

HOUSE No. 4732

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to economic development in the commonwealth.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to finance forthwith 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,
2 the sums set forth in sections 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

7008-1116 For the commonwealth's local economic development projects; provided that \$250,000 shall be expended for the facilitation and support of the Massachusetts-Israel Economic Connection operated by the New England Israel Business Council to pursue economic collaboration between Israel and Massachusetts; provided further, that not less than \$150,000 shall be expended for the Black Economic Council of Massachusetts; provided further, that not less than \$500,000 shall be expended for the fit-out of the ground floor of the Union Station garage in the city of Worcester for commercial use; provided further, that not less than \$250,000 shall be expended to the City of Melrose for the expansion and improvement of the Victorian Downtown Business District; provided further that not less than \$100,000 shall be expended for the development of a water and sewer economic infrastructure feasibility study and master plan in the Town of Leicester; provided further, that \$400,000 shall be expended for the design and construction of connecting the Methuen Rail Trail to the Spicket River Greenway in the City of Methuen and the City of Lawrence; provided further that not less than \$225,000 shall be expended for the purpose a feasibility study and business plan for an Applied Climate/Coastal Resilience Innovation Center in the Town of Barnstable; provided further, that not less than \$350,000 shall be used to renovate the Chevalier Theater in the City of Medford; provided further, that \$250,000 shall be used for Street and sidewalk construction on Commercial Street in City of Medford; provided further, that \$200,000 shall be expended for engineering improvements to the slip ramp for Route 1A and I-495 in the Town of Wrentham; provided further, that not less than \$350,000 shall be expended for parking improvements in the Town of Holliston; provided further, that not less than \$350,000 shall be expended for the establishment of a building code upgrade fund in the City of Pittsfield; provided further, that not less than \$200,000 shall be expended to the Falmouth Economic Development and Industrial Corporation

to fund fiber optic cable expansion in Falmouth; provided further, that the Secretary shall expand \$100,000 for mitigation of or contribution toward any costs associated with or arising out of design, construction or infrastructure improvements related to the redevelopment of the intersection of Carew and Cass Street in Springfield; provided further, that \$200,000 shall be expended for improvements to Goddard Park and Auburn Pond in the town of Auburn; provided further, that not less than \$50,000 shall be expended for sidewalk projects for the new Village Center in the town of Pelham; provided further, that not less than \$50,000 shall be expended for a commercial kitchen in the Community Hall in Pelham; provided further, that not less than \$75,000 shall be expended for the Sweetser Park Foundation in the town of Amherst; provided further, that not less than \$100,000 shall be expended for the construction of secure bicycle shelters and marked bicycle lanes on State Route 4/225 in the town of Bedford; provided further, that not less than \$150,000 shall be expended for the construction of bus transit shelters in the town of Burlington; provided further that not less than \$250,000 be allocated to infrastructure improvements to Lincoln Street in Marlborough for the revitalization of the French Hill area; provided further, that not less than \$350,000 shall be expended to the City of Fitchburg for the implementation of a municipal fiber-optic telecommunication infrastructure; provided that not less than \$300,000 shall be expended for improving sewer infrastructure along Route 20 in the Town of Shrewsbury; provided further, that \$100,000 shall be expended for an erosion study located in the town of Salisbury; provided further, that not less than \$100,000 shall be expended to the City of Newton, to improve external marketing of economic development services offered by the city; provided further, that not less than \$200,000 shall be expended to the City of Newton, to conduct a market analysis and community engagement process in order to develop a strategic vision plan for the future of Newton Centre; provided further, that not less than

56 \$100,000 shall be expended to the City of Newton, to expand the capacity of the Newton
57 Innovation Center; provided further, that not less than \$200,000 shall be expended to the City of
58 Newton, for new bathroom and locker room facilities at Gath Pool; provided further, that
59 \$150,000 shall be expended for the MetroWest Tourism and Visitors Bureau; provided further,
60 that not less than \$100,000 shall be expended for sidewalk, road, and parking improvement
61 projects in commercial and retail areas within the town of Ashland; provided further, that not less
62 than \$100,000 shall be expended for sidewalk, road, and parking improvement projects in
63 commercial and retail areas within the city of Framingham; provided further, that not less than
64 \$250,000 shall be expended for park development costs for North Mountain Park in the Town of
65 Dalton; provided further, that not less than \$100,000 shall be expended for repairs and the
66 beautification of Sullivan Park in the City of Lawrence; provided further, that not less than
67 \$100,000 shall be expended for repairs and the beautification of Stockton Park in the City of
68 Lawrence; provided further, that not less than \$100,000 shall be expended for the renovation and
69 repair of Burgoin Square Park Soccer Field in the City of Lawrence; provided further, that not
70 less than \$100,000 for the improvement of sidewalks and bike path infrastructure in the city of
71 Lawrence; provided further, that not less than \$250,000 shall be expended for the University of
72 Massachusetts at Lowell for technical assistance, mentoring, prototyping, product development,
73 and manufacturing referral services for medical device, manufacturing and technology-based
74 startups within the Hamilton Canal Innovation District and to promote industry and supply chain
75 partnerships; provided further, that no less than \$40,000 be provided to the town of Sterling for
76 the implementation of an online, E- Permitting program; provided further, that not less than
77 \$75,000 shall be expended for the Downtown Taunton Foundation to facilitate commercial and
78 residential housing development; provided further, that \$50,000 shall be expended for the

79 Southeastern Massachusetts Convention and Visitors Bureau; provided further, that not less than,
80 \$250,000 shall be expended for the installation of lights at the baseball fields located at Aaron
81 Krock Memorial Park in Worcester; provided further, that not less than \$75,000 shall be
82 expended for administrative costs related to the operation of the Life Sciences Consortium of the
83 North Shore run through North Shore InnoVentures in Beverly; provided further that not less
84 than \$50,000 be expended to the Essex National Heritage Commission for the purposes of
85 improving signage on Essex Heritage Sites; provided further, that not less than \$250,000 shall be
86 allocated to the Roxbury Trust Fund for the creation of jobs, job training and placement, business
87 development and expansion, financial workshops for individuals and small businesses,
88 education, literacy and English language acquisition in the Roxbury neighborhood of the City of
89 Boston; provided further, that not less than \$25,000 shall be expended for career and technical
90 training programs held at the Malden YWCA; provided further, that not less than \$150,000 shall
91 be expended for sidewalk, road, and parking improvement projects in commercial and retail
92 areas within the city of Malden; provided further, that not less than \$100,000 shall be expended
93 to the City of Haverhill for the advancement of redevelopment on Merrimack Street; provided
94 further, that not less than \$100,000 shall be expended to the City of Haverhill for a grant
95 program to support rental costs for new small businesses in the City's Central Business District;
96 provided further, that not less than \$75,000 shall be expended for the establishment of a
97 feasibility study, site assessment, and pre-development work through the City of Haverhill on the
98 former Dutton Airport parcels; provided further, that not less than \$250,000 be expended to the
99 City of Peabody for the design, manufacturing, and implementation of a wayfinding plan and
100 signage for Centennial Business Park; and provided further that not less than \$200,000 shall be

101 expended for coastal culvert repair in the Blish Point section of the Town of
102 Barnstable..... \$8,840,000

103 SECTION 2B.

104 EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

105 Office of the Secretary

106 6720-1351. For a grant program to coastal communities to be administered by the
107 Seaport Economic Council; provided that funding shall be used for community planning and
108 investment activities that stimulate economic development and create jobs in the maritime
109 economy sector, and to construct, improve, repair, maintain and protect coastal assets that are
110 vital to achieving these goals; provided further, that that the planning, prioritization, selection
111 and implementation of projects shall consider climate change impacts in furtherance of the goals
112 of climate change mitigation and adaptation and consistent with the integrated state hazard
113 mitigation and climate change adaptation plan..... \$50,000,000

114 7002-1120 For grants to municipalities and other public instrumentalities for design,
115 construction, building, land acquisition, rehabilitation, repair and other improvements to
116 publicly-owned infrastructure, or those owned or operated by nonprofit organizations; provided,
117 that not less than \$3,000,000 shall be expended on land acquisition for the purposes of market
118 rate housing in the City of Fall River; provided further, that not less than \$1,000,000 shall be
119 expended for the City of Newton Parks and Recreation Department for the purpose of replacing
120 the bath house located at Crystal Lake in Newton, a Great Pond under MGL Chapter 91;
121 provided further, that not less than \$1,000,000 shall be expended for provided that \$1,000,000
122 shall be expended for the Clippership Connector, a multi-use path in the City of Medford;

123 provided further, that not less than \$2,000,000 shall be expended to the Town of Adams for the
124 construction of the Greylock Glen Outdoor Center; provided that \$5,000,000 shall be expended
125 for the Harbor Development Commission in the City of New Bedford for the construction of a
126 Fisheries Innovation Center; provided further, that not less than \$1,000,000 shall be expended to
127 the development and improvement of the Waterfield lot in the Town of Winchester; provided
128 further, that not less than \$1,000,000 shall be expended for the implementation of a pilot
129 Transportation Management Association to address mobility and connectivity gaps in the Town
130 of Stoneham; provided further, that not less than \$1,000,000 shall be expended for the growth of
131 the startup and small business ecosystem in the City of Worcester including the operation of
132 incubators, accelerators and other new ventures; provided further, that not less than \$1,000,000
133 shall be allocated for dredging of Milton Landing in the Town of Milton; provided further, that
134 not less than \$1,000,000 shall be expended for the continued maintenance and development of
135 Powers Farm Park in the Town of Randolph; provided further, that not less than \$1,000,000 shall
136 be expended for site readiness and storm water management at the William Stanley Business
137 Park in Pittsfield; provided further, that not less than \$1,000,000 be allocated to the Marine
138 Biological Laboratory to be used for the restoration of the seawall located at Waterfront Park in
139 the town of Falmouth; provided further, that not less than \$1,000,000 shall be allocated for
140 dredging in the Town of Tisbury; provided further, that not less than \$1,300,000 shall be
141 expended for new equipment and technological improvements to combine Next-Gen Sequencing
142 with High Performance Technology and Big Data Analytics to mine the rich genetic diversity of
143 marine organisms for a joint proposal of the Ocean Genome Legacy/Northeastern Marine
144 Science Center (OGL/MSC) and Gloucester Marine Genomics Institute; provided further, that
145 \$1,500,000 shall be expended to support improvements to the water and sewer infrastructure

system along state highway route 20 in the town of Oxford; provided further, that not less than \$900,000 shall be expended for implementing infrastructure improvements and development strategies of the Drury Square Plan in the town of Auburn; provided further, that not less than \$1,000,000 shall be expended for economic development of the Avon Industrial Park in the Town of Avon; provided further, that not less than \$1,000,000 shall be expended for the Paul Revere Heritage Site in the Town of Canton; provided further, that not less than \$3,500,000 shall be expended for an extended care career ladder grant program, consistent with section 410 of chapter 159 of the Acts of 2000; provided further, that not less than \$3,500,000 shall be expended for the establishment of a pilot program in the city of Lowell administered by a local 501(c)3 that has the capability to provide zero to 3% loans to local commercial businesses to implement energy efficiency updates to increase commercial activity, contribute to downtown revitalization, promote job creation in economically depressed areas, or advance other local economic development goals; provided further, that not less than \$2,000,000 shall be expended to Way Finders, Inc.; provided further, that not less than \$1,000,000 shall be expended to New North Citizens Council, Inc., a City Wide Neighborhood and community agency in Springfield, for infrastructure improvements and capital investments to support the low income Neighborhood revitalization, Business Corridor redevelopment, financing for Facade for Micro/small businesses, and other community economic development initiatives; provided further that not less than \$500,000 be allocated for the design and construction of a regional cultural arts center at the Burlington Mall or other suitable location in the town of Burlington; provided further, that not less than \$10,000,000 shall be expended for dredging in the waterways and the construction, rehabilitation and repair of on-shore facilities located at Brayton Point in the Town of Somerset to support the growth and expansion of the off-shore wind-driven

169 electricity generating projects; provided further, that not less than \$1,000,000 shall be expended
170 for the design of a pedestrian and bicycle bridge connecting businesses, housing and public
171 transit in the Alewife section of Cambridge; provided further, that not less than \$750,000 shall be
172 expended for the renovation and rehabilitation of the Patton Homestead in the Town of
173 Hamilton; provided further, that not less than \$500,000 shall be expended for the reconfiguration
174 and renovation to the downtown area in the Town of Topsfield; provided further, that not less
175 than \$500,000 shall be expended for the replacement and renovation for the water main in the
176 Town of Ipswich; provided further, that not less than \$500,000 shall be expended for
177 signalization on Main Street in the Town of Wenham; provided further, that not less than
178 \$500,000 shall be expended for signalization on Route 1 in the Town of Rowley; provided
179 further, that not less than \$1,000,000 shall be expended for the redevelopment of the Old Town
180 Hall building in the Town of Walpole; provided further, that not less than \$2,700,000 shall be
181 expended for infrastructure and road improvements at the intersection of Interstate Highway
182 Route 95, South Main Street, and Old Post Road in the Town of Sharon; provided further, that
183 not less than \$2,000,000 shall be expended for the economic redevelopment in the Downtown
184 Mixed Use Overlay District in the Town of Stoughton; provided further, that not less than
185 \$1,000,000 shall be expended for business development along Pleasant Street in the City of
186 Worcester; provided further, that \$1,000,000 shall be expended for the demolition of the former
187 Microfab building in the city of Amesbury; provided further, that \$500,000 shall be expended for
188 improvements and repairs to the Route 1 corridor located in the city of Newburyport; provided
189 further, that \$500,000 shall be expended for improvements to the Welcome Center in the town of
190 Salisbury; provided further, that not less than \$3,000,000 shall be expended to promote facilities
191 that produce mass timber products for building construction located in Massachusetts gateway

192 cities, provided that such facilities use or produce responsibly harvested wood products certified
193 by the Forest Stewardship Council or Programme for the Endorsement of Forest Certification;
194 provided further, that not less than \$3,000,000 shall be allocated to municipalities for upgrading
195 traffic signals to light-emitting diode technology and intelligent transportation system
196 applications, such as autonomous and connected vehicle-related technology, performing regional
197 operations such as re-timing, developing special event plans and monitoring traffic signals and
198 for maintaining and operating traffic signals; provided further, that not less than \$2,000,000 shall
199 be made available to the Municipal Americans with Disabilities Act Improvement Grant
200 Program, operated by the Massachusetts Office on Disability, for the purposes of supporting
201 capital improvements specifically dedicated to improving access for persons with disabilities
202 while enhancing economic development in cities and towns across the Commonwealth; provided
203 further, that not less than \$1,000,000 shall be expended for the construction of an Anaerobic
204 Digester for the City of Greenfield for sludge disposal; provided further, that \$1,000,000 shall be
205 expended for construction, renovations, and infrastructure improvements for the Italian Home for
206 Children campuses located in the Jamaica Plain district of the city of Boston and in the East
207 Freetown section of the town of Freetown; provided further, that not less than \$1,500,000 shall
208 be expended for the construction of a police station facility in the town of Newbury; provided
209 further, that not less than \$700,000 be expended to the town of Grafton for the Westboro Road-
210 Route 30 Sewer Extension Project; provided further, that not less than \$500,000 be expended to
211 the town of Northbridge for the urban renewal and redevelopment of the downtown area;
212 provided further, that not less than \$525,000 be expended to the town of Upton for the
213 revitalization of the town center; provided further, that not less than \$500,000 be expended to the
214 town of Grafton for the Fisherville Mill 40R Streetscape and Infrastructure Improvements

