

HOUSE No. 4634

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Finn

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

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

An Act relative to qualified data centers in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michael J. Finn</i>	<i>6th Hampden</i>	<i>3/1/2022</i>
<i>Kelly W. Pease</i>	<i>4th Hampden</i>	<i>3/2/2022</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>3/8/2022</i>
<i>Jacob R. Oliveira</i>	<i>7th Hampden</i>	<i>3/8/2022</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>3/9/2022</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>3/10/2022</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>3/14/2022</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>3/25/2022</i>
<i>Orlando Ramos</i>	<i>9th Hampden</i>	<i>4/5/2022</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>4/5/2022</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>4/6/2022</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>6/2/2022</i>

HOUSE No. 4634

By Mr. Finn of West Springfield, a petition (subject to Joint Rule 12) of Michael J. Finn and others relative to qualified data centers. Revenue.

The Commonwealth of Massachusetts

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

An Act relative to qualified data centers in the Commonwealth.

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. Section 6 of chapter 64H, as so appearing in the 2020 Official Edition, is
2 hereby amended by inserting after subsection (xx) the following new subsection:

3 (yy)(1) The gross receipts from the purchase, sale, lease, construction, installation,
4 assembly, storage, distribution, use, consumption, operations, repair or maintenance of the items
5 contained in this section by an owner, operator, colocation tenant, contractor and subcontractor
6 of a qualified data center in the commonwealth are specifically exempted during the qualification
7 period from the sales and use taxes imposed by this chapter.

8 (A) Purchases or leases of eligible data center equipment for use in a qualified data center
9 is exempt.

10 (B) Purchases or leases of computer software for use in a qualified data center is exempt.

11 (C) Electricity purchased for use or consumption in the operation of a qualified data
12 center is exempt.

13 (D) Construction costs incurred for the construction, renovation or refurbishment of a
14 qualified data center is exempt.

15 (2) As used in this section, the following words shall, unless the context otherwise
16 requires, have the following meanings: -

17 "Qualified data center" means a facility in the Commonwealth:

18 (A) that is owned or leased by: (i) the operator of the data center facility; or (ii) a person,
19 partnership, company, corporation or other entity under common ownership of the operator of
20 the data center facility;

21 (B) that is comprised of one or more data center buildings that consist in the aggregate of
22 at least 50,000 square feet, and that are located on a single parcel or on contiguous parcels, where
23 the total eligible qualified data center costs of the data center facility are at least \$25,000,000
24 within a ten-year period from the effective date of the certification by the secretary of economic
25 development as a qualified data center facility;

26 (C) that is constructed or substantially refurbished after the effective date of this section;
27 and

28 (D) that is used to house computer information technology equipment, networking, data
29 processing or data storage, including servers and routers for the storage, management, and
30 dissemination of data and information where the facility has the following characteristics:

31 (i) uninterruptible power supplies, generator backup power, or both;

32 (ii) sophisticated fire suppression and prevention systems; and

33 (iii) enhanced security. A facility will be considered to have enhanced security if it has
34 restricted access to the facility to selected personnel; permanent security guards; video camera
35 surveillance; an electronic system requiring pass codes, keycards, or biometric scans, such as
36 hand scans and retinal or fingerprint recognition; or similar security features.

37 In determining whether the facility has the required square footage, the total square
38 footage of the data center facility shall include the space that houses the computer information
39 technology equipment, networking, data processing or data storage, including servers and
40 routers, and the following spaces that support the operation of enterprise information technology
41 equipment including, but not limited to, office space, meeting space, loading dock space, and
42 mechanical and other support facilities.

43 "Colocation tenant" means a person, partnership, company, corporation or other entity
44 that contracts with or leases from the owner or operator of a qualified data center to use or
45 occupy all or part of a qualified data center.

46 "Computer software" includes, but is not limited to, software purchased, leased, utilized
47 or loaded at a qualified data center including, but not limited to, maintenance, licensing, and
48 software customization.

49 "Construction costs" means materials, labor, services and equipment purchased or leased
50 to construct the data center facility including, but not limited to, data center building costs,
51 accessory building costs and building improvement costs, land development and site
52 improvement costs, site utility infrastructure costs, building materials, steel, concrete, gravel,
53 engineering services, heavy equipment, cranes, transportation equipment, excavation costs, storm

54 water system and management costs, access roads, bridges, fencing, lighting, landscaping, and
55 other costs to construct the facility.

56 “Eligible data center equipment” means computers and equipment supporting computing,
57 networking, data processing or data storage, including servers and routers purchased or leased at
58 a qualified data center. It includes, but is not limited to, computer servers, routers, connections,
59 chassis, networking equipment, switches, racks, fiber optic and copper cables, trays, conduits and
60 other enabling machinery, equipment and hardware; component parts, replacement parts and
61 upgrades; cooling systems, cooling towers, chillers, mechanical equipment, HVAC equipment,
62 refrigerant piping, fuel piping and storage, adiabatic and free cooling systems, water softeners,
63 air handling units, indoor direct exchange units, fans, ducting, filters and other temperature
64 control infrastructure; power infrastructure for transformation, generation, distribution, or
65 management of electricity used for the operations and maintenance of a qualified data center,
66 including but not limited to, substations, switchyards, transformers, generators, uninterruptible
67 power supplies, backup power generation systems, battery systems, energy efficiency measures,
68 supplies, fuel piping and storage, duct banks, switches, switchboards, testing equipment and
69 related utility infrastructure; monitoring and security equipment; water conservation systems,
70 including equipment designed to collect, conserve and reuse water; modular data center
71 equipment and preassembled components of any item described in this paragraph, including
72 components used in the manufacturing of modular data centers; and any other personal property
73 or equipment that is used or consumed in the operation and maintenance of the qualified
74 data center.

