence of  
1555 subsection (e).

1556 SECTION 95. Section 8 of said chapter 293, as amended by section 8 of chapter 129 of  
1557 the acts of 2008, is hereby further amended by striking out clauses (iii), (iv) and (v) of subsection  
1558 (a) and inserting in place thereof the following 2 clauses:-

1559 (iii) the municipality shall provide local infrastructure development assistance to the  
1560 commonwealth with respect to the economic development project to the extent and for such time  
1561 as is provided in section 10; and (iv) the commonwealth shall provide infrastructure development  
1562 assistance to the agency to pay the debt service due in each fiscal year on any bonds issued by  
1563 the agency to finance the costs of public infrastructure improvements included in such economic  
1564 development project, subject to reimbursement of all or a portion of such state infrastructure  
1565 development assistance through the collection of infrastructure assessments as provided in  
1566 section 9 of this act and from local infrastructure assistance provided by the municipality as  
1567 provided in section 10.

1568 SECTION 96. Section 11 of said chapter 293, as amended by sections 13 and 14 of said  
1569 chapter 129, is hereby further amended by striking out the following words in subsection (b):-

1570 ; provided, however, that notwithstanding any other general or special law to the  
1571 contrary, a certified economic development project receiving financial assistance for public  
1572 infrastructure improvements pursuant to this act shall not be eligible for: (i) designation as a TIF

zone pursuant to section 59 of chapter 40 of the General Laws; provided, however, that a certified economic development project designated as a TIF zone pursuant to said section 59 of said chapter 40 prior to January 1, 2009 shall be eligible to receive financial assistance for public infrastructure improvements pursuant to this act; (ii) the tax credit described in section 38N of chapter 63 of the General Laws; (iii) a community development action grant pursuant to section 57A of chapter 121B of the General Laws; (iv) a public works economic development program grant under clause (c) of the first paragraph of section 17 of chapter 732 of the acts of 1981; or (v) or any other economic assistance program as may be determined by the secretary or the commissioner. The ineligibility to participate in economic assistance programs as provided in clauses (i) to (v), inclusive, shall not apply to any tenant of a certified economic development project which is not an affiliate of the developer”.

SECTION 97. A controlling business or affiliate of a controlling business which has been awarded state tax credits under chapter 19 of the acts of 1993 or sections 3A to 3H of chapter 23A, and which intends to claim such credits on tax filings for tax years beginning on or after January 1, 2016, shall enter into an EDIP contract setting forth the amount of the credits awarded, the amount of credits claimed or carried over, and the job creation obligations of the controlling business. Any controlling business or affiliate of a controlling business that fails to enter into an EDIP contract in form and substance acceptable to MOBD on or before December 31, 2016 shall forfeit such credits. For purposes of this section, the terms controlling business, EDIP contract and MOBD shall have the meanings ascribed to them in section 3A of chapter 23A of the General Laws, as amended by this act.

SECTION 98. Any and all references in the General Laws to “economic target area” or “ETA” shall be deemed to mean an economic target area designated by the EACC and in

existence as of the effective date of this act, or an area designated by the EACC as an economic target area in accordance with section 3G of chapter 23A of the General Laws. As of the effective date of this act, all references in the General Laws to “economic opportunity area” or “EOA” shall be deemed to mean an economic opportunity area designated by the EACC and in existence as of the effective date of this act, or an area designated by the EOA as an economic opportunity area in accordance with said section 3G of said chapter 23A. Existing economic target areas and economic opportunity areas designated by the EACC prior to January 1, 2017 shall remain in effect until their scheduled termination date, if any.

SECTION 99. Notwithstanding any general or special law to the contrary, sections 92 through 96, inclusive, shall not apply to economic development projects approved by the Secretary of Administration and Finance under section 7(c) of chapter 293 of the acts of 2006, as amended by section 6 of chapter 129 of the acts of 2008, before January 1, 2017.

SECTION 100. Sections 6 through 8, inclusive, 12 through 16, inclusive, 20, 21, 28, 29, 50 through 73, inclusive, 92 through 96, inclusive, and 98 shall take effect on January 1, 2017 and shall be effective for all tax years beginning on or after January 1, 2017.

SECTION 101. Sections 22 through 27, inclusive, 33 through 49, inclusive, 75, 76, 81, 82, 86 and 90 shall take effect on October 1, 2016.

SECTION 102. Except as otherwise specified, this bill shall become effective upon enactment.