

HOUSE No. 4340

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, January 18, 2022.

The committee on Ways and Means, to whom was referred the message from His Excellency the Governor recommending legislation relative to immediate COVID recovery needs (House, No. 3922), reports, in part, recommending that the accompanying bill (House, No. 4340) ought to pass [Total Appropriation: \$55,000,000.00].

For the committee,

AARON MICHLEWITZ.

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The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act making appropriations for the fiscal year 2022 to provide for supplementing certain existing appropriations and for certain other activities and projects.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith to make supplemental appropriations for fiscal year 2022 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations or to accomplish other important public purposes, 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 certain unanticipated obligations of the commonwealth, to
2 provide for an alteration of purpose for current appropriations and to meet certain requirements
3 of law, the sum set forth in section 2A is hereby appropriated from the General Fund unless
4 specifically designated otherwise in this act, for the several purposes and subject to the
5 conditions specified in this act and subject to the laws regulating the disbursement of public
6 funds for the fiscal year ending June 30, 2022. This sum shall be made available until June 30,
7 2022.

8 SECTION 2A.

9 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Reserves

1599-0080 For a reserve for the establishment and expansion of 2019 novel coronavirus testing locations, to be determined in consultation with the executive office of health and human services and the department of public health, and the purchase of 2019 novel coronavirus tests; provided, that such locations shall include, but not be limited to: community health centers, urgent care centers and other non-profit organizations; provided further, that organizations receiving funds from this item for on-site testing shall provide walk-up appointments; provided further, that funds may be expended for staffing; provided further, that funds shall be expended for 2019 novel coronavirus tests for elementary and secondary public school districts for the safe opening and operations of school facilities; provided further, that funds shall be distributed in a manner that promotes geographic equity; provided further, that not less than \$5,000,000 shall be expended for efforts to increase vaccination rates amongst the population of children ages 5 to 11; provided further, that said efforts shall focus on communities disproportionately impacted by the 2019 novel coronavirus pandemic; provided further, that the administration shall pursue the highest allowable rate of federal reimbursement for all eligible expenditures from this item; and provided further, that funds shall be distributed not later than February 28, 2022.....\$30,000,000

1599-0767 For a reserve for the acquisition and distribution of high-quality personal protective masks for children and faculty in elementary and secondary public school districts; provided, that said high-quality masks shall include, but not be limited to, N95s and KN95s; provided further, that said masks shall be distributed not later than February 28, 2022; provided further, that the administration shall pursue the highest allowable rate of federal reimbursement for all eligible expenditures from this item; provided further, that the office for administration

and finance, in consultation with the department of elementary and secondary education, shall make available on a public website the: (i) total number of masks purchased, including the total number of each type of mask purchased; (ii) total number of masks distributed; and (iii) school districts to which they were distributed; and provided further, that the office for administration and finance shall report on said public website: (1) the number of all rapid antigen tests purchased after January 1, 2022; (2) the number of tests distributed; and (3) where the tests were distributed\$25,000,000

SECTION 3. Chapter 20 of the acts of 2021 is hereby amended by inserting after section 26 the following section:-

SECTION 26A. Section 20 is hereby repealed.

SECTION 4. Section 27 of said chapter 20 is hereby amended by striking out the figure “20,”.

SECTION 5. Said chapter 20 is hereby further amended by inserting after section 30 the following section:-

SECTION 30A. Section 26A shall take effect on July 15, 2022.

SECTION 6. Section 89 of chapter 102 of the acts of 2021 is hereby amended by striking out, in each instance, the words “July 31, 2022” and inserting in place thereof the following words:- December 31, 2022.

SECTION 7. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Principal”, a person who is signing a document under this section as a principal or as a credible witness, as those terms are defined in section 1 of chapter 222 of the General Laws.

“Satisfactory evidence of identity”, (i) identification of an individual based on at least 1 current document issued by a federal or state government agency bearing the photographic image of the individual’s face and signature; or (ii) identification of an individual based on the notary public’s personal knowledge of the identity of the principal.

(b) In order to address the disruptions caused by the outbreak of the 2019 novel coronavirus, also known as COVID-19, and subsequent variants, a notary public appointed pursuant to chapter 222 of the General Laws may perform an acknowledgement, affirmation or other notarial act under said chapter 222 utilizing electronic video conferencing in real time as provided in this section. A principal in any such notarial act may act individually or in a representative capacity.