75 "Eligible qualified data center costs" means expenditures made after the effective date of
76 this section for the construction, refurbishment, renovation or improvement of a facility to be
77 used as a qualified data center, including, but not limited to, the cost of land, land development
78 and site improvement costs, site utility infrastructure costs, construction costs, data center
79 building costs, accessory building costs and building improvement costs, and eligible data center
80 equipment.

81 "Qualification period" means with respect to the owner, operator, colocation tenant,
82 contractor or subcontractor of a qualified data center, a period of time beginning on the effective
83 date of the certification of the qualified data center for the first data center building, and shall
84 continue for a period of thirty full calendar years following such certification, expiring at the end
85 of the thirtieth full calendar year following the calendar year containing the effective date. If the
86 qualified data center is comprised of more than one data center building, then the qualification
87 period for each subsequent data center building that is constructed at the qualified data center
88 facility shall become effective when each data center building begins commercial operations, as
89 evidenced by receipt of a certificate of occupancy, and shall continue for a period of thirty full
90 calendar years, expiring at the end of the thirtieth full calendar year following the calendar year
91 each respective data center building began commercial operations.

92 "Substantially refurbished" means that at least 50,000 square feet of an existing facility
93 that qualifies as a data center have been rebuilt, modified or constructed where the total eligible
94 qualified data center costs are at least \$25,000,000 within a ten-year period from the effective
95 date of the certification by the secretary of economic development as a qualified data center
96 facility, including, but not limited to:

97 (A) installation of computer information technology equipment, networking, data
98 processing or data storage, including servers and route; environmental control, computer
99 software, and energy efficiency improvements; and

100 (B) building improvements.

101 (3) The purpose of this exemption is to encourage economic development in the
102 construction and operations of the data center industry and the growth of the digital economy in
103 the Commonwealth.

104 (4) Only sales, purchases and leases made after the effective date of this section shall be
105 eligible for this exemption.

106 (5) To qualify for the sales and use tax relief, the owner or operator shall submit to the
107 secretary of housing and economic development an application on a form prescribed by the
108 commissioner that includes all of the following:

109 1. The owner's or operator's name, address and telephone number;

110 2. The address of the site where the facility is or will be located, including information
111 sufficient to identify the facility composing the eligible qualified data center, and the expected
112 commercial operations date of each data center building that will be located at the eligible
113 qualified data center facility;

114 3. The anticipated aggregate square feet of the eligible qualified data center for which the
115 sales and use tax exemption is being sought;

116 4. The anticipated investment associated with the eligible qualified data center for which
117 the sales and use tax exemption is being sought; and

118 5. An affirmation, signed by an authorized executive representing the owner or operator,
119 that the eligible qualified data center is expected to satisfy the certification requirements
120 prescribed in subsection (2) as a qualified data center.

121 (6) The secretary of housing and economic development must certify when a qualified
122 data center has met the requirements under subsection (2). Within sixty days after receiving a
123 complete and correct application, the secretary shall review the application and either issue a
124 written certification that the computer data center qualifies for the sales and use tax exemption or
125 provide written reasons for its denial and an opportunity for the applicant to cure any
126 deficiencies. Failure to approve or deny the application within sixty days after the date the owner
127 or operator submits the application to the secretary constitutes approval of the qualified data
128 center, and the secretary shall issue written certification to the owner or operator within fourteen
129 days. The effective date of the certification is either the date on which the application was
130 submitted to the secretary, or a prospective date stated in the application that does not exceed
131 five years after the date on which the application was submitted. The secretary shall send a copy
132 of the certification, including its effective date, to the commissioner. The certification must
133 provide the following information regarding each qualified data center:

134 (A) the effective date of the certification;

135 (B) the total square footage amount;

136 (C) the total amount of land costs, construction costs, refurbishment costs and eligible
137 data center equipment; and

138 (D) the beginning and ending date of the sales and use tax exemption for the first data
139 center building, which shall begin on the effective date of the certification and expire at the end
140 of the thirtieth full calendar year following the calendar year containing the effective date, and
141 for a qualified data center that is comprised of more than one data center building, the expected
142 commercial operations dates and expected qualification periods for subsequent data center
143 buildings expected to be located at the qualified data center facility.

144 The secretary shall promulgate any rules or regulations and shall issue instructions or
145 forms necessary for the implementation of this subsection.

146 (7) The sales and use tax exemption for a qualified data center shall apply to purchases,
147 sales and leases for the construction, installation, assembly, storage, distribution, use,
148 consumption, operations, repair or maintenance of one or more data center buildings that are
149 located on a single parcel or on contiguous parcels within the qualified data center facility for
150 land development and site improvement costs, site utility infrastructure costs,
151 construction costs, data center building costs, accessory building costs and building improvement
152 costs, computer software costs, electricity costs and eligible data center equipment. The sales and
153 use tax exemption for the first data center building, shall become effective upon certification by