215 Project; provided further, that not less than \$400,000 be expended to the town of Northbridge for
216 the property redevelopment study; provided further, that not less than \$2,000,000 shall be
217 allocated for dredging of Plymouth Harbor; provided that not less than \$500,000 shall be
218 expended for career training and costs associated with equipment upgrades for the Career and
219 Technical Services program at Weymouth High School; provided further, than not less than
220 \$500,000 be expended for the dredging of the Back River in the area of the Weymouth Back
221 River boat launch facility and the nourishment of George Lane Beach; provided further, that
222 \$3,000,000 shall be expended for the city of Lowell for the design and engineering of a 1,000
223 space parking garage on the site of a current surface parking lot; provided further, that
224 \$3,000,000 shall be spent for the restoration of downtown sidewalks, lighting, street furnishings,
225 street trees and other plantings and facade restoration grants in the city of Lowell; provided
226 further, that not less than \$1,200,000 shall be expended for a site assessment to Rockbestos in the
227 Town of Clinton; provided further, that not less than \$1,000,000 shall be expended for water and
228 sewage infrastructure in the town of Northborough; provided further, that not less than
229 \$5,000,000 shall be expended for the creation and development of a cultural highway along state
230 highway route 62 in the towns of Hudson, Berlin, Clinton, Sterling, Princeton, Stow, and
231 Maynard, which shall ensure the preservation of the economic, cultural, historical, agricultural
232 and scenic aspects unique to the route and its host municipalities; provided further, that not less
233 than \$500,000 shall be expended for the development and expansion of the Life Sciences
234 Education and Training Center located in the Myles Standish Industrial Park in the city of
235 Taunton; provided further, that not less than \$2,000,000 shall be expended for the façade
236 improvement program and streetscape improvements in neighborhood business districts in the
237 City of Worcester; provided further, that not less than \$3,500,000 shall be expended for new

238 construction of 4,500 lineal feet of Riverside Drive with accompanying infrastructure as a Public
239 Way within the Ludlow Mills complex; provided further, that not less than \$8,000,000 shall be
240 expended to the town of Lee for the planning, design, and construction of a new water line from
241 the water treatment plant into downtown Lee, for increased access to water and public safety,
242 and to make possible the continued development of the former Eagle Mill into a mixed-use
243 residential, retail, and hotel establishment; provided further, that not less than \$3,000,000 shall
244 be expended to commence investigation, develop, refine, and build prototype vehicles/vessels
245 utilizing nonpolluting sources such as photovoltaic power; said project being the beginning of a
246 continuing process which will create long term jobs within the Commonwealth and the above
247 work being accomplished at Massachusetts higher learning facilities; provided further, that not
248 less than \$2,000,000 shall be expended for the restoration and rehabilitation of the historic
249 Everett Square Theatre in the Hyde Park section of the City of Boston; provided further, that not
250 less than \$1,000,000 shall be expended to the City of Haverhill for the establishment of a
251 building code upgrade fund; provided further, that not less than \$2,000,000 will be appropriated
252 to the Massachusetts International Festival of the Arts for the restoration of the Victory Theater
253 in Holyoke; provided further, that not less than \$2,000,000 shall be expended for Jackson Square
254 Recreation Center in the Roxbury neighborhood of Boston; provided further, that not less than
255 \$2,000,000 shall be expended to the Blessed Sacrament in Jamaica Plain; and provided further,
256 that not less than \$1,000,000 shall be allocated to the Town of Dennis toward the dredging of the
257 Sesuit Harbor.....\$116,975,000

258 7002-1501. For grants administered by Massachusetts Technology Development
259 Corporation established in section 2 of chapter 40G of the General Laws, and doing business as
260 MassVentures; provided that such grants shall be made on a competitive basis to growing

261 Massachusetts-based companies commercializing technologies developed with assistance of a
 262 Small Business Innovation Research (SBIR) or Small Business Technology Transfer (STTR)
 263 grant from a federal agency such as, but not limited to, the Department of Defense, the
 264 Department of Energy, or the National Science Foundation..... \$12,500,000

265 7002-8006. For the MassWorks infrastructure program established in section 63 of
 266 chapter 23A of the General Laws.....\$300,000,000

267 7002-8007. For matching grants to enable institutions of higher education, including
 268 state and municipal colleges and universities, to participate in and receive federal funding
 269 through Manufacturing USA, formerly known as the National Network for Manufacturing
 270 Innovation..... \$25,000,000

271 7002-8019. For the Massachusetts Growth Capital Corporation established in section 2
 272 of chapter 40W of the General Laws, for a program to provide matching grants to community
 273 development financial institutions certified by the United States Treasury or community
 274 development corporations certified under chapter 40H of the General Laws to enable the
 275 community development financial institution or community development corporation to leverage
 276 federal or private investments for the purpose of making loans to small
 277 businesses..... \$1,250,000

278 7002-8022. For the Massachusetts Cybersecurity Innovation Fund established in
 279 section 4H of chapter 40J of the General Laws.....\$2,500,000

280 7002-8023. For grants to coastal communities to undertake dredging projects that will
 281 promote job creation, increase commercial activity, contribute to downtown revitalization, or

282 advance other local economic development goals; provided that all grants shall be matched on a
283 1:1 basis by the grantee..... \$50,000,000

284 SECTION 2C.

285 EXECUTIVE OFFICE OF EDUCATION

286 Office of the Secretary

287 7009-2005. For a competitive grant program to be administered by the executive
288 office of education, in consultation with the executive office of housing and economic
289 development and the executive office of labor and workforce development, to provide funding
290 for the purchase and installation of equipment and any related improvements and renovations to
291 facilities necessary for the installation and use of such equipment, in order to establish, upgrade
292 and expand career technical education and training programs that are aligned to regional
293 economic and workforce development priorities; provided, that grant applications may facilitate
294 collaboration to provide students enrolled in eligible vocational technical schools with
295 postsecondary opportunities consistent with clause (o) of the first paragraph of section 22 of
296 chapter 15A of the General Laws and section 37A of chapter 74 of the General Laws; provided
297 further, that community colleges, and innovation centers that receive funds from the
298 Massachusetts Life Sciences Center shall also be eligible for funds from this program; provided
299 further, that the executive office of education, in consultation with the executive office of
300 housing and economic development and the executive office of labor and workforce
301 development, shall adopt additional guidelines as necessary for the administration of the
302 program; provided further, that awards may be made to community-based organizations with
303 recognized success in training adults with barriers to employment..... \$75,000,000

304 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

305 Office of the Secretary

306 6720-1341. For mitigation of or contribution toward any costs associated with or
307 arising out of design, construction or infrastructure improvements to the Raymond L. Flynn
308 Cruiseport in the South Boston section of the city of Boston to accommodate large cruise ships
309 and increasing passenger demand, for the continued competitiveness of the terminal; provided,
310 that the secretary, in coordination with the chief executive officer of the Massachusetts Port
311 Authority, shall seek to maximize federal and private funds and reimbursement to offset, to the
312 extent feasible, costs incurred under this item.....\$100,000,000

313 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

314 Office of the Secretary.

315 0640-0302. For the Massachusetts Cultural Facilities Fund established in section 42 of
316 chapter 23G of the General Laws for the acquisition, design, construction, repair, renovation,
317 rehabilitation or other capital improvement or deferred maintenance to a cultural facility to
318 advance and promote tourism through the preservation of the state's cultural
319 resources.....\$50,000,000

320 SECTION 3. Section 16 of chapter 6D of the General Laws, as appearing in the 2016
321 Official Edition, is hereby amended by striking out subsection (c).

322 SECTION 4. Subsection (b) of section 3A of chapter 23A of the General Laws, as so
323 appearing, is hereby amended by inserting after the definition of "Expansion of an existing
324 facility" the following definition:-

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

SECTION 5. Section 3C of said chapter 23A, as so appearing, is hereby amended by adding the following 2 subsections:-

(d) Notwithstanding the requirements of subsections (b) and (c), the EACC may by guidelines or regulations establish a program to incent businesses to occupy vacant storefronts in downtown areas. The EACC may award EDIP tax credits to storefront tenants on a competitive basis taking into account factors such as the number of jobs to be created; the volume of pedestrian traffic to be generated; potential synergy with other downtown businesses; whether there is a matching contribution from the municipality or the landlord; commitment to storefront improvements; and whether the municipality has made local plans or investments to revitalize the downtown. Certification of such projects shall require that a business commit to occupy the vacant storefront for a period of not less than 1 year, but shall not require the business to invest in improvements or to create new jobs. The EACC shall not award more than \$500,000 in EDIP tax credits in a calendar year to projects certified pursuant to this subsection.

(e) The secretary of housing and economic development and the secretary of 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 1 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 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 6. Subsection (b) of section 3D of said chapter 23A, as so appearing, is hereby further amended by adding the following sentence:- Refundable tax credits awarded to a certified project that has been designated as an extraordinary economic development opportunity shall not be counted against the cap set forth in this subsection.

SECTION 7. Subsection (c) of said section 3D of said chapter 23A, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Notwithstanding the cap set forth in the preceding sentence, the EACC may authorize tax credits in excess of the annual cap of \$30,000,000 for a certified project that is designated as an extraordinary economic

development opportunity; provided that the total amount awarded shall not exceed \$50,000,000 in a calendar year.

SECTION 8. Said chapter 23A is hereby further amended by striking out section 10B, as so appearing, and inserting in place thereof the following section:-

Section 10B. The secretary of housing and economic development shall establish a Massachusetts advanced manufacturing collaborative, hereinafter referred to as the collaborative, within the executive office of housing and economic development, which shall be responsible for advising and assisting on the development, implementation and periodic update of a plan to foster and strengthen the conditions necessary for growth and innovation of manufacturing within the commonwealth. The collaborative shall include, but not be limited to: the secretary of housing and economic development, or a designee, who shall serve as chair; the secretary of labor and workforce development, or a designee; 1 person who shall be appointed by the speaker of the house of representatives; 1 person who shall be appointed by the president of the senate; the director of the office of business development; the executive director of the Massachusetts clean energy center; the executive director of the Massachusetts Life Sciences Center; the executive director of the John Adams Innovation Institute; the executive director of the Massachusetts Technology Transfer Center; the president of the Massachusetts Manufacturing Extension Partnership, Inc.; a representative from the Associated Industries of Massachusetts, Inc.; a representative from the Massachusetts Workforce Board Association; a representative from the Massachusetts Development Finance Agency; a representative from the Massachusetts Technology Park Corporation; a representative from a local chamber of commerce appointed by the governor; and 8 members appointed by the governor to represent the commonwealth's large manufacturers, small-to-medium sized enterprises, incubators, innovation centers and federally-

funded research and development centers. The collaborative shall: (i) consult with stakeholders in the public and private sector in the development and implementation of the commonwealth's manufacturing plan; (ii) identify emerging priorities within the commonwealth's manufacturing sector in order to make recommendations for high impact projects and initiatives; (iii) facilitate the implementation of goals established under the plan; and (iv) develop a statewide certification process for the advanced manufacturing industry with the goal of establishing uniform industry workforce standards across the commonwealth. The collaborative may establish working groups that aid in the development and implementation of the plan.

SECTION 9. Subsection (b) of section 2RR of chapter 29 of the General Laws, as so appearing, is hereby amended by inserting after paragraph (2) the following paragraph:-

(3) To supplement the training of unemployed and underemployed workers as provided for in section 2WWW by providing grants for pipeline training for unemployed persons by an employer with a job vacancy, an employer association, local workforce investment board, labor organization, community-based organization, including an adult basic education provider, institution of higher education, vocational education institution, one-stop career center, local workforce development entity, or a nonprofit education, training or other service provider; provided, however, that the director shall not allocate more than 5 per cent of the annual capitalization of the fund to provide for such grants. In determining grant recipients, the director shall contract with the Commonwealth Corporation to distribute the grants in a need-based, competitive process in accordance with the rules and parameters outlined in section 2WWW. The grants shall be performance based and 50 per cent funded upon enrollment in the program, with the balance to be paid contingent upon job placement and retention outcomes that

413 demonstrate placement of a participant in a training-related position requiring not less than 30
414 hours per week for not less than 2 months.

415 SECTION 10. Chapter 40J of the General Laws is hereby amended by inserting after
416 section 4G the following section:-

417 Section 4H. (a) In order to grow the cybersecurity industry cluster in the commonwealth
418 and protect against cybersecurity threats, there is hereby established and set up on the books of
419 the corporation the Massachusetts Cybersecurity Innovation Fund, hereinafter referred to as the
420 fund, to which shall be credited the proceeds of any bonds or notes of the commonwealth issued
421 for the purpose, and any appropriations designated by the general court to be credited thereto.
422 The fund shall be administered by the corporation. The corporation shall hold the fund in an
423 account or accounts separate from other funds of the corporation. The purpose of the fund shall
424 be to: (i) support facilities, hardware and software used to develop or test cybersecurity solutions
425 and enable the growth of innovative ideas to address cybersecurity threats; (ii) accelerate the
426 growth of the cybersecurity cluster and related clusters; (iii) expand employment opportunities
427 and address talent pipeline needs in the cybersecurity industry and related industries for the
428 residents of the commonwealth, including, but not limited to, women, minorities, veterans, and
429 unemployed and underemployed individuals, through workforce training; (iv) match public and
430 private universities with industry participants to develop cybersecurity technology and expand
431 other relevant capabilities; and (v) promote the development and implementation of educational
432 programs within the commonwealth's public schools, kindergarten to grade 12, inclusive, and
433 public institutions of higher education through collaboration with Massachusetts Computing
434 Attainment Network.

SECTION 11. Chapter 40M of the General Laws is hereby amended by adding the following section:-

Section 18. Notwithstanding any general or special law to the contrary, chapter 176W shall apply to groups governed by this chapter.

SECTION 12. Paragraph (a) of part B of section 3 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out subparagraph (10) and inserting in place thereof the following subparagraph:- (10) An amount equal to 10 per cent of the cost of renovating any abandoned building that is part of a certified project as defined in section 3A of chapter 23A.

SECTION 13. Section 6 of said chapter 62 is hereby amended by inserting after the words ““EDIP contract””, in line 149, as so appearing, the following words:- , “extraordinary economic development opportunity”.

SECTION 14. Paragraph (3) of said subsection (g) of said section 6 of said chapter 62, as so appearing, is hereby further amended by inserting after the second sentence the following sentence:- Notwithstanding the cap set forth in this paragraph, the EACC may authorize an additional \$20,000,000 in EDIP tax credits to any project designated as an extraordinary economic development opportunity in accordance with subsection (e) of section 3C of chapter 23A; provided that if such designation and authorization occurs, the total amount of EDIP tax credits awarded by the EACC pursuant to this subsection and section 38N of chapter 63 shall not exceed \$50,000,000 in a calendar year.

SECTION 15. Said section 6 of said chapter 62, as most recently amended by section 6 of chapter 99 of the acts of 2018, is hereby further amended by adding the following subsection:-

(v)(1) An employer that is not a business corporation subject to the excise under chapter 63, shall be allowed a credit equal to \$4,800 or 50 per cent of the wages paid to each qualified apprentice in a taxable year, whichever is less, against the tax liability imposed by this chapter. If a credit allowed by this subsection exceeds the tax otherwise due under this chapter, 100 per cent of the balance of such credit may, at the option of the taxpayer, be refundable to the taxpayer. In order to qualify, the apprentice must meet the definition of apprentice in section 11H of chapter 23 and must be hired and trained in 1 of the following occupations, as defined by the Bureau of Labor Statistics: computer occupations, as defined by Standard Occupational Codes 15-1200; health technologists and technicians, as defined by Standard Occupational Codes 29-2000; health practitioner support technologists and technicians, as defined by Standard Occupational Codes 29-2050; healthcare support occupations, as defined by Standard Occupational Codes 31-0000; or production occupations if employed in the manufacturing industry, as defined by Standard Occupational Codes 51-0000, NAICS code 31-33.

(2) To be eligible for a credit under this subsection: (a) the primary place of employment of the apprentice must be in the commonwealth; (b) the business must be registered with the division of apprentice standards as an apprenticeship program sponsor and have an apprentice agreement, as defined in section 11H of chapter 23, with each apprentice for whom the credit is claimed; and (c) the apprentice must have been employed as an apprentice by the business for at least 180 calendar days in the taxable year in which the credit is claimed.