(c)(1) An acknowledgment, affirmation or other notarial act utilizing electronic video conferencing pursuant to this section shall be valid and effective if:

(i) the notary public observes each principal’s execution of a document;

(ii) both the notary public and each principal are physically located within the commonwealth;

(iii) each principal provides the notary public with satisfactory evidence of identity; provided, that if the principal is not a United States citizen, a valid passport or other government-issued identification credential that evidences the principal’s nationality or residence and that bears the photographic image of the principal’s face and signature shall constitute satisfactory

evidence of identity; provided further, that if the satisfactory evidence of identity is a government-issued identification credential, the principal shall both visually display the principal's identification credential to the notary public during the electronic video conference and shall transmit to the notary public a copy of the front and back of the identification credential, either with the executed document or separately through electronic means; provided further, that if the principal's identification credential is a United States or foreign passport book, a copy of the front cover and page displaying the principal's photograph, name and signature shall be a sufficient copy; and provided further, that a copy of any such identification credential shall be retained for a period of 10 years by the notary public, who shall keep it secure and confidential in accordance with state and federal law;

(iv) each principal makes the acknowledgement, affirmation or other act to the notary public, as appropriate;

(v) a principal causes the executed document to be delivered to the notary public by delivery service, courier or other means in accordance with the notary public's instructions; and

(vi) with respect to any document requiring notarization and executed in the course of closing a transaction involving a mortgage or other conveyance of title to real estate, upon receipt of the executed document, the notary public and each principal engage in a second video conference during which each principal verifies to the notary public that the document received by the notary public is the same document executed during the first video conference.

During any video conference pursuant to this section, each principal shall: (A) swear or affirm under the penalties of perjury that the principal is physically located within the

commonwealth; and (B) make a disclosure of any person present in the room with the principal and make that person viewable to the notary public.

(2) Upon completion of the process under paragraph (1), the notary public may affix the notary public's stamp and signature to the executed document, whereupon the notarial act shall be completed.

(3) The notarial certificate attached to the executed document shall include a recital indicating that the document was notarized remotely pursuant to this section. The certificate shall recite the county in which the notary public was located at the time that the notarial act was completed and shall recite the date that the notarial act was completed; provided, however, that the failure to include any of the recitals required by this subsection shall not affect the validity or recordability of the document; and provided further, with respect to a document being notarized in connection with a mortgage financing transaction, the notarial certificate may recite the date stated within the body of the document, even if that date precedes the date of completion of the notarial act.

(4) The notary public shall execute an affidavit confirming under the penalties of perjury that the notary public has: (i) received a copy of each principal's current identification credential and visually inspected the credential during the initial video conference with the principal, if applicable; (ii) obtained each principal's verbal assent to the recording of the electronic video conference; (iii) taken each principal's affirmations as to physical presence of the principal within the commonwealth; and (iv) been informed of and noted on the affidavit any person present in the room, including a statement of the relationship of any person in the room to the principal. The affidavit shall be retained for a period of 10 years by the notary public.

(5) With respect to any will, nomination of guardian or conservator, caregiver authorization affidavit, trust, durable power of attorney, health care proxy or authorization under the federal Health Insurance Portability and Accountability Act of 1996, the document shall be complete when all original counterparts and the notary public's affidavit are compiled.

(6) Each notary public who performs a notarial act utilizing electronic video conferencing pursuant to this section shall create an audio and video recording of the performance of the notarial act; provided that, the audio and video recording shall be retained for a period of 10 years by the notary public.

(d) A document executed, acknowledged or notarized pursuant to this section shall be a properly executed, acknowledged and notarized document for all legal purposes in the commonwealth, including, but not limited to, for recording with the registry of deeds of any county, for filing as a valid will and for filing or recording with any other state, local or federal agency, court, department or office.

With respect to any such document recorded in a registry of deeds or filed with a registry district of the land court: (i) the affidavit required pursuant to paragraph (4) of subsection (c) shall not be required to be recorded or filed; and (ii) a principal's being subsequently determined to have been physically located outside of the commonwealth during any video conference or a principal's having failed to accurately disclose the presence or identity of others in the room during any video conference, in either case, shall not constitute grounds to set aside the title to real property acquired by an arm's length third-party mortgagee or purchaser for value.

The expiration, repeal or amendment of this section shall not affect the validity of a notarial act completed while this section is in effect and performed in accordance with the terms of this section.

(e) The signature of any witness who participates in the electronic video conference and whose signature is notarized pursuant to this section shall be valid as if the witness had been present to sign in person. A document signed on multiple pages or in multiple locations within the commonwealth or in multiple counterparts shall be valid and effective if it is otherwise in conformity with this section.

(f)(1) Notwithstanding any provision of this section to the contrary, with respect to any document requiring notarization and executed in the course of closing a transaction involving a mortgage or other conveyance of title to real estate or with respect to any will, nomination of guardian or conservator, caregiver authorization affidavit, trust, durable power of attorney, health care proxy or authorization under the federal Health Insurance Portability and Accountability Act of 1996:

(i) only a notary public appointed pursuant to chapter 222 of the General Laws who is an attorney licensed to practice law in the commonwealth or a paralegal under the direct supervision of such an attorney, shall perform an acknowledgment, affirmation or other notarial act utilizing electronic video conferencing in real time as provided in this section; and

(ii) if the notary public is a paralegal, any copy of a principal's identification credential required to be retained pursuant to paragraph (1) of subsection (c), audio and video recording required to be retained pursuant to paragraph (6) of subsection (c) and the affidavit required

pursuant to paragraph (4) of subsection (c), shall be retained by the notary public's supervising attorney.

(2) Notwithstanding any provision of this section to the contrary, with respect to any document requiring notarization and executed in the course of closing a transaction involving a mortgage or other conveyance of title to real estate, if the principal proves their identity by a government-issued identification credential in accordance with said paragraph (1) of said subsection (c) and the principal is not otherwise personally known to the notary public, the principal shall display a secondary form of identification containing the principal's name to the notary public during the initial video conference, which may contain the principal's photograph, signature or be issued by a government entity. Acceptable secondary forms of identification shall include, but not be limited to, a credit or debit card, a social security card, a municipal tax bill or a utility bill; provided, however, that any such municipal tax or utility bill is dated within 60 days of the first video conference.

(3) Nothing in this section shall affect any law or regulation governing, authorizing or prohibiting the practice of law, including, but not limited to, the requirement that the closing of a transaction involving a mortgage or other conveyance of title to real estate may only be conducted by an attorney duly admitted to practice law in the commonwealth.

SECTION 8. (a) Notwithstanding any general or special law to the contrary, subsections (b) and (c) of section 91 of chapter 32 of the General Laws shall not apply in calendar year 2022 to the following 2 categories of persons for hours worked and earnings received during the outbreak of the 2019 novel coronavirus, also known as COVID-19, and subsequent variants:

(i) any person who has been retired and who is receiving a pension or retirement allowance, pursuant to said chapter 32 or any other general or special law, from the commonwealth or a county, city, town, district or authority; or

(ii) any person whose employment in the service of the commonwealth or a county, city, town, district or authority has been terminated, pursuant to said chapter 32 or any other general or special law, by reason of having attained an age specified in a general or special law or by the rules and regulations of any department or agency of the commonwealth or a county, city, town, district or authority without being entitled to any pension or retirement allowance.

These 2 categories of persons may, during calendar year 2022 and subject to all other laws, rules and regulations governing the employment of persons in the commonwealth or a county, city, town, district or authority, be employed in the service of the commonwealth or a county, city, town, district or authority, including as a consultant or independent contractor or as a person whose regular duties require that such person's time be devoted to the service of the commonwealth, county, city, town, district or authority during regular business hours.

(b) This section shall not apply to individuals retired under a general or special law on disability.

SECTION 9. Notwithstanding section 28 of chapter 53 of the General Laws or any other general or special law to the contrary, the state primary in 2022 shall be held on Tuesday, September 6, 2022.

SECTION 10. Notwithstanding section 3 of chapter 53 of the General Laws or any other general or special law to the contrary, a person whose name is not printed on the September 6, 2022 state primary ballot as a candidate for an office, but who receives sufficient votes to

nominate the person for the office, shall file in the office of the state secretary a written acceptance of the nomination and a receipt from the state ethics commission verifying that a statement of financial interest has been filed pursuant to chapter 268B of the General Laws not later than 5:00 P.M. on Thursday, September 8, 2022.

SECTION 11. Notwithstanding sections 11, 13 and 53A of chapter 53 of the General Laws and section 5 of chapter 55B of the General Laws or any other general or special law to the contrary, objections to and withdrawals from nominations made at the September 6, 2022 state primary shall be filed with the state secretary not later than 12:00 P.M. on Friday, September 9, 2022.