(3) An employer that is eligible for and claims the credit allowed under this subsection in a taxable year with respect to a qualified apprentice shall be eligible for a credit in the subsequent taxable year with respect to such qualified apprentice, subject to certification by the division of apprentice standards of continued employment as an apprentice during the subsequent

479 taxable year in the manner required by the commissioner. Any credit allowed under this
480 subsection shall not be transferable

481 (4) The secretary of labor and workforce development, in consultation with the
482 commissioner, shall promulgate regulations establishing an application process for the credit;
483 provided, however, that the regulations shall include a maximum number of qualified apprentices
484 for which a taxpayer may claim the credit in a year.

485 (5) The credit under this subsection shall be attributed on a pro rata basis to the owners,
486 partners or members of the legal entity entitled to the credit under this subsection, and shall be
487 allowed as a credit against the tax due under this chapter of such owners, partners or members, in
488 a manner determined by the commissioner.

489 (6) The secretaries of labor and workforce development and administration and finance,
490 acting jointly and in writing shall authorize tax credits pursuant to this subsection and section
491 38HH of chapter 63. The total amount of credits that may be authorized in a calendar year
492 pursuant to this subsection and said section 38HH of said chapter 63 shall not exceed
493 \$2,500,000. No credits shall be allowed under this subsection except to the extent authorized in
494 this paragraph. The commissioner, after consulting with the secretaries, on the criteria set forth in
495 paragraphs (1) and (2) of this subsection, shall adopt regulations governing applications for and
496 other administration of the tax credits. The secretaries and the division of apprentice standards
497 shall provide the commissioner with the documentation that the commissioner deems necessary
498 to confirm compliance with the annual cap.

499 (7) The commissioner, in consultation with the secretaries, shall annually, not later than
500 March 1, file a report with the house and senate committees on ways and means, the joint

501 committee on economic development and emerging technologies, and the joint committee on
502 labor and workforce development, identifying the following: (i) total amount of tax credits
503 claimed pursuant to this subsection; (ii) the number of participating apprentices and relevant
504 wage information; (iii) the number of applications received and the number of participating
505 employers; (iv) the areas of occupation by qualifying tax credit beneficiaries; (v) program
506 outcomes for apprentices, including job retention and further employment opportunities; and (vi)
507 whether the tax credit program is achieving its public policy purpose to create talent pipelines for
508 businesses and provide career pathways toward high demand occupations for unemployed and
509 underemployed residents of the commonwealth.

510 SECTION 16. Subsection (v) of said section 6 of said chapter 62, added by section 15, is
511 hereby repealed.

512 SECTION 17. Section 38N of chapter 63 of the General Laws, as appearing in the 2016
513 Official Edition, is hereby amended by inserting after the words “EDIP contract”, in line 2, the
514 following words:- , “extraordinary economic development opportunity”.

515 SECTION 18. The first paragraph of subsection (c) of said section 38N of said chapter
516 63, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding the
517 cap set forth in this paragraph, the EACC may authorize an award of an additional \$20,000,000
518 in EDIP tax credits to any project designated as an extraordinary economic development
519 opportunity in accordance with subsection (e) of section 3C of chapter 23A; provided that that if
520 such designation and authorization occurs, the total amount of EDIP tax credits awarded by the
521 EACC pursuant to this section and subsection (g) of section 6 of chapter 62 shall not exceed
522 \$50,000,000 in a calendar year.

SECTION 19. Section 38O of said chapter 63, as so appearing, is hereby amended by striking out, in lines 4 to 5, the words “either located within an economic target area designated under section 3G of chapter 23A, or”.

SECTION 20. Said chapter 63 is hereby further amended by inserting after section 38GG, inserted by section 35 of chapter 47 of the acts of 2017, the following section:-

Section 38HH.

(a) A business corporation engaged in business in the commonwealth shall be allowed a credit against its excise due under this chapter in an amount equal to \$4,800 or 50 per cent of the wages paid to each qualified apprentice in a taxable year, whichever is less. If a credit allowed by this section exceeds the tax otherwise due under this chapter, 100 per cent of the balance of such credit may, at the option of the taxpayer, be refundable to the taxpayer. In order to qualify, the apprentice must meet the definition of apprentice in section 11H of chapter 23 and must be hired and trained in 1 of the following occupations, as defined by the Bureau of Labor Statistics: computer occupations, as defined by Standard Occupational Codes 15-1200; health technologists and technicians, as defined by Standard Occupational Codes 29-2000; health practitioner support technologists and technicians, as defined by Standard Occupational Codes 29-2050; healthcare support occupations, as defined by Standard Occupational Codes 31-0000; or production occupations if employed in the manufacturing industry, as defined by Standard Occupational Codes 51-0000, NAICS code 31-33.

(b) To be eligible for a credit under this section: (i) the primary place of employment of the apprentice must be in the commonwealth; (ii) the business corporation must be registered with the division of apprentice standards as an apprenticeship program sponsor and have an

apprentice agreement, as defined in section 11H of chapter 23, with each apprentice for whom the credit is claimed; and (iii) the apprentice must have been employed by the business corporation as an apprentice for at least 180 calendar days in the taxable year in which the credit is claimed.

(c) A business corporation that is eligible for and claims the credit allowed under this section in a taxable year with respect to a qualified apprentice shall be eligible for a credit in the subsequent taxable year with respect to such qualified apprentice, subject to certification by the division of apprentice standards of continued employment as an apprentice during the subsequent taxable year in the manner required by the commissioner. Any credit allowed under this section shall not be transferable.

(d) The secretary of labor and workforce development, in consultation with the commissioner, shall promulgate regulations establishing an application process for the credit; provided, however, that the regulations shall include a maximum number of qualified apprentices for which a taxpayer may claim the credit in a year.

(e) The secretaries of labor and workforce development and administration and finance, acting jointly and in writing shall authorize tax credits pursuant to this section and subsection (v) of section 6 of chapter 62. The total amount of credits that may be authorized in a calendar year pursuant to this section and said subsection (v) of said section 6 of said chapter 62 shall not exceed \$2,500,000. No credits shall be allowed under this section except to the extent authorized in this subsection. The commissioner, after consulting with the secretaries, on the criteria set forth in subsections (a) and (b) of this section, shall adopt regulations governing applications for and other administration of the tax credits. The secretaries and the division of apprentice

standards shall provide the commissioner with the documentation that the commissioner deems necessary to confirm compliance with the annual cap.

(f) The commissioner, in consultation with the secretaries, shall annually, not later than March 1, file a report with the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, and the joint committee on labor and workforce development, identifying the following: (i) total amount of tax credits claimed pursuant to this subsection; (ii) the number of participating apprentices and relevant wage information; (iii) the number of applications received and the number of participating employers; (iv) the areas of occupation by qualifying tax credit beneficiaries; (v) program outcomes for apprentices, including job retention and further employment opportunities; and (vi) whether the tax credit program is achieving its public policy purpose to create talent pipelines for businesses and provide career pathways toward high demand occupations for unemployed and underemployed residents of the commonwealth.

SECTION 21. Section 38HH of said chapter 63, inserted by section 20, is hereby repealed.

SECTION 22. Section 14L of chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after subsection (b) the following subsection:-

(c) Annually, not later than September 1 of each year, the director of the department of career services shall file a report with the joint committee on labor and workforce development and the house and senate committees on ways and means concerning the collection of the workforce training contributions, pursuant to subsection (a), during the calendar year ending on the preceding December 31. The report shall include, but not be limited to, (1) the amount

589 collected in each quarter and the total amount collected for the year; (2) the total number of
590 employers that contributed to the fund and the total number of employees employed by that
591 group of employers; and (3) the contribution rate, to the extent it differs from 0.056 per cent.

592 SECTION 23. Section 25E of chapter 152 of the General Laws, as so appearing, is
593 hereby amended by striking out, in line 1, 14 and 16, the words “25V” and inserting in place
594 thereof, in each instance, the following words:- 25W.

595 SECTION 24. Said chapter 152 is hereby further amended by inserting after section 25V
596 the following section:-

597 Section 25W. Notwithstanding any general or special law to the contrary, chapter 176W
598 shall apply to groups governed by sections 25E to 25U, inclusive.

599 SECTION 25. Subsection (1) of section 20A of chapter 175 of the General Laws, as
600 appearing in the 2016 Official Edition, is hereby amended by adding the following 2
601 paragraphs:-

602 (I) If an accredited or certified reinsurer ceases to meet the requirements for accreditation
603 or certification, the commissioner may suspend or revoke the reinsurer’s accreditation or
604 certification.

605 (i) The commissioner shall give the reinsurer notice and opportunity for hearing. The
606 suspension or revocation shall not take effect until after the commissioner’s order on hearing,
607 unless:

608 (a) the reinsurer waives its right to hearing;

(b) the commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subparagraph (vi) of paragraph (E); or

(c) the commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(ii) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension shall qualify for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (2). If a reinsurer's accreditation or certification is revoked, no credit for reinsurance shall be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with subparagraph (v) of paragraph (E) or subsection (2).

(J)(i) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within 30 days after: (1) reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50 per cent of the domestic ceding insurer's last reported surplus to policyholders, or (2) it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed 50 per cent of the domestic ceding insurer's last reported surplus to policyholders. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(ii) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within 30 days after: (1) ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20 per cent of the ceding insurer's gross written premium in the prior calendar year, or (2) it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed 20 per cent of the ceding insurer's gross written premium in the prior calendar year. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

SECTION 26. Said section 20A of said chapter 175, as so appearing, is hereby further amended by striking out subsection (5) and inserting in place thereof the following subsection:-

(5) (A) The commissioner may, in accordance with chapter 30A and after notice and hearing, promulgate reasonable rules and regulations necessary to effectuate this section.

(B) A regulation applicable to reinsurance arrangements shall apply only to reinsurance relating to:

(i) life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(ii) universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(iii) variable annuities with guaranteed death or living benefits;

(iv) long-term care insurance policies; or

(v) such other life and health insurance and annuity products as to which model regulatory requirements are adopted with respect to credit for reinsurance.

(C) A regulation adopted pursuant to clauses (i) and (ii) of paragraph (B) shall apply to any reinsurance contract containing:

(i) policies issued on or after January 1, 2015, or

(ii) policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the contract, in whole or in part, on or after January 1, 2015.

(D) A regulation adopted pursuant to paragraph (B) shall not apply to cessions to an assuming insurer that:

(i) is certified in the commonwealth;

(ii) maintains at least \$250,000,000 in capital and surplus when determined in accordance with generally accepted accounting practices; and

(iii) is licensed in at least 26 states; or licensed in at least 10 states and licensed or accredited in a total of at least 35 states.

(E) The authority to adopt regulations pursuant to paragraph (B) shall not limit the commissioner's authority to adopt regulations pursuant to paragraph (A).

SECTION 27. Section 206 of said chapter 175, as so appearing, is hereby amended by inserting after the definition of "Control" the following definition:-

"Group-wide supervisor", the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities and is determined or acknowledged by the

commissioner under subsection (y) of section 206C to have sufficient significant contacts with the internationally active insurance group.

SECTION 28. Said section 206 of said chapter 175, as so appearing, is hereby further amended by inserting after the definition of “Insurer” the following definition:-

“Internationally active insurance group”, an insurance holding company system that: (i) includes an insurer registered under section 206C; and (ii) meets the following criteria: (a) premiums written in at least 3 countries; (b) the percentage of gross premiums written outside the United States is at least 10 per cent of the insurance holding company system’s total gross written premiums and (c) based on a 3-year rolling average, the total assets of the insurance holding company system are at least \$50,000,000,000 or the total gross written premiums of the insurance holding company system are at least \$10,000,000,000.

SECTION 29. Section 206C of said chapter 175, as so appearing, is hereby further amended by inserting after the word “reported”, in line 291, the following words:- or provided to the division of insurance.

SECTION 30. Said section 206C of said chapter 175, as so appearing, is hereby further amended by adding the following subsection:-

(y)(1) The commissioner may act as the group-wide supervisor for any internationally active insurance group in accordance with this subsection; provided however, the commissioner may otherwise acknowledge another regulatory official as the group-wide supervisor if the internationally active insurance group:

(i) does not have substantial insurance operations in the United States;

692 (ii) has substantial insurance operations in the United States, but not the commonwealth;

693 or

694 (iii) has substantial insurance operations in the United States and the commonwealth, but
695 the commissioner has determined pursuant to the factors set forth in paragraphs (2) and (6) that
696 another regulatory official is the appropriate group-wide supervisor.

697 An insurance holding company system that does not qualify as an internationally active
698 insurance group may request that the commissioner make a determination or acknowledgement
699 as to a group-wide supervisor .

700 (2) In cooperation with other state, federal and international regulatory agencies, the
701 commissioner shall identify a single group-wide supervisor for an internationally active
702 insurance group. The commissioner may determine that the commissioner is the appropriate
703 group-wide supervisor for an internationally active insurance group that conducts substantial
704 insurance operations concentrated in the commonwealth; provided however, the commissioner
705 may determine that it is appropriate to acknowledge another supervisor to serve as the group-
706 wide supervisor. The acknowledgement of the group-wide supervisor shall be made after
707 consideration of the factors listed in clauses (i) to (v) of the second paragraph, and shall be made
708 in cooperation with and subject to the acknowledgment of other regulatory officials involved
709 with supervision of members of the internationally active insurance group, and in consultation
710 with the internationally active insurance group.

711 The commissioner may acknowledge that a regulatory official from another jurisdiction
712 is the appropriate group-wide supervisor for the internationally active insurance group. The

713 commissioner shall consider the following factors when making a determination or
714 acknowledgement under this subsection:

715 (i) the domicile of the insurers within the internationally active insurance group that hold
716 the largest share of the group's written premiums, assets or liabilities;

717 (ii) the domicile of the top-tiered insurers in the insurance holding company system of the
718 internationally active insurance group;

719 (iii) the location of the executive offices or largest operational offices of the
720 internationally active insurance group;

721 (iv) whether another regulatory official is acting or is seeking to act as the group-wide
722 supervisor under a regulatory system that the commissioner determines to be substantially
723 similar to the system of regulation by the commonwealth, or otherwise sufficient in terms of
724 providing for group-wide supervision, enterprise risk analysis and cooperation with other
725 regulatory officials; and

726 (v) whether another regulatory official acting or seeking to act as the group-wide
727 supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.

728 (3) Notwithstanding any general or special law to the contrary, when another regulatory
729 official is acting as the group-wide supervisor of an internationally active insurance group, the
730 commissioner shall acknowledge that regulatory official as the group-wide supervisor.

731 However, in the event of a material change in the internationally active insurance group that
732 results in: (i) the internationally active insurance group's insurers domiciled in the
733 commonwealth holding the largest share of the group's premiums, assets or liabilities; or (ii) the

commonwealth being the domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group, the commissioner shall make a determination or acknowledgment as to the appropriate group-wide supervisor for such an internationally active insurance group pursuant to paragraph (2).

(4) Pursuant to subsection (u), the commissioner may collect from any insurer registered pursuant to subsection (a) all information necessary to determine if the commissioner may act as the group-wide supervisor of an internationally active insurance group or acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the commissioner, the commissioner shall notify the insurer registered pursuant to subsection (a) and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have not less than 30 days to provide the commissioner with additional information pertinent to the pending determination. The commissioner shall publish on the division of insurance's website the identity of internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.

(5) If the commissioner is the group-wide supervisor for an internationally active insurance group, the commissioner may engage in any of the following group-wide supervision activities:

(i) assess the enterprise risks within the internationally active insurance group to ensure that the material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance are identified by management and reasonable and effective mitigation measures are in place;

(ii) request, from any member of an internationally active insurance group subject to the commissioner's supervision, information necessary and appropriate to assess enterprise risk, including but not limited to, information about the members of the internationally active insurance group regarding governance, risk assessment and management; capital adequacy; and material intercompany transactions;

(iii) coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of such internationally active insurance group that are engaged in the business of insurance;

(iv) communicate with other state, federal and international regulatory agencies for members within the internationally active insurance group and share relevant information subject to the confidentiality provisions of subsection (v), through supervisory colleges as set forth in subsection (x) or otherwise;

(v) enter into agreements with or obtain documentation providing the basis for or otherwise clarifying the commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials from: any insurer registered under subsection (a), any member of the internationally active insurance group and any other state, federal and international regulatory agencies for members of the internationally active insurance group. Said agreements or documentation shall not serve as evidence that an insurer or person within an insurance holding company system not domiciled or incorporated in the commonwealth is doing

777 business in the commonwealth or is otherwise subject to jurisdiction in this state in any
778 proceeding; and

779 (vi) other group-wide supervision activities, consistent with the authorities and purposes
780 enumerated in this paragraph, as considered necessary by the commissioner.