SECTION 12. Notwithstanding section 14 of chapter 53 of the General Laws or any other general or special law to the contrary, any vacancies from the September 6, 2022 state primary caused by death, withdrawal or ineligibility under section 11 shall be filled by an executive committee, determined by the state party committee of the same political party who made the original nomination.

SECTION 13. Notwithstanding section 15 of chapter 53 of the General Laws or any other general or special law to the contrary, when a nomination is made to fill a vacancy caused by the death, withdrawal or ineligibility of a candidate from the September 6, 2022 state primary, the certificate of nomination shall be on a form prescribed by the state secretary, signed by the executive committee appointed by the state committee of the same political party as provided for in section 12 and filed with the state secretary not later than 5:00 P.M. on Monday, September 12, 2022.

SECTION 14. Notwithstanding section 135 of chapter 54 of the General Laws or any other general or special law to the contrary, a petition for a recount of the September 6, 2022 state primary shall be filed with the appropriate local election officials not later than 5:00 P.M. on Friday, September 9, 2022 and all recounts shall be completed and notice of the results shall be sent to the state secretary not later than 5:00 P.M. on Saturday, September 17, 2022.

Petitions for districtwide and statewide recounts of the September 6, 2022 state primary shall be submitted to the appropriate local election officials for certification not later than 12:00 P.M. on Friday, September 9, 2022 and local election officials shall complete certification not later than 10:00 A.M. on Tuesday, September 13, 2022. Thereafter, certified petitions shall be filed with the secretary of state not later than 5:00 P.M. on Tuesday, September 13, 2022. If the state secretary determines that the contest is eligible for a statewide or districtwide recount, the state secretary shall notify the local election officials who shall complete the recount and shall notify the state secretary of the results of the recount not later than 5:00 P.M. on Saturday, September 17, 2022.

Notwithstanding the provisions of section 135 of chapter 54 of the General Laws, a board of registrars must only provide 2 days' notice of the date, time and location of the recount to each candidate for the office for which the recount has been petitioned. Electronic notice shall be sufficient.

SECTION 15. Notwithstanding sections 8 to 10, inclusive, of chapter 55B of the General Laws or any other general or special law to the contrary, the state ballot law commission shall notify candidates of any objections filed to nominations at the September 6, 2022 state primary not later than 5:00 P.M. on Friday, September 9, 2022. Notice of the commission hearings shall

be given by telephone and electronic mail. Hearings on objections shall be held on Wednesday, September 14, 2022 and decisions shall be rendered not later than 5:00 P.M. on Monday, September 19, 2022.

SECTION 16. Notwithstanding section 7A of chapter 167E of the General Laws, section 65C1/2 of chapter 171 of the General Laws or any other general or special law to the contrary, due to the outbreak of the 2019 novel coronavirus, also known as COVID-19, and subsequent variants, written certification from a counselor with a third-party organization that a mortgagor has received counseling via a synchronous, real-time video conference or by telephone in lieu of counseling in person shall satisfy the requirements of clause (ii) of subsection (b) of said section 7A of said chapter 167E or clause (ii) of subsection (b) of said section 65C1/2 of said chapter 171; provided, however, that the third-party organization shall have been approved by the executive office of elder affairs for purposes of such counseling.

SECTION 17. Notwithstanding any general or special law to the contrary, local election officials shall transmit absentee ballots to voters covered under the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. section 20302 et seq., whose applications were received at least 45 days before the November 8, 2022 state election, not later than Saturday, September 24, 2022.

SECTION 18. Notwithstanding any general or special law to the contrary, the state secretary may add or change any dates relating to the nominations made at the September 6, 2022 state primary that the state secretary considers necessary for the orderly administration of the November 8, 2022 state election by providing notice of the change to the state parties and any affected person, by filing notice with the state secretary's rules and regulations division, by

267 posting on the state secretary's website and by whatever other means the state secretary
268 considers appropriate.

269 SECTION 19. Section 7 shall take effect as of December 15, 2021. Virtual affirmation,
270 acknowledgment or other notarial acts under chapter 222 of the General Laws that occurred on
271 or after December 15, 2021 and until the effective date of this act shall be deemed valid;
272 provided, that each requirement of chapter 71 of the acts of 2020 was satisfied at the time of the
273 affirmation, acknowledgement or other notarial act.

274 SECTION 20. Sections 7 and 16 are hereby repealed.

275 SECTION 21. Section 20 shall take effect on July 15, 2022.