781 (6) If the commissioner acknowledges that another regulatory official from a jurisdiction
782 that is not accredited by a standard-setting, regulatory support industry organization is the group-
783 wide supervisor, the commissioner may reasonably cooperate, through supervisory colleges or
784 otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that:
785 (i) the commissioner's cooperation is in compliance with the laws of the commonwealth; and (ii)
786 the regulatory official acknowledged as the group-wide supervisor also recognizes and
787 cooperates with the commissioner's activities as a group-wide supervisor for other
788 internationally active insurance groups where applicable. If such recognition and cooperation is
789 not reasonably reciprocal, the commissioner may refuse recognition and cooperation.

790 (7) The commissioner may enter into agreements with or obtain documentation from any
791 insurer registered under subsection (a), any affiliate of said insurer and other state, federal and
792 international regulatory agencies for members of the internationally active insurance group that
793 provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

794 (8) A registered insurer subject to this subsection shall be liable for and shall pay the
795 reasonable expenses of the commissioner's participation in the administration of this subsection,
796 including the engagement of attorneys, actuaries and any other professionals and all reasonable
797 travel expenses.

798 SECTION 31. Said chapter 175 is hereby further amended by adding the following
799 section:-

800 Section 230. Notwithstanding any general or special law to the contrary, chapter 176W
801 shall apply to insurers governed by this chapter.

802 SECTION 32. Chapter 176 of the General Laws is hereby amended by inserting after
803 section 1A the following section:-

804 Section 1B. Notwithstanding any general or special law to the contrary, chapter 176W
805 shall apply to fraternal benefit societies governed by this chapter.

806 SECTION 33. Section 18 of chapter 176A of the General Laws, as appearing in the 2016
807 Official Edition, is hereby amended by adding the following paragraph:-

808 Notwithstanding any general or special law to the contrary, chapter 176W shall apply to
809 every corporation subject to this chapter.

810 SECTION 34. Chapter 176B of the General Laws is hereby amended by inserting after
811 section 8B the following section:-

812 Section 8C. Notwithstanding any general or special law to the contrary, chapter 176W
813 shall apply to a medical service corporation governed by this chapter.

814 SECTION 35. Chapter 176E of the General Laws is hereby amended by inserting after
815 section 8B the following section:-

816 Section 8C. Notwithstanding any general or special law to the contrary, chapter 176W
817 shall apply to a dental service corporation governed by this chapter.

818 SECTION 36. Chapter 176F of the General Laws is hereby amended by inserting after
819 section 8A the following section:-

820 Section 8B. Notwithstanding any general or special law to the contrary, chapter 176W
821 shall apply to an optometric service corporation governed by this chapter.

822 SECTION 37. Chapter 176G of the General Laws is hereby amended by inserting after
823 section 10A the following section:-

824 Section 10B. Notwithstanding any general or special law to the contrary, chapter 176W
825 shall apply to a health maintenance organization governed by this chapter.

826 SECTION 38. Chapter 176H of the General Laws is hereby amended by inserting after
827 section 13A the following section:-

828 Section 13B. Notwithstanding any general or special law to the contrary, chapter 176W
829 shall apply to legal services plans governed by this chapter.

830 SECTION 39. Section 6 of chapter 176O of the General Laws, as appearing in the 2016
831 Official Edition, is hereby amended by striking out, in lines 36 and 37 and in lines 102 and
832 103the words “and the involuntary disenrollment rate among insureds of the carrier”.

833 SECTION 40. Section 21 of said chapter 176O, as so appearing, is hereby amended by
834 striking out subsection (a).

835 SECTION 41. Subsection (b) of said section 21 of said chapter 176O, as so appearing, is
836 hereby amended by striking out paragraph (2) and inserting in place thereof the following
837 paragraph:-

838 (2) Any carrier which provides administrative services to 1 or more self-insured groups
839 shall submit to the division a report including the following information:

840 (i) the number of the carrier's self-insured customers;

841 (ii) the aggregate number of members, as defined in section 1 of chapter 176J, in all of
842 the carrier's self-insured customers;

843 (iii) the aggregate number of lives covered in all of the carrier's self-insured customers;

844 (iv) the percentage of the carrier's self-insured customers that include each of the benefits
845 mandated for health benefit plans under chapters 175, 176A, 176B and 176G; and

846 (v) any other information deemed necessary by the commissioner.

847 SECTION 42. Subsection (d) of said section 21 of said chapter 176O, as so appearing, is
848 hereby amended by striking out the first sentence and inserting in place thereof the following
849 sentence:- If, for any year, the division determines, based on the report submitted under section
850 10 of chapter 176G or other sources, that a carrier has a risk-based capital ratio on a combined
851 entity basis that exceeds 700 per cent, the division shall hold a public hearing within 60 days.

852 SECTION 43. Chapter 176P of the General Laws is hereby amended by inserting after
853 section 38A the following section:-

854 Section 38B. Notwithstanding any general or special law to the contrary, chapter 176W
855 shall apply to a limited society governed by this chapter.

856 SECTION 44. The General Laws are hereby amended by inserting after chapter 176V the
857 following chapter:-

CHAPTER 176W.

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

“Commissioner”, the commissioner of insurance.

“Corporate governance annual disclosure (CGAD)”, a confidential report filed by the insurer or insurance group made in accordance with the requirements of this chapter.

“Division”, the division of insurance.

“Insurance group”, those insurers and affiliates included within an insurance holding company system as defined in section 206 of chapter 175; health maintenance organizations and affiliates included within a health maintenance organization holding company system, as defined in section 1 of chapter 176G; public employer self-insurance groups and their affiliates organized pursuant to chapter 40M; workers compensation self-insurance groups and their affiliates organized pursuant to sections 25E to 25U, inclusive, of chapter 152; fraternal benefit societies and their affiliates organized pursuant to chapter 176; non-profit hospital service corporations and their affiliates organized pursuant to chapter 176A; medical service corporations and their affiliates organized pursuant to chapter 176B; dental service corporations and their affiliates organized pursuant to chapter 176E; optometric service corporations and their affiliates organized pursuant to chapter 176F; insured legal services plans and their affiliates organized pursuant to chapter 176H; and limited societies and their affiliates organized pursuant to chapter 176P.

“Insurer”, the same meaning as in section 1 of chapter 175 and shall also include public employer self-insurance groups organized pursuant to chapter 40M; workers compensation self-insurance groups organized pursuant to sections 25E to 25U, inclusive, of chapter 152; fraternal benefit societies organized pursuant to chapter 176; non-profit hospital service corporations organized pursuant to chapter 176A; medical service corporations organized pursuant to chapter 176B; dental services corporations organized pursuant to chapter 176E; optometric service corporations organized pursuant to chapter 176F; health maintenance organizations organized pursuant to chapter 176G; insured legal services plans organized pursuant to chapter 176H; and limited societies organized pursuant to chapter 176P; except that “insurer” shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia or a state or political subdivision of a state.

“ORSA summary report”, the report filed in accordance with chapter 176V.

Section 2. (a) An insurer, or the insurance group of which the insurer is a member, shall, no later than June 1 of each calendar year, submit to the commissioner a CGAD that contains the information described in section 4. Notwithstanding any request from the commissioner made pursuant to subsection (c), if the insurer is a member of an insurance group, the insurer shall submit the report required by this section to the commissioner of the lead state for the insurance group, in accordance with the laws of the lead state.

(b) The CGAD shall include a signature of the insurer’s or insurance group’s chief executive officer or corporate secretary attesting to the best of that individual’s belief and knowledge that the insurer has implemented the corporate governance practices and that a copy

900 of the disclosure has been provided to the insurer's board of directors or the appropriate
901 committee thereof.

902 (c) An insurer not required to submit a CGAD under this section shall do so upon the
903 commissioner's request.

904 (d) For purposes of completing the CGAD, the insurer or insurance group may provide
905 information regarding corporate governance at the ultimate controlling parent level, an
906 intermediate holding company level or the individual legal entity level, depending upon how the
907 insurer or insurance group has structured its system of corporate governance. The insurer or
908 insurance group is encouraged to make the CGAD disclosures at the level at which the insurer's
909 or insurance group's risk appetite is determined, or at which the earnings, capital, liquidity,
910 operations and reputation of the insurer are overseen collectively and at which the supervision of
911 those factors are coordinated and exercised, or the level at which legal liability for failure of
912 general corporate governance duties would be placed. If the insurer or insurance group
913 determines the level of reporting based on these criteria, it shall indicate which of the 3 criteria
914 was used to determine the level of reporting and explain any subsequent changes in the level of
915 reporting.

916 (e) Insurers providing information substantially similar to the information required by
917 this chapter in other documents provided to the commissioner, including proxy statements filed
918 in conjunction with Form B requirements pursuant to section 206C of chapter 175, or other state
919 or federal filings provided to the division, shall not be required to duplicate that information in
920 the CGAD, but shall only be required to cross reference the document in which the information
921 is included.

Section 3. The commissioner may, upon notice and opportunity for all interested persons to be heard, issue such rules, regulations and orders as shall be necessary to carry out the provisions of this chapter.

Section 4. The insurer or insurance group shall have discretion over the responses to the CGAD inquiries, provided the CGAD shall contain the material information necessary to permit the commissioner to gain an understanding of the insurer's or group's corporate governance structure, policies and practices. The commissioner may request additional information that he or she deems material and necessary to provide the commissioner with a clear understanding of the corporate governance policies, the reporting or information system or controls implementing those policies.

Section 5. (a) Documents, materials or other information including the CGAD, in the possession or control of the division that are obtained by, created by or disclosed to the commissioner or any other person under this chapter shall be proprietary and recognized to contain trade secrets. All such documents, materials or other information shall be confidential by law and privileged, shall not be considered a public record pursuant to section 10 of chapter 66, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer. Nothing in this section shall require written consent of the insurer before the commissioner may share or receive confidential documents, materials or other CGAD-related information pursuant to subsection (c) to assist in the performance of the commissioner's regular duties.

(b) Neither the commissioner nor any person who received documents, materials or other CGAD-related information, through examination or otherwise, while acting under the authority of the commissioner, or with whom such documents, materials or other information are shared pursuant to this chapter shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (a).

(c) In order to assist in the performance of the commissioner's regulatory duties, the commissioner may:

(i) upon request, share documents, materials or other CGAD-related information including the confidential and privileged documents, materials or information subject to subsection (a), including proprietary and trade secret documents and materials with other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in subsection (x) of section 206C of chapter 175, and with third party consultants pursuant to section 6, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, material or other information and has verified in writing the legal authority to maintain confidentiality; and

(ii) receive documents, materials or other CGAD-related information, including otherwise confidential and privileged documents, materials or information, including proprietary and trade-secret information or documents, from regulatory officials of other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in said subsection (x) of said section 206C of said chapter 175, and shall maintain as confidential or privileged any documents, materials or information received with notice or the

966 understanding that it is confidential or privileged under the laws of the jurisdiction that is the
967 source of the document, material or information.

968 (d) The sharing of information and documents by the commissioner pursuant to this
969 chapter shall not constitute a delegation of regulatory authority or rulemaking, and the
970 commissioner is solely responsible for the administration, execution and enforcement of the
971 provisions of this chapter.

972 (e) No waiver of any applicable privilege or claim of confidentiality in the documents,
973 proprietary and trade-secret materials or other CGAD-related information shall occur as a result
974 of disclosure of such CGAD-related information or documents to the commissioner under this
975 section or as a result of sharing as authorized in this chapter.

976 Section 6. (a) The commissioner may retain, at the insurer's expense, third-party
977 consultants, including attorneys, actuaries, accountants and other experts not otherwise a part of
978 the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing
979 the CGAD and related information or the insurer's compliance with this chapter.

980 (b) Any persons retained under subsection (a) shall be under the direction and control of
981 the commissioner and shall act in a purely advisory capacity.

982 (c) Third-party consultants shall be subject to the same confidentiality standards and
983 requirements as the commissioner.

984 (d) As part of the retention process, a third-party consultant shall verify to the
985 commissioner, with notice to the insurer, that it is free of a conflict of interest and that it has

internal procedures in place to monitor compliance with a conflict and to comply with the confidentiality standards and requirements of this chapter.

(e) A written agreement with a third-party consultant governing sharing and use of information provided pursuant to this chapter shall contain the following provisions and expressly require the written consent of the insurer prior to making public information provided under this chapter:

(i) specific procedures and protocols for maintaining the confidentiality and security of CGAD-related information shared with a third-party consultant pursuant to this chapter;

(ii) procedures and protocols for sharing only with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;

(iii) a provision specifying that ownership of the CGAD-related information shared with a third-party consultant shall remain with the division and the third-party consultant's use of the information is subject to the direction of the commissioner;

(iv) a provision that prohibits the third-party consultant from storing the information shared pursuant to this chapter in a permanent database after the underlying analysis is completed;

(v) a provision requiring the third-party consultant to provide prompt notice to the commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's CGAD-related information; and

(vi) a requirement that the third-party consultant consent to intervention by an insurer in any judicial or administrative action in which the third-party consultant may be required to disclose confidential information about the insurer shared with the third-party consultant pursuant to this chapter.

Section 7. Any insurer failing, without just cause, to timely file the CGAD as required pursuant to this chapter shall, after notice and hearing, be subject to a penalty of \$500 for each day of delay, to be recovered by the commissioner. The maximum penalty under this section is \$10,000. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

Section 8. If any provision of this chapter except for section 5, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect the provisions or applications of this chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter, except for section 5, are severable.

SECTION 45. Section 135 of chapter 219 of the acts of 2016 is hereby amended by striking out, in line 3, the words “, from August 1, 2016 to July 31, 2018, inclusive”.

SECTION 46. Notwithstanding any general or special law to the contrary, in fiscal years 2019 to 2025, inclusive, the office of Medicaid shall allocate \$2,000,000 annually for a Fishing Partnership Health Plan Corporation project that shall provide services to fishermen and fishing

families; provided, however, that such services shall include, but not be limited to, assisting fishermen and fishing families in obtaining health insurance coverage.

SECTION 47. Notwithstanding any general or special law to the contrary, the Massachusetts Technology Park Corporation, established in section 3 of chapter 40J of the General Laws and doing business as the Massachusetts Technology Collaborative, shall conduct a study on the autonomous vehicles industry and issue recommendations on how to advance the state's competitiveness in the emerging industry. The study shall include, but not be limited to, cybersecurity, data privacy, data analytics, artificial intelligence, the internet of things, navigational software, robotics, advanced manufacturing, and other emerging technologies related to autonomous vehicles. The study shall examine ways to accommodate research and development in a safe and productive manner. The Massachusetts Technology Collaborative may conduct this study in collaboration with relevant stakeholders, including but not limited to, the insurance industry, municipalities, institutions of higher education, automobile manufacturers, technology companies, policymakers, and other entities deemed necessary and relevant. The recommendations shall provide ways for the state to improve on its strengths and weaknesses through policies, strategies and initiatives to create new or stronger working relationships between key institutions, agencies, organizations and businesses. The study and recommendations shall be submitted to the joint committee on economic development and emerging technologies and the joint committee on transportation no later than December 31, 2019.

SECTION 48. 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

1050 by the governor from time to time but not exceeding, in the aggregate, \$558,225,000. All bonds
1051 issued by the commonwealth, as aforesaid, shall be designated on their face “Commonwealth
1052 Economic Development Act of 2018”, and shall be issued for a maximum term of years, not
1053 exceeding 30 years, as the governor may recommend to the general court pursuant to section 3 of
1054 Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall
1055 be payable not later than June 30, 2053. All interest and payments on account of principal on
1056 such obligations shall be payable from the General Fund. Bonds and interest thereon issued
1057 under the authority of this section shall, notwithstanding any other provision of this act, be
1058 general obligations of the commonwealth.

1059 SECTION 49. Notwithstanding any general or special law to the contrary, to meet the
1060 expenditures necessary in carrying out section 2C, the state treasurer shall, upon receipt of a
1061 request by the governor, issue and sell bonds of the commonwealth in an amount to be specified
1062 by the governor from time to time but not exceeding, in the aggregate, \$225,000,000. All bonds
1063 issued by the commonwealth, as aforesaid, shall be designated on their face “Commonwealth
1064 Economic Development Act of 2018”, and shall be issued for a maximum term of years, not
1065 exceeding 30 years, as the governor may recommend to the general court pursuant to section 3 of
1066 Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall
1067 be payable not later than June 30, 2053. All interest and payments on account of principal on
1068 such obligations shall be payable from the General Fund. Bonds and interest thereon issued
1069 under the authority of this section shall, notwithstanding any other provision of this act, be
1070 general obligations of the commonwealth.

1071 SECTION 49A. There shall be a commission to plan, develop, and implement strategies
1072 to support and promote minority-owned real estate and financial services corporations in the

commonwealth. The commission shall also identify barriers to professional licensure for socially or economically disadvantaged persons including, but not limited to, barriers to obtaining mortgage lending and broke licenses, state bank charters and insurance or carrier licenses.

The commission shall consist of the commissioner of banks, or a designee; the director of the division of professional licensure, or a designee, 1 representative of the National Association of Real Estate Brokers; and 2 minority business enterprise owners, as described in section 58 of chapter 7 of the General Laws, as appointed by the governor. The commission shall file a report of its findings and recommendations with the clerks of the senate and house of representatives and the chairs of the senate and house committees on ways and means no later than June 30, 2019.

SECTION 50. Sections 11, 23 to 38, inclusive, and 43 to 44, inclusive, shall take effect 90 days after the passage of this act.

SECTION 51. Sections 4 to 7, inclusive, 12 to 15, inclusive, and 17 to 20, inclusive, shall take effect on January 1, 2019 and shall be effective for all tax years beginning on or after January 1, 2019.

SECTION 52. Sections 16 and 21 shall take effect on January 1, 2022.

SECTION 53. Except as otherwise specified, this act shall take effect upon its passage.

SECTION 54. Notwithstanding any general or special law to the contrary, for the days of August 11, 2018 and August 12, 2018, an excise shall not be imposed upon nonbusiness sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. For the purposes of this act, tangible personal property shall not include telecommunications

1094 services, tobacco products subject to the excise imposed by chapter 64C of the General Laws,
1095 marijuana or marijuana products subject to the excise tax imposed by chapter 64H of the General
1096 Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of
1097 which is in excess of \$2,500.

1098 SECTION 55. Notwithstanding any general or special law to the contrary, for the days of
1099 August 11, 2018 and August 12, 2018, a vendor shall not add to the sales price or collect from a
1100 nonbusiness purchaser an excise upon sales at retail of tangible personal property, as defined in
1101 section 1 of chapter 64H of the General Laws. The commissioner of revenue shall not require a
1102 vendor to collect and pay excise upon sales at retail of tangible personal property purchased on
1103 August 11, 2018 and August 12, 2018. An excise erroneously or improperly collected during the
1104 days of August 11, 2018 and August 12, 2018, shall be remitted to the department of revenue.
1105 This section shall not apply to the sale of telecommunications services, tobacco products subject
1106 to the excise imposed by chapter 64C of the General Laws, marijuana or marijuana products
1107 subject to the excise tax imposed by chapter 64H of the General Laws, gas, steam, electricity,
1108 motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

1109 SECTION 56. Reporting requirements imposed upon vendors of tangible personal
1110 property, by law or by regulation, including, but not limited to, the requirements for filing returns
1111 required by chapter 62C of the General Laws, shall remain in effect for sales for the days of
1112 August 11, 2018 and August 12, 2018.

1113 SECTION 57. On or before December 31, 2018, the commissioner of revenue shall
1114 certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from
1115 personal and corporate income taxes and other sources, pursuant to this act. The commissioner

1116 shall file a report with the joint committee on revenue and the house and senate committees on
1117 ways and means detailing by fund the amounts under general and special laws governing the
1118 distribution of revenues under chapter 64H of the General Laws which would have been
1119 deposited in each fund, without this act.

1120 SECTION 58. The commissioner of revenue shall issue instructions or forms, or
1121 promulgate rules or regulations, necessary for the implementation of this act.

1122 SECTION 59. Eligible sales at retail of tangible personal property under sections 1 and 2
1123 are restricted to those transactions occurring on August 11, 2018 and August 12, 2018. Transfer
1124 of possession of or payment in full for the property shall occur on 1 of those days, and prior sales
1125 or layaway sales shall be ineligible.

1126 SECTION 60. Section 6 of Chapter 62 of the General Laws, as appearing in the 2008
1127 Official Edition, is amended by adding the following section:-

1128 Section 38DD. There shall be established a live theater tax credit program under which a
1129 live theater company doing business with a Massachusetts based theater venue, theater company,
1130 theater presenter or producer may be eligible. The credit may be claimed against the taxes due
1131 pursuant to this chapter. The credit shall be established to support the expansion of pre-
1132 Broadway, National Tour launches of Broadway shows and pre off-Broadway live theater and
1133 Broadway tour launches and shall assist in the development of long run show development and
1134 growth.

1135 (a) As used in this section the following words shall, unless the context clearly requires
1136 otherwise, have the following meanings:

1137 “Commissioner”, the commissioner of revenue.

1138 “Eligible theater production” means a live stage musical, dance or theatrical production
1139 or tour being presented in a qualified production facility, as defined in this chapter that is either:
1140 (a) a Pre-Broadway production, or (b) a pre off-Broadway production, or (c) a National Tour
1141 Launch.

1142 “Eligible theater production certificate” means a certificate issued by the Massachusetts
1143 Office of Travel and Tourism certifying that the production is an eligible theater production that
1144 meets the guidelines of this chapter.

1145 “Advertising and public relations expenditure” means costs incurred within the state by
1146 the Eligible theater productions for goods or services related to the marketing, public relations,
1147 creation and placement of print, electronic, television, billboards and other forms of advertising
1148 to promote the Eligible theater production.

1149 “Office” means the Massachusetts office of travel and tourism.

1150 "Payroll" means all salaries, wages, fees, and other compensation wages including, but
1151 not limited to, taxes, benefits, and any other consideration incurred or paid to talent and non-
1152 talent employees of the applicant for services rendered to and on behalf of an eligible theater
1153 production. The expenditure shall be incurred or paid by the applicant for services related to any
1154 portion of an eligible theater production from its pre-production stages, including, but not limited
1155 to, (a) the writing of the script, (b) casting, (c) hiring of service providers, (d) purchases from
1156 vendors, (e) marketing, (f) advertising, (g) public relations, (h) load in, (i) rehearsals, (j)
1157 performances, (k) other Eligible theater production related activities (l) load out; provided
1158 further, said labor expenditure shall be directly attributable to the eligible theater production and

1159 shall be limited to the first \$100,000 of wages incurred or paid to each employee of an eligible
1160 theater production in each tax year.

1161 “Pre-Broadway Production” means a live stage production that, in its original or adaptive
1162 version, is performed in a qualified production facility having a presentation scheduled for New
1163 York City’s Broadway theater district within (24) months after its Massachusetts presentation.

1164 “Pre-Off Broadway Production” means a live stage production that, in its original or
1165 adaptive version, is performed in a qualified production facility having a presentation scheduled
1166 for New York City’s Off-Broadway’s theater district within (24) months after its Massachusetts
1167 presentation.

1168 “National Tour Launch” means a live stage production that, in its original or adaptive
1169 version, is performed in a qualified production facility and opens its National tour in
1170 Massachusetts.

1171 “Production and Performance Expenditures” means a contemporaneous exchange of cash
1172 or cash equivalent for goods or services related to development, production, performance or
1173 operating expenditures incurred in this state for a qualified theater production including, but not
1174 limited to, expenditures for design, construction and operation, including sets, special and visual
1175 effects, costumes, wardrobes, make-up, accessories, costs associated with sound, lighting,
1176 staging, payroll, transportation expenditures, advertising and public relations expenditures,
1177 facility expenses, rentals, per diems, accommodations and other related costs.

1178 “Qualified Production Facility” means a facility located in the State of Massachusetts in
1179 which live theatrical productions are, or are intended to be, exclusively presented that contains at

1180 least one stage, a seating capacity of one hundred seventy five (175) or more seats, and dressing
1181 rooms, storage areas, and other ancillary amenities necessary for the Eligible theater production.

1182 “Massachusetts Office of Travel and Tourism” means the office within the secretariat of
1183 economic development that has been established in order to market Massachusetts as a leisure
1184 travel destination in order to generate state and local tax revenues, create jobs, and support
1185 travel-related businesses.

1186 “Transportation expenditures” means expenditures for the packaging, crating, and
1187 transportation both to the state for use in a qualified theater production of sets, costumes, or other
1188 tangible property constructed or manufactured out of state, and/or from the state after use in a
1189 qualified theater production of sets, costumes, or other tangible property constructed or
1190 manufactured in this state and the transportation of the cast and crew to and from the state. Such
1191 term shall include the packaging, crating, and transporting of property and equipment used for
1192 special and visual effects, sound, lighting, and staging, costumes, wardrobes, make-up and
1193 related accessories and materials, as well as any other performance or production-related
1194 property and equipment.

1195 (b) Any person, firm, partnership, trust, estate or other entity that receives an eligible
1196 theater production certificate shall be allowed a tax credit equal to thirty-five percent (35%) of
1197 the total in state labor costs and twenty –five percent (25%) of the production and performance
1198 expenditures and transportation expenditures as well as all out of state labor costs for the eligible
1199 theater production and to be computed as provided in this chapter against a tax imposed by this
1200 chapter. Said credit shall not exceed five million dollars (\$5,000,000) and shall be limited to
1201 certified production cost directly attributable to activities in the state and transportation

1202 expenditures defined above. The total production budget shall be a minimum of one hundred
1203 thousand dollars (\$100,000).

1204 (c) No more than five million dollars (\$5,000,000) in total may be issued for any tax year
1205 for musical and theatrical production tax credits pursuant to this chapter.

1206 (d) The tax credit shall be allowed against the tax for the taxable period in which the
1207 credit is earned and can be carried forward for not more than five (5) succeeding tax years.

1208 (e) Credits allowed to a company, which is a subchapter S corporation, partnership, or a
1209 limited liability company that is taxed as a partnership, shall be passed through respectively to
1210 persons designated as partners, members or owners of such companies on a pro rata basis or
1211 pursuant to an executed agreement among such persons designated as subchapter S corporation
1212 shareholders, partners, or members documenting an alternate distribution method without regard
1213 to their sharing of other tax or economic attributes of such entity.

1214 (f) If the company has not claimed the tax credits in whole or part, taxpayers eligible for
1215 the tax credits may assign, transfer or convey the tax credits, in whole or in part, by sale or
1216 otherwise to any individual or entity and such assignee of the tax credits that have not claimed
1217 the tax credits in whole or part may assign, transfer or convey the tax credits, in whole or in part,
1218 by sale or otherwise to any individual or entity. The assignee of the tax credits may use acquired
1219 credits to offset up to one hundred percent (100%) of the tax liabilities otherwise imposed
1220 pursuant to this chapter. The assignee may apply the tax credit against taxes imposed on the
1221 assignee for not more than three (5) succeeding tax years. The assignor shall perfect the transfer
1222 by notifying the commissioner of revenue, in writing, within thirty (30) calendar days following

1223 the effective date of the transfer and shall provide any information as may be required by the
1224 commissioner to administer and carry out the provisions of this section.

1225 (g) For purposes of this chapter, any assignment or sales proceeds received by the
1226 assignor for its assignment or sale of the tax credits allowed pursuant to this section shall be
1227 exempt from this title.

1228 (h) In the case of a corporation, this credit is only allowed against the tax of a corporation
1229 included in a consolidated return that qualifies for the credit and not against the tax of other
1230 corporations that may join in the filing of a consolidated tax return, provided, however, that in
1231 the case of a corporation that files a consolidated return with one or more other corporations with
1232 operations in Massachusetts, the credit will be allowed to be included in a consolidated return
1233 with respect to such corporations with operations in Massachusetts only.

1234 (i) The applicant or applicants shall properly prepare, sign and submit to the
1235 Massachusetts office of travel and tourism an application for initial certification of the theater
1236 production. The application shall include such information and data as the office deems
1237 reasonably necessary for the proper evaluation and administration of said application, including,
1238 but not limited to, any information about the theater production company or their related
1239 partners/presenters and a specific Massachusetts live theater or musical production. The office
1240 shall review the completed applications and determine whether it meets the requisite criteria and
1241 qualifications for the initial certification for the production and/or presentation. If the initial
1242 certification is granted, the office shall issue a notice of initial certification of the eligible theater
1243 production and/or presentation to the theater production company, co-producer or presenter and
1244 to the commissioner. The notice shall state that, after appropriate review, the initial application

1245 meets the appropriate criteria for conditional eligibility. The notice of initial certification will
1246 provide a unique identification number for the production/presentation and is only a statement of
1247 conditional eligibility for the production/presentation and, as such, does not grant or convey any
1248 Massachusetts tax benefits.

1249 (j) Upon completion of an eligible theater production, the applicant or applicants shall
1250 properly prepare, sign and submit to the office an application for final certification of the eligible
1251 theater production. The final application shall also contain a cost report and an “accountant’s
1252 certification.” The office and commissioner may rely without independent investigation, upon
1253 the accountant’s certification, in the form of an opinion, confirming the accuracy of the
1254 information included in the cost report. Upon review of a duly completed and filed application
1255 and upon no later than thirty (30) days of submission thereof, the commissioner will make a
1256 determination pertaining to the final certification of the eligible theater production and the
1257 resultant tax credits.

1258 (k) Upon determination that the company qualifies for final certification and the resultant
1259 tax credits, the commissioner shall issue to the company: (1) an eligible theater production
1260 certificate; and (2) a tax credit certificate in an amount in accordance with this section (b) hereof.
1261 A musical and theatrical production company is prohibited from using state funds, state loans or
1262 state guaranteed loans to qualify for the live theater infrastructure tax credit. All documents that
1263 are issued by the office pursuant to this section shall reference the identification number that was
1264 issued to the production as part of its initial certification.

1265 (l) The Massachusetts office of travel and tourism, in consultation as needed with the
1266 commissioner of revenue, shall promulgate such rules and regulations as are necessary to carry

1267 out the intent and purposes of this chapter in accordance with the general guidelines provided
1268 herein for the certification of the production and the resultant production credit.

1269 (m) If information comes to the attention of the Massachusetts Office of Travel and
1270 Tourism that is materially inconsistent with representations made in an application, the office
1271 may deny the requested certification. In the event that tax credits or a portion of tax credits are
1272 subject to recapture for ineligible costs and such tax credits have been transferred, assigned
1273 and/or allocated, the state will pursue its recapture remedies and rights against the applicant of
1274 the theater production tax credits. No redress shall be sought against assignees, sellers,
1275 transferees or allocates of such credits.

1276 (n) No credits shall be issued on or after January 1, 2021 unless the production has
1277 received initial certification under this section prior to January 1, 2021.

1278 SECTION 61. Section 12 of chapter 172 of the General Laws, as appearing in the 2016
1279 Official Edition, is hereby amended by inserting after the words “residents therein”, in line 4, the
1280 following words: - ; provided, however, upon application in writing by a bank engaged in a
1281 global custody business, the commissioner may waive or modify this requirement and may take
1282 into consideration factors including, but not limited to, the impact on the safety and soundness of
1283 the bank, or the current or prospective board composition and their expertise, experience and
1284 qualifications.

1285 SECTION 62. Chapter 63 of the General Laws is hereby amended by inserting after
1286 section 38FF the following section:-

1287 Section 38GG. (a) The purpose of this section shall be to attract capital investment to
1288 businesses in rural areas of the commonwealth in order to promote the retention and expansion

1289 of existing jobs, stimulate the creation of new jobs, and attract new business and industry to rural
1290 areas of the commonwealth.

1291 (b) For the purposes of this section, the following words shall, unless the context clearly
1292 requires otherwise, have the following meanings:-

1293 “Affiliate”, an entity that directly or indirectly through one or more intermediaries,
1294 controls, is controlled by, or is under common control with another entity. An entity is
1295 “controlled by” another entity if: (i) the controlling entity holds, directly or indirectly, the
1296 majority voting or ownership interest in the controlled entity; or (ii) has control over the day-to-
1297 day operations of the controlled entity by contract or by law.

1298 “Closing date”, the date on which a rural growth fund has collected all of the amounts
1299 specified by subsection (c).

1300 “Credit-eligible capital contribution”, an investment of cash by a person subject to tax
1301 under this chapter in a rural growth fund that equals the amount specified on a tax credit
1302 certificate issued by the MOBD under paragraph (5) of subsection (c) of this section; provided,
1303 however, that the investment shall purchase an equity interest in the rural growth fund or
1304 purchase, at par value or premium, a debt instrument that has a maturity date at least 5 years
1305 from the closing date.

1306 “MOBD”, the Massachusetts office of business development established in section 3A of
1307 Chapter 23A.

1308 “Investment authority”, the amount stated on the notice issued under paragraph (5) of
1309 subsection (c) of this section certifying the rural growth fund; provided, however, that at least 60

1310 per cent of a rural growth fund's investment authority shall be comprised of credit-eligible capital
1311 contributions.

1312 “Jobs created”, newly created positions of employment that were not previously located
1313 in the commonwealth at the time of the initial rural growth investment in the rural business
1314 concern and that require a minimum of 35 hours worked each week, measured each year by
1315 subtracting the number of employment positions at the time of the initial rural growth investment
1316 in the rural business concern from the monthly average of employment positions for the
1317 applicable year. The monthly average shall be calculated by adding together the number of
1318 employment positions existing on the last day of each month of the applicable year and dividing
1319 by 12. Such number shall not be less than zero.

1320 “Jobs retained”, positions requiring a minimum of 35 hours worked each week that
1321 existed prior to the initial rural growth investment. Retained jobs shall be counted each year
1322 based on the monthly average of employment positions for the applicable year. The monthly
1323 average shall be calculated by adding together the number of employment positions existing on
1324 the last day of each month of the applicable year and dividing by 12. Such number shall not
1325 exceed the initial amount of retained jobs reported and shall be reduced each year if employment
1326 at the rural business concern drops below such number.

1327 “Principal business operations”, the principal operations of a business are located at the
1328 place or places where at least 60 per cent of its employees work or where employees that are paid
1329 at least 60 per cent of its payroll work; provided, however, that an out-of-state business that has
1330 agreed to relocate employees using the proceeds of a rural growth investment to establish its
1331 principal business operations in a rural area in the commonwealth shall be deemed to have its

1332 principal business operations in this new location if it satisfies this definition within 180 days
1333 after receiving the rural growth investment, unless the MOBD agrees to a later date.

1334 “Rural area”, an area not in a city or town that has a population of more than 50,000
1335 according to the latest decennial census of the United States or in the urbanized area contiguous
1336 and adjacent to a city or town that has a population of more than 50,000 inhabitants; or any area
1337 determined to be “rural in character” by the under-secretary of agriculture for rural development
1338 within the United States department of agriculture.

1339 “Rural business concern”, a business that, at the time of the initial investment in the
1340 company by a rural growth fund: (i) has less than 250 employees and not more than \$10,000,000
1341 in revenue for the preceding taxable year; (ii) has its principal business operations in one or more
1342 rural areas in the commonwealth; and (iii) is engaged in industries related to manufacturing,
1343 plant sciences, services or technology or, if not engaged in such industries, the MOBD makes a
1344 determination that the investment will be highly beneficial to the economic growth of the
1345 commonwealth.

1346 “Rural growth fund”, an entity certified by the MOBD under subsection (c).

1347 “Rural growth investment”, any capital or equity investment in a rural business concern
1348 or any loan to a rural business concern with a stated maturity at least one year after the date of
1349 issuance.

1350 (c)(1) The MOBD shall accept applications for approval as a rural growth fund; provided,
1351 however, that the application shall include:

1352 (i) the total investment authority sought by the applicant under the business plan;

1353 (ii) the following documents and other evidence:

1354 (A) a copy of the applicant's or an affiliate of the applicant's license as a rural business
1355 investment company under 7 U.S.C. 2009cc, or as a small business investment company under
1356 15 U.S.C. 681; and

1357 (B) evidence sufficient to prove, to the satisfaction of the MOBD, that as of the date the
1358 application is submitted, the applicant or affiliates of the applicant have invested at least
1359 \$100,000,000 in non-public companies located in rural areas;

1360 (iii) an estimate of the number of jobs created and jobs retained in the commonwealth as
1361 a result of the applicant's rural growth investments;

1362 (iv) a business plan that includes a revenue impact assessment projecting state and local
1363 tax revenue to be generated by the applicant's proposed rural growth investments prepared by a
1364 nationally recognized third-party independent economic forecasting firm using a dynamic
1365 economic forecasting model that analyzes the applicant's business plan over the 10 years
1366 following the date the application is submitted to the MOBD;

1367 (v) a signed affidavit from each investor stating the amount of credit-eligible capital
1368 contributions each taxpayer commits to make; and

1369 (vi) a non-refundable application fee of \$5,000.

1370 (2) The MOBD shall make an application determination within 30 days of receipt in the
1371 order in which the applications are received. The MOBD shall deem applications received on the
1372 same day to have been received simultaneously. The MOBD shall not approve more than
1373 \$200,000,000 in investment authority and not more than \$120,000,000 in credit-eligible capital

1374 contributions under this section. If a request for investment authority exceeds this limitation, the
1375 MOBD shall reduce the investment authority and the credit-eligible capital contributions for that
1376 application as necessary to avoid exceeding the limit. If multiple applications received on the
1377 same day request a combined investment authority that exceeds this limitation, the MOBD shall
1378 proportionally reduce the investment authority and the credit eligible capital contributions for
1379 those applications as necessary to avoid exceeding the limit.

1380 (3) The MOBD shall deny an application submitted under this section if any of the
1381 following are true:

1382 (i) the application is incomplete or the application fee is not paid in full;

1383 (ii) the applicant does not satisfy all the criteria described in clause (ii) of paragraph (1)
1384 of this subsection;

1385 (iii) the revenue impact assessment submitted under clause (iv) of paragraph (1) of this
1386 subsection does not demonstrate that the applicant's business plan will result in a positive
1387 economic impact on the commonwealth over a 10-year period that exceeds the cumulative
1388 amount of tax credits that would be issued to the applicant's investors under subsection (d) of
1389 this section if the application were approved;

1390 (iv) the credit-eligible capital contributions described in affidavits submitted under clause
1391 (v) of paragraph (1) of this subsection do not equal at least 60 per cent of the total amount of
1392 investment authority sought under the applicant's business plan; or

1393 (v) the MOBD has already approved the maximum amount of investment authority and
1394 credit eligible capital contributions allowed under paragraph (2) of this subsection.

1395 (4) If the MOBD denies an application, the applicant may provide additional information
1396 to the MOBD to complete, clarify, or cure defects in the application identified by the MOBD
1397 within 15 days of the notice of denial for reconsideration and determination. If the applicant
1398 completes, clarifies or cures its application within 15 days after the date of the notice of denial,
1399 the application must be considered complete as of the original date of submission. If the
1400 applicant fails to provide the information to complete, clarify or cure its application within the
1401 15-day period, the application remains denied and must be resubmitted in full with a new date of
1402 submission. The MOBD shall review and reconsider such applications within 30 days and before
1403 any pending application submitted after the original submission date of the reconsidered
1404 application.

1405 (5) The MOBD shall not deny a rural growth fund application or reduce the requested
1406 investment authority for reasons other than those described in paragraphs (2) and (3) of this
1407 subsection. Upon approval of an application, the MOBD shall provide a written approval to the
1408 applicant as a rural growth fund specifying the amount of the applicant's investment authority
1409 and a tax credit certificate to each investor whose affidavit was included in the application
1410 specifying the amount of the investor's credit-eligible capital contribution.

1411 (6) After receiving the approval issued under paragraph (5) of this subsection, a rural
1412 growth fund shall:

1413 (i) within 60 days:

1414 (A) collect the credit-eligible capital contributions from each taxpayer issued a tax credit
1415 certificate under paragraph 5 of this subsection, and

1416 (B) collect one or more investments of cash that, when added to the contributions
1417 collected under clause (A) of this paragraph, equal the rural growth fund's investment authority;
1418 provided, however, that at least 10 per cent of the rural growth fund's investment authority shall
1419 be comprised of equity investments contributed by affiliates of the rural growth fund, including
1420 employees, officers, and directors of such affiliates; and

1421 (ii) within 65 days, send to the MOBD documentation sufficient to prove that the
1422 amounts described in clause (i) of this paragraph have been collected.

1423 (7) If the rural growth fund fails to fully comply with paragraph (6) of this subsection, the
1424 rural growth fund's approval shall lapse and the corresponding investment authority and credit-
1425 eligible capital contributions under paragraph (6) will not count toward the limits on the program
1426 size prescribed by paragraph (2) of this subsection. The MOBD shall first award lapsed
1427 investment authority pro rata to each rural growth fund that was awarded less than the requested
1428 investment authority under said paragraph (2) which a rural growth fund may allocate to its
1429 investors in its discretion. Any remaining investment authority may be awarded by the MOBD to
1430 new applicants.

1431 (8) Application fees submitted to the MOBD under clause (vi) of paragraph (1) of this
1432 subsection shall be credited to the Massachusetts rural jobs fund, which is hereby created, and
1433 used by the MOBD to administer the provisions of this section.

1434 (d)(1) There is hereby allowed a nonrefundable tax credit for taxpayers that made a
1435 credit-eligible capital contribution to a rural growth fund and were issued a tax credit certificate
1436 under paragraph 5 of subsection (c) of this section. The credit may be claimed against the tax

1437 imposed by this chapter. The credit may not be sold, transferred or allocated to any other entity
1438 other than an affiliate subject to the tax imposed by this chapter.

1439 (2) On the closing date, the taxpayer shall earn a vested credit equal to the amount of the
1440 taxpayer's credit-eligible capital contribution to the rural growth fund as specified on the tax
1441 credit certificate. The taxpayer may claim up to 25 per cent of the credit authorized under this
1442 subsection for each of the taxable years that includes the third through sixth anniversaries of the
1443 closing date, exclusive of amounts carried forward pursuant to paragraph 3 of this subsection.

1444 (3) If the amount of the credit for a taxable year exceeds the tax otherwise due for that
1445 year, the excess shall be carried forward to ensuing taxable years until fully used. A taxpayer
1446 claiming a credit under this section shall submit a copy of the tax credit certificate with the
1447 taxpayer's return for each taxable year for which the credit is claimed.

1448 (e)(1) The MOBD shall revoke a tax credit certificate issued under subsection (c) if any
1449 of the following occurs with respect to a rural growth fund before it exits the program in
1450 accordance with paragraph (5) of this subsection:

1451 (i) the rural growth fund in which the credit-eligible capital contribution was made does
1452 not invest 100 per cent of its investment authority in rural growth investments in this
1453 commonwealth within 2 years of the closing date; provided, however, that, for the purpose of
1454 satisfying the requirements of this subparagraph, the maximum amount of rural growth
1455 investments that a rural growth fund may count with respect to a single rural business concern,
1456 including amounts invested in affiliates of the rural business concern, may not exceed the greater
1457 of \$5,000,000 or 20 per cent of the rural growth fund's investment authority;

1458 (ii) the rural growth fund, after satisfying clause (i), fails to maintain rural growth
1459 investments equal to 100 per cent of its investment authority until the sixth anniversary of the
1460 closing date; provided, however, that an investment is “maintained” even if the investment is
1461 sold or repaid so long as the rural growth fund reinvests an amount equal to the capital returned
1462 or recovered by the fund from the original investment, exclusive of any profits realized, in other
1463 rural growth investments in this commonwealth within 12 months of the receipt of such capital;
1464 provided further, that amounts received periodically by a rural growth fund shall be treated as
1465 continually invested in rural growth investments if the amounts are reinvested in 1 or more rural
1466 growth investments by the end of the following calendar year; provided further, that for purposes
1467 of satisfying the requirements of this sub-paragraph, the maximum amount of rural growth
1468 investments that a rural growth fund may count with respect to a single rural business concern,
1469 including amounts invested in affiliates of the rural business concern, may not exceed the greater
1470 of \$5,000,000 or 20 per cent of the rural growth fund’s investment authority;

1471 (iii) the rural growth fund, before exiting the program in accordance with paragraph (4)
1472 of this subsection, makes a distribution or payment that results in the rural growth fund having
1473 less than 100 per cent of its investment authority invested in rural growth investments in this
1474 commonwealth or available for investment in rural growth investments and held in cash and
1475 other marketable securities; or

1476 (iv) the rural growth fund makes a rural growth investment in a rural business concern
1477 that directly or indirectly through an affiliate owns, has the right to acquire an ownership interest,
1478 makes a loan to, or makes an investment in the rural growth fund, an affiliate of the rural growth
1479 fund, or an investor in the rural growth fund; provided, however, that this clause does not apply
1480 to investments in publicly traded securities by a rural business concern or an owner or affiliate of

such concern; and provided further, that a rural growth fund will not be considered an affiliate of a rural business concern solely as a result of its rural growth investment.

(2) Before revoking one or more tax credit certificates under this subsection, the MOBD shall notify the rural growth fund of the reasons for the pending revocation. The rural growth fund shall have 90 days from the date the notice was received to correct any violation outlined in the notice to the satisfaction of the MOBD and avoid revocation of the tax credit certificate.

(3) If tax credit certificates are revoked under this subsection, the associated investment authority and credit-eligible capital contributions shall not count toward the limit on total investment authority and credit-eligible capital contributions described in paragraph (2) of subsection (c). The MOBD shall first award reverted authority pro rata to each rural growth fund that was awarded less than the requested investment authority under paragraph (5) of subsection (c). The MOBD may award any remaining investment authority to new applicants.

(4) On or after the sixth anniversary of the closing date, a rural growth fund may apply to the MOBD to exit the program and no longer be subject to regulation hereunder. The MOBD shall respond to the application within 30 days of receipt. In evaluating the application, the fact that no tax credit certificates have been revoked and that the rural growth fund has not received a notice of revocation that has not been cured under paragraph (2) of this subsection shall be sufficient evidence to prove that the rural growth fund is eligible for exit. The MOBD shall not unreasonably deny an application submitted under this paragraph. If the application is denied, the notice shall include the reasons for the determination.

(5) The MOBD shall not revoke a tax credit certificate after the rural growth fund's exit from the program.

(6) Once a rural growth fund has been determined to be eligible to exit under paragraph (4), if the number of jobs created or jobs retained by the rural business concerns that received rural growth investments from the rural growth fund, calculated pursuant to reports filed by the rural growth fund pursuant to subsection (g), is:

(i) less than 60 per cent of the number projected in the rural growth fund's business plan filed as part of its application for certification under subsection (c) of this section, then the commonwealth shall receive 20 per cent of any distribution or payment made to the equity holders of the rural growth fund in excess of the rural growth fund's investment authority and an amount equal to any projected increase in the equity holders' federal or state tax liability, including penalties and interest, related to the equity holders' ownership, management or operation of the fund; or

(ii) greater than 60 per cent but less than 80 per cent of the number projected in the rural growth fund's business plan filed as part of its application for certification under subsection (c) of this section, then the state shall receive 10 per cent of any distribution or payment made to the equity holders of the rural growth fund in excess of the rural growth fund's investment authority and an amount equal to any projected increase in the equity holders' federal or state tax liability, including penalties and interest, related to the equity holders' ownership, management or operation of the fund.

(7) If the rural growth fund's rural growth investments achieved a 20 per cent or greater internal rate of return, the state shall receive 10 per cent of any distribution or payment made to the equity holders of the rural growth fund in excess of the rural growth fund's investment authority and an amount equal to any projected increase in the equity holders' federal or state tax

1525 liability, including penalties and interest, related to the equity holders' ownership of the fund.
1526 Any amounts payable to the state pursuant to paragraph (6) of this subsection shall be in addition
1527 to amounts due under this paragraph.

1528 (f) A rural growth fund, before making a rural growth investment, may request from the
1529 MOBD a written opinion as to whether the business in which it proposed to invest is a rural
1530 business concern. The MOBD, not later than the fifteenth business day after the date of receipt of
1531 the request, shall notify the rural growth fund of its determination. If the MOBD fails to notify
1532 the rural growth fund by the fifteenth business day of its determination, the business in which the
1533 rural growth fund proposes to invest shall be considered a rural business concern.

1534 (g)(1) Each rural growth fund shall submit a report to the MOBD on or before the fifth
1535 business day after the second anniversary of the closing date. The report shall provide
1536 documentation as to the rural growth fund's rural growth investments and include:

1537 (i) a bank statement evidencing each rural growth investment;

1538 (ii) the name, location and industry of each business receiving a rural growth investment,
1539 including either the determination letter set forth in subsection (f) or evidence that the business
1540 qualified as a rural business concern at the time the investment was made;

1541 (iii) the number of jobs created or jobs retained as a result of the rural growth fund's rural
1542 growth investments as of the last day of the preceding two calendar years; provided, however,
1543 that job numbers shall be certified by each rural business concern's independent certified public
1544 accountant that is licensed to do business in the commonwealth or by the rural growth fund's
1545 nationally recognized independent certified public accounting firm. MOBD shall publish a list of
1546 nationally recognized independent certified public accounting firms, which must include at least

1547 10 firms, within 12 months of certifying the first rural growth fund and periodically update such
1548 list as MOBD deems appropriate; and

1549 (iv) any other information required by the MOBD.

1550 (2) On or before the last day of February of each year following the year in which the
1551 report required under paragraph (1) of this subsection is due, the rural growth fund shall submit
1552 an annual report to the MOBD including the following:

1553 (i) the number of jobs created or jobs retained as a result of the rural growth fund's rural
1554 growth investments as of the last day of the preceding calendar year, which number shall be
1555 independently certified in accordance with the provisions of subparagraph (iii) of paragraph (3)
1556 of this subsection;

1557 (ii) the average annual salary of the positions described in clause (i) of this paragraph;

1558 and

1559 (iii) any other information required by the MOBD.

1560 (h) The MOBD shall adopt rules necessary to implement the provisions in this section.

1561 SECTION 63. The MOBD shall accept applications for approval as a rural growth fund
1562 as required under subsection (c) of section 38GG of chapter 63 of the General Laws not more
1563 than 90 days after the effective date of this act.

1564 SECTION 64. Chapter 149 of the General Laws is hereby amended by adding the
1565 following 13 sections:-

1566 Section 192. As used in this section and in sections 193 through 204, inclusive, the
1567 following words, unless the context clearly requires otherwise, shall have the following
1568 meanings:

1569 “Client” or “client company”, a person who enters into a professional employer
1570 agreement with a professional employer organization.

1571 “Covered employee”, an individual employed in a PEO relationship where the
1572 individual’s employment is subject to a professional employer agreement. Individuals who are
1573 officers, directors, shareholders, partners and managers of the client shall be covered employees,
1574 except to the extent the professional employer organization and the client have expressly agreed
1575 in the professional employer agreement that such individuals shall not be covered employees;
1576 provided, that such individuals meet the criteria of this paragraph and act as operational
1577 managers or perform day-to-day operational services for the client.

1578 “Director”, the director of the department of labor standards.

1579 “Employment agency”, as defined in section 46A of chapter 140.

1580 “PEO group”, 2 or more professional employer organizations that are majority owned or
1581 commonly controlled by the same entity, parent or controlling person or persons.

1582 “PEO relationship”, a co-employment relationship, in which all the rights, duties and
1583 obligations of an employer which arise out of an employment relationship have been allocated
1584 between the PEO and the client pursuant to a professional employer agreement, provided
1585 however, that a staffing agency and an employment agency shall not be a PEO. In a PEO
1586 relationship: (i) the professional employer organization shall be entitled to enforce only such

1587 employer rights and is subject to only those obligations allocated in the professional employment
1588 agreement or as specifically required pursuant to section 192 to 204, inclusive; (ii) the client
1589 shall be entitled to enforce those rights, and obligated to provide and perform those employer
1590 obligations, allocated to the client by the written professional employer agreement; (iii) the client
1591 shall be entitled to enforce any right and obligated to perform any obligation of an employer not
1592 specifically allocated to the PEO or section 192 to 204, inclusive; and (iv) neither the client nor
1593 the PEO may delegate duties and responsibilities to the other unless such delegation is provided
1594 in the professional employer agreement and the covered employees are informed about this
1595 delegation of duties and responsibilities.

1596 “Person”, any individual, partnership, corporation, limited liability company, association
1597 or any other form of legally recognized entity.

1598 “Professional employer agreement”, a written contract by and between a client and a
1599 professional employer organization that: (i) provides for the PEO relationship of covered
1600 employees; (ii) allocates employer rights and obligations between the client and the professional
1601 employer organization with respect to the covered employees; and (iii) allocates the
1602 responsibilities between the professional employer organization and the client; provided,
1603 however, that a professional employer agreement shall not affect, modify or amend any
1604 employee rights under federal, state, local or municipal law and in no way abrogate obligations
1605 of the client or the PEO to covered employees under such laws.

1606 “Professional employer organization” or “PEO”, any person engaged in the business of
1607 providing professional employer services who is subject to registration and regulation pursuant
1608 to sections 192 to 204, inclusive, regardless of its use of the term or conducting business as a

1609 professional employer organization staff leasing company, registered staff leasing company,
1610 employee leasing company, administrative employer or any other name provided that the
1611 following shall not be deemed to be professional employer organizations or providing
1612 professional employment services: (i) arrangements wherein a person, whose principal business
1613 activity is not entering into professional employer arrangements and which does not hold itself
1614 out as a PEO, shares employees with a commonly owned company within the meaning of section
1615 414(b) and section 414(c) of the Internal Revenue Code of 1986, as amended; (ii) independent
1616 contractor arrangements as governed by section 148B; or (iii) services provided by an
1617 employment agency or staffing agency.

1618 “Professional employer services”, the service of entering into PEO relationships in which
1619 all or a majority of the employees providing services to a client or to a division or work unit of
1620 the client are covered employees.

1621 “Registrant”, a PEO registered pursuant to section 196.

1622 “Staffing agency”, as defined in section 159C.

1623 “Wages”, shall include all forms of remuneration for employment.

1624 Section 193. (a) Nothing contained in sections 192 to 204, inclusive, or in any
1625 professional employer agreement shall affect, modify or amend any collective bargaining
1626 agreement, or the rights or obligations of any client, PEO or covered employee under chapter
1627 150A, chapter 150E, the federal National Labor Relations Act, the federal Railway Labor Act or
1628 any other applicable federal or state law.

1629 (b) Collective bargaining, if commenced after an agreement is entered into between a
1630 PEO and a client, shall be conducted as required by federal and state law.

1631 (c) Nothing in sections 192 to 204, inclusive, or in any professional employer agreement
1632 shall:

1633 (1) diminish, abolish or remove rights of covered employees to a client or obligations of
1634 such client to a covered employee existing prior to the effective date of the professional
1635 employer agreement under federal or state law;

1636 (2) affect, modify or amend any contractual relationship or restrictive covenant between a
1637 covered employee and any client in effect at the time a professional employer agreement
1638 becomes effective or prohibit or amend any contractual relationship or restrictive covenant that is
1639 entered into subsequently between a client and a covered employee; provided, however, that a
1640 PEO shall have no responsibility or liability in connection with, or arising out of, any such
1641 existing or new contractual relationship or restrictive covenant unless the PEO has specifically
1642 agreed otherwise in writing; or

1643 (3) affect, modify or amend any employee rights under federal, state, local or municipal
1644 law.

1645 Section 194. (a) Nothing in sections 192 to 204, inclusive, or any professional employer
1646 agreement shall affect, modify or amend any federal, state or local licensing, registration or
1647 certification requirement applicable to any client or covered employee.

(b) A covered employee who is required to be licensed, registered or certified according to law or regulation shall be deemed solely an employee of the client for purposes of any such license, registration or certification requirement.

(c) A PEO shall not be deemed to engage in any occupation, trade, profession or other activity that is subject to licensing, registration or certification requirements, or is otherwise regulated by a government agency solely by entering into and maintaining a PEO relationship with a covered employee who is subject to such requirements or regulation.

(d) A client shall have the sole right of direction and control of the professional or licensed activities of covered employees and of the client's business. Covered employees and clients shall remain subject to regulation by the regulatory or governmental entity responsible for licensing, registration or certification of such covered employees or clients.

Section 195. (a) For purposes of the determination of tax credits and other economic incentives provided by the commonwealth or other government entity and based on employment, covered employees shall be deemed solely the client's employees. A client shall be entitled to the benefit of any tax credit, economic incentive or other benefit arising as the result of the employment of covered employees of such client. Notwithstanding that the PEO is the reporting employer for the purposes of the federal Internal Revenue Service form W-2, the client shall continue to qualify for the benefit, incentive or credit. If the grant or amount of any benefit, incentive or credit is based on number of employees, then each client shall be treated as employing only those covered employees involved in a PEO relationship by such client. Covered employees working for other clients of the PEO shall not be counted. Each PEO shall provide, upon request by a client or by agency employment information reasonably required for

1670 administration of any tax credit or economic incentive and necessary to support any request,
1671 claim, application or other action by a client seeking any tax credit or economic incentive.

1672 (b) With respect to a bid, contract, purchase order or agreement entered into with the
1673 commonwealth or a political subdivision thereof, a client company's status or certification under
1674 federal or state law as a small, minority-owned, disadvantaged, woman-owned business or other
1675 underutilized class of enterprise shall not be affected because the client company has entered into
1676 a PEO relationship.

1677 Section 196. (a) Except as otherwise provided in sections 192 to 204, inclusive, no person
1678 shall provide, advertise or otherwise hold itself out as providing professional employer services
1679 in the commonwealth, unless such person is registered pursuant to this section.

1680 (b) Each applicant for registration shall provide the department with the following
1681 information:

1682 (1) the name or names under which the PEO conducts business or will conduct business;

1683 (2) the address of the principal place of business of the PEO and the address of each
1684 office it maintains in the commonwealth;

1685 (3) the taxpayer or employer identification number of the PEO;

1686 (4) a list by jurisdiction of each name under which the PEO has operated in the preceding
1687 5 years, including any alternative names, names of predecessors and, if known, successor
1688 business entities;

1689 (5) a statement of ownership, which shall include the name and evidence of the business
1690 experience of any person that, individually or acting in concert with one or more other persons,

owns or controls or will own or control if known or reasonably known at the time of registration,
directly or indirectly, not less than 25 per cent of the equity interests of the PEO;

(6) a statement of management, which shall include the name and evidence of the
business experience of any person who serves or will serve, if known or reasonably known at the
time of registration, as president, chief executive officer or otherwise has the authority to act as
senior executive officer of the PEO;

(7) A financial statement setting forth the financial condition of the PEO or PEO group.
At the time of application for a new license, as part of the financial statement, the applicant shall
submit an audit of the applicant, which shall be the most recent audit available and shall not be
more than 13 months old; provided, that nothing in this clause shall be construed as to require the
department to conduct the audit; provided, further, that a PEO or PEO group shall file on an
annual basis, at the time of renewal, a succeeding audit; provided, further, that an applicant may
apply for an extension with the department but any such request shall be accompanied by a letter
from the auditors stating the reasons for the delay and the anticipated audit completion date;
provided, further, that the financial statement shall be prepared in accordance with generally
accepted accounting principles, and the audit shall be conducted by an independent certified
public accountant licensed to practice in the jurisdiction in which such accountant is located, and
shall be without qualification as to the going concern status of the PEO; provided, further, that a
PEO group or a PEO that is part of an organizational structure in which it is majority owned or
commonly controlled by an entity, parent or controlling person may submit combined or
consolidated audited financial statements to meet the requirements of this section; and provided,
further, that a PEO that has not had sufficient operating history to have audited financials based
upon at least 12 months of operating history shall meet the financial capacity requirements in

1714 subsections (l) and (m) and shall present financial statements reviewed by a certified public
1715 accountant; and

1716 (8) a list of clients including client name, physical address, telephone number and federal
1717 identification number.

1718 (c) A PEO shall complete its initial registration prior to initiating operations within the
1719 commonwealth. If a PEO that is not registered in the commonwealth becomes aware that an
1720 existing client not based in the commonwealth has employees and operations in the
1721 commonwealth, the PEO shall decline to provide PEO services for those employees or notify the
1722 department within 5 business days of its knowledge of the fact and file a full business
1723 registration within 5 business days if there are more than 15 covered employees. The department
1724 may issue an interim operating permit for the period the registration applications are pending if:
1725 (i) the PEO is currently registered or licensed by another state and (ii) the department determines
1726 it to be in the best interests of the potential covered employees.

1727 (d) Upon expiration of its registration, the registrant shall renew its registration by
1728 notifying the department of any changes in the information provided in the registrant's most
1729 recent registration or renewal. A registrant's existing registration shall remain in effect during the
1730 pendency of a renewal application.

1731 (e) PEOs in a PEO group may satisfy the reporting and financial requirements established
1732 pursuant to this section on a combined or consolidated basis; provided, each member of the PEO
1733 group guarantees the financial capacity obligations pursuant to clause (7) of subsection (b) for
1734 each member of the PEO group. In the case of a PEO group that submits a combined or
1735 consolidated audited financial statement, including entities that are not PEOs or that are not in

1736 the PEO group, the controlling entity of the PEO group under the consolidated or combined
1737 statement shall guarantee the obligations of the PEOs in the PEO group.

1738 (f) A PEO that is part of an organizational structure in which it is majority owned or
1739 commonly controlled by an entity, parent or controlling person may submit a combined or
1740 consolidated audited financial statement provided the controlling entity under the consolidated or
1741 combined statement guarantees the obligations of the PEO.

1742 (g) The department shall maintain a list of PEOs registered pursuant to this section and
1743 shall make said list readily available to the public by electronic or other means.

1744 (h) The department may prescribe forms necessary to promote the efficient
1745 administration of this section.

1746 (i) Applications, documents, reports and other filings shall be submitted in a manner
1747 determined by the director, which may also include the acceptance of electronic filings and other
1748 assurance by an independent and qualified assurance organization approved by the director that
1749 provides satisfactory assurance of compliance acceptable to the director consistent with or in lieu
1750 of the requirements of subsections (b) to (g), inclusive, and subsection (k), and other
1751 requirements of sections 192 to 204, inclusive or the regulations promulgated pursuant to those
1752 sections. The director shall permit a PEO to authorize such an approved assurance organization
1753 to act on the PEO's behalf in complying with the registration requirements pursuant to this
1754 section, including electronic filings of information and payment of registration fees. Use of such
1755 an approved assurance organization shall be optional and not mandatory for a registrant. Nothing
1756 in this subsection shall limit or change the department's authority to register or terminate
1757 registration of a professional employer organization or to investigate or enforce this chapter.

1758 (j) All records, reports and other information obtained from a PEO for the purposes of
1759 section 196 except to the extent necessary for the department's proper administration of this
1760 chapter, shall be confidential and shall not be published or open to public inspection except
1761 public employees in the performance of their public duties or otherwise in accordance with
1762 federal or state law.

1763 (k) The department shall establish by regulation any fee to be charged for initial
1764 registration, renewal or group registration.

1765 (l) Except as provided by subsection (e) and (f), each PEO or collectively each PEO
1766 group shall maintain:

1767 (1) positive working capital, as defined by generally accepted accounting principles,
1768 proof of which shall be submitted at registration as reflected in the financial statements submitted
1769 to the department with the initial registration and each annual renewal; and

1770 (2) a surety bond in the amount of \$250,000, proof of which shall be submitted at the
1771 time of registration. The surety bond required shall be in a form acceptable to the director and
1772 maintained while the license remains in effect or any obligations or liabilities of the registrant
1773 remain outstanding.

1774 (m) A PEO or PEO group without positive working capital may provide a bond,
1775 irrevocable letter of credit or securities with a minimum market value equaling the deficiency
1776 plus \$250,000. Such bond shall be held by a depository designated by the department, securing
1777 payment by the PEO of all taxes, wages, benefits or other entitlement due to or with respect to
1778 covered employees, if the PEO does not make such payments when due.

1779 Section 197. (a) Except as specifically provided in sections 192 to 204, inclusive, and in
1780 the professional employer agreement pursuant to this section, or under any subsequent written
1781 agreement or amendment, in each PEO relationship:

1782 (1) the client shall be entitled to exercise all rights, and shall be obligated to perform all
1783 duties and responsibilities, otherwise applicable to an employer in an employment relationship;

1784 (2) the PEO shall be entitled to exercise only those rights, and obligated to perform only
1785 those duties and responsibilities, specifically required pursuant to sections 192 to 204, inclusive,
1786 or those set forth in the professional employer agreement. The rights, duties and obligations of
1787 the PEO with respect to any covered employee shall be limited to those arising pursuant to the
1788 professional employer agreement and those required pursuant to this chapter during the term of
1789 the PEO relationship with such covered employee; and

1790 (3) unless otherwise expressly agreed to by the PEO and the client in a professional
1791 employer agreement, the client retains the exclusive right to direct and control the covered
1792 employees as is necessary to conduct the client's business, to discharge any of the client's
1793 fiduciary responsibilities or to comply with any licensure requirements applicable to the client or
1794 to the covered employees.

1795 (b) Except as specifically provided in sections 192 to 204, inclusive, the PEO relationship
1796 between the client and the PEO, the relationship between the PEO and each covered employee
1797 and the relationship between the client and each covered employee shall be governed by the
1798 professional employer agreement.

1799 Each professional employer agreement shall include the following:

1800 (1) the allocation of rights, duties and obligations as described in subsection (a);

1801 (2) the extent that the PEO has assumed responsibility in the professional employer

1802 agreement; (i) where the PEO shall have responsibility to pay such wages to covered employees;

1803 (ii) to withhold, collect, report and remit payroll-related and unemployment taxes; and (iii) to

1804 make payments for employee benefits for covered employees; and

1805 (3) that the PEO shall have a right to hire and terminate a covered employee as may be

1806 necessary to fulfill the PEO's responsibilities pursuant to sections 192 to 204, inclusive, the

1807 professional employer agreement, or as actually delegated by the client. The client shall have a

1808 right to hire, discipline and terminate a covered employee.

1809 (c) Upon initiation of the PEO relationship: (i) the PEO shall provide the client a notice;

1810 (ii) the client shall post said notice in a conspicuous place at the client's worksite; and (iii)

1811 depending on the customary way that the client communicates with its employees, the client

1812 shall either provide a hard copy or an electronic copy of said notice to said employees. Said

1813 notice shall contain the following information:

1814 (1) notice of the general nature of the co-employment relationship between and among

1815 the professional employer organization, the client and such covered employees, including the

1816 rights, responsibilities and duties that the PEO and the client have with respect to the covered

1817 employees;

1818 (2) the name and telephone number of the department;

1819 (3) the name and telephone number of the PEO;

1820 (4) disclosure if the benefit plan is self-funded or is not fully insured;

1821 (5) the name of the workers' compensation carrier and the policy number; whether the
1822 PEO or the client maintains the workers' compensation policy and performs safety inspections at
1823 the workplace; and a phone number or contact to report injuries and hazardous worksite
1824 conditions; and

1825 (6) a multilingual tagline on the notice provided by the department in languages required
1826 under clause (iii) of subsection (d) of section 62A of chapter 151A that includes the name and
1827 telephone number of the department and states that the notice contains important information
1828 that should be translated.

1829 (d) Upon termination, and in accordance with applicable federal and state law, the PEO
1830 shall provide covered employees with written notice of the termination of the PEO relationship.
1831 The notice can be provided electronically if that is the customary manner in which the client and
1832 the PEO communicate with the covered employee.

1833 (e) Except to the extent otherwise expressly provided by the applicable professional
1834 employer agreement:

1835 (1) A client shall be solely responsible for the quality, adequacy or safety of the goods or
1836 service produced or sold in the client's business.

1837 (2) A client shall be solely responsible for directing, supervising, training and controlling
1838 the work of the covered employees with respect to the business activities of the client and solely
1839 responsible for the acts, errors or omissions of the covered employees with regard to such
1840 activities.

1841 (3) A client shall be solely responsible for the payment of any wages to covered
1842 employees and to make payments for employee benefits for covered employees.

1843 (4) A client shall be solely responsible for safety, risk and hazard control at the worksite
1844 and compliance with related state and federal laws.

1845 (5) Upon termination of the PEO relationship, the client shall be solely responsible for
1846 providing employees with information regarding the handling of claims and benefits.

1847 (6) A client shall not be liable for the acts, errors or omissions of a PEO, or of any
1848 covered employee of the client and a PEO, when such covered employee is acting under the
1849 express direction and control of the PEO.

1850 (7) A PEO shall not be liable for the acts, errors or omissions of a client, or of any
1851 covered employee of the client, when such covered employee is acting under the express
1852 direction and control of the client.

1853 (8) Nothing in this subsection shall serve to limit any contractual liability or obligation
1854 specifically provided in the written professional employer agreement.

1855 (9) A covered employee is not, solely as the result of being a covered employee of a
1856 PEO, an employee of the PEO for purposes of general liability insurance, fidelity bonds, surety
1857 bonds, employer's liability which is not covered by workers' compensation or liquor liability
1858 insurance carried by the PEO unless the covered employees are included by specific reference in
1859 the professional employer agreement and applicable prearranged employment contract, insurance
1860 contract or bond.

1861 (10) Nothing in this section shall in any way limit the liabilities and obligations of any
1862 PEO or client to covered employees as required by this chapter.

1863 (11) The client shall be solely responsible for notifying the PEO of all covered
1864 employees. Where the client has failed to notify the PEO, the client will be deemed to be the sole
1865 employer of the employee.

1866 (12) The client shall retain all records in compliance with state and federal law, including,
1867 but not limited to section 52C of this chapter and section 15 of chapter 151.

1868 Section 198. (a) Any tax assessed or assessment or mandated expenditure on a per capita
1869 or per employee basis shall be assessed against the client for covered employees and against the
1870 PEO for its employees who are not covered employees involved in a PEO relationship with a
1871 client. Benefits or monetary consideration that meet the requirements of mandates imposed on a
1872 client and that are received by covered employees through the PEO either through payroll or
1873 through benefit plans sponsored by the PEO shall be credited against the client's obligation to
1874 fulfill such mandates.

1875 (b) In the case of a tax or an assessment imposed or calculated upon the basis of total
1876 payroll, the PEO shall be eligible to apply any small business allowance or exemption available
1877 to the client for the covered employees for purpose of computing the tax.

1878 Section 199. (a) A client or a PEO shall each be deemed an employer under the laws of
1879 this state for purposes of sponsoring welfare benefit plans for its covered employees.

1880 (b) A fully-insured employee welfare benefit plan as defined in 29 U.S. Code § 1002
1881 offered to the covered employees of a single PEO shall be treated for purposes of state law as a
1882 single-employer plan.

1883 (c) For purposes of chapter 176J a PEO shall be considered the employer of all of its
1884 covered employees and all covered employees of one or more clients participating in a health
1885 benefit plan sponsored by a single PEO shall be considered employees of that PEO.

1886 (d) If a PEO offers to its covered employees any health benefit plan which is not fully-
1887 insured by an authorized insurer, the plan shall:

1888 (1) utilize a third-party administrator licensed to do business in this commonwealth;

1889 (2) hold all plan assets, including participant contributions, in a trust account consistent
1890 with the requirements of section 403 of the Employee Retirement Income Security Act of 1974,
1891 or “ERISA”; and

1892 (3) provide sound reserves for such plan as determined using generally accepted actuarial
1893 standards of practice and consistent with the prudence and loyalty standards of care for ERISA
1894 fiduciaries.

1895 (e) A PEO shall not be engaged in the sale of insurance or in acting as a third party
1896 administrator by offering, marketing, selling, administering or providing professional employer
1897 services which include services and employee benefit plans for covered employees.

1898 Section 200. (a) Workers’ compensation coverage shall be provided pursuant to section
1899 14A of chapter 152 and regulations promulgated pursuant to said chapter 152.

1900 (b) PEOs and clients shall comply with employer posting notices pursuant to sections 21
1901 and 22 of said chapter 152.

1902 (c) To the extent the PEO has assumed responsibility in the professional employer
1903 agreement, the PEO shall maintain responsibility for the management of workers' compensation
1904 claims.

1905 (d) The professional employer agreement shall specify the allocation of responsibilities
1906 between the PEO and the client for workplace safety, risk and hazard control including the
1907 responsibility for disclosing information about workplace injuries and illness required by the
1908 federal Occupational Safety and Health Act and for performing workplace safety inspections of
1909 all premises where covered employees are employed.

1910 (e) Where the PEO has workers' compensation coverage and has executed an alternate
1911 employer endorsement naming the client as an additional insured, both the client and the PEO
1912 shall be considered the employer for purpose of coverage under said chapter 152.

1913 (f) Where the client has workers' compensation coverage and has executed an alternate
1914 employer endorsement naming the PEO as an additional insured, both the client and the PEO
1915 shall be considered the employer for the purpose of coverage under said chapter 152.

1916 Section 201. (a) For purposes of chapter 151A, covered employees of a PEO shall be
1917 considered the employees of the client, and the PEO shall be responsible for the payment of
1918 contributions, penalties and interest on wages paid by the PEO to its covered employees during
1919 the term of the applicable professional employer agreement.

1920 (b) The PEO shall report and pay all required contributions to the unemployment
1921 compensation fund using the state employer account number and the experience rate of the client
1922 company pursuant to chapter 151A and the regulations promulgated pursuant to said chapter.

1923 Section 202. Except as otherwise provided in this chapter, for the purposes of federal,
1924 state or local laws relating to employee count, including but not limited to paid and unpaid leave,
1925 health and transportation benefits and protection under fair employment laws, the employee
1926 count shall include all of the client company's employees, including the client's employees who
1927 are covered employees under the PEO relationship between the client and the PEO.

1928 Section 203. (a) A person shall not knowingly and intentionally:

1929 (1) offer or provide professional employer services or use the names PEO, professional
1930 employer organization, staff leasing, employee leasing, administrative employer or other title
1931 representing professional employer services without registering with the department pursuant to
1932 section 196;

1933 (2) provide false or fraudulent information to the department in conjunction with any
1934 registration, renewal or in any report required pursuant to sections 192 through 204, inclusive;

1935 (3) enter into a PEO relationship and split a client workforce for the sole purpose of
1936 avoiding compliance with federal, state or municipal laws; or

1937 (4) make a material misrepresentation to the department, to other governmental agencies
1938 or to covered employees.

1939 (b) Disciplinary action may be taken by the department for violation of sections 192
1940 through 204, inclusive, including for:

1941 (1) the conviction of a PEO or a controlling person of a PEO of a crime that relates to the
1942 operation of a PEO or the ability of the licensee or a controlling person of a licensee to operate a
1943 PEO;

1944 (2) knowingly making a material misrepresentation to the department, or other
1945 governmental agency; or

1946 (3) a willful violation of sections 192 through 204, inclusive, or any related order or
1947 regulation.

1948 (c) Any individual may file a complaint with the department against a PEO, PEO group,
1949 controlling person of a PEO, person offering professional employer services, or client. The
1950 complaint shall be filed in writing, with the department, in a form prescribed by the director.

1951 (1) Upon receipt of a complaint, the department shall proceed to review and investigate
1952 the complaint to determine if further action is warranted.

1953 (2) If the director, after investigation, has cause to believe that there have been violations
1954 of this chapter, the director may refer the complaint to the office of the attorney general.

1955 (d) Upon finding, after notice and opportunity for hearing, that a PEO, PEO group,
1956 controlling person of a PEO, person offering professional employer services, or client has
1957 violated 1 or more provisions of this chapter, including the failure to furnish records and
1958 requested information to the department and its inspectors, or has hindered or interfered with any
1959 authorized inspector while in the performance of their duties, subject to any appeal, the director
1960 may:

1961 (1) deny an application for a license;

- 1962 (2) revoke, suspend, restrict or refuse to renew a license;
- 1963 (3) impose an administrative penalty in an amount not to exceed \$1,000 for each material
- 1964 violation;
- 1965 (4) place the licensee on probation for the period and subject to conditions that the
- 1966 department specifies; or
- 1967 (5) issue a cease and desist order.

1968 Section 204. Wages shall be paid in accordance with section 148 of this chapter and any

1969 minimum wage and overtime requirements as provided for in chapter 151. A PEO who fails to

1970 pay wages, to the extent the PEO has assumed responsibility in the professional employer

1971 agreement or subsequent written agreement and as required under this chapter, shall be subject to

1972 penalties under this chapter.

1973 SECTION 65. Each professional employment organization as defined by section 192 of

1974 chapter 149 of the General Laws operating within the commonwealth as of the effective date of

1975 this act shall complete its initial registration not later than 180 days after the effective date of this

1976 act. Initial registration shall be valid for 1 year after the date of issuance.

1977 SECTION 66. The department of labor standards shall promulgate regulations to

1978 effectuate the purposes of this act."

1979 SECTION 67. There shall be a special commission to investigate, analyze and study any

1980 barriers and hindrances to the "last mile" connections to the broadband internet initiatives. The

1981 special commission shall consist of thirteen members including: six members appointed by the

1982 governor, one of whom shall be from western Massachusetts; one of whom shall be from central

1983 Massachusetts; one of whom shall be from Cape Cod and the Islands; one of whom shall be the
1984 director of a community development corporation located in Barnstable county; one of whom
1985 shall be the director of a community development corporation located in Berkshire county; and
1986 one of whom shall be the director of a community development corporation located elsewhere in
1987 the Commonwealth; the secretary of energy and environmental affairs, or a designee; the
1988 secretary of housing and economic development, or a designee; one member of the house
1989 appointed by the speaker; one member of the house appointed by the minority leader; one
1990 member of the senate appointed by the senate president; one member of the senate appointed by
1991 the minority leader; and the director of the Massachusetts broadband institute.

1992 The commission study shall include, but not be limited to, any economic, technical,
1993 statutory or regulatory barriers or other hindrances to close “last mile” connections being made.
1994 The commission shall submit its findings and recommendations, together with drafts of
1995 legislation necessary to carry those recommendations into effect by filing the same with the
1996 clerks of the house of representatives and senate, the house and senate committees on ways and
1997 means, and the joint committee on economic development and emerging technologies not later
1998 than January 31, 2019.

1999 SECTION 68. Section 1 of chapter 64H of the General Laws, as appearing in the 2016
2000 Official Edition, is hereby amended by inserting, after the definition of “Retail establishment”,
2001 the following definition:-

2002 “Rolling stock”, trucks, tractors, and trailers, used by common carriers to transport goods
2003 in interstate commerce.

2004 SECTION 69. Section 6 of said chapter 64H, as so appearing, is hereby amended by
2005 inserting, after subsection (xx), the following new subsection:-

2006 (yy) Sales of rolling stock.

2007 SECTION 70. Section 1 of chapter 64I, as so appearing, is amended by inserting in line
2008 5, after the words “retail establishment”, the following words:-

2009 , “rolling stock”.

2010 SECTION 71. Section 7 of said chapter 64I, as so appearing, is hereby amended by
2011 inserting, after subsection (e), the following new subsection:-

2012 (f) Storage, use or other consumption of rolling stock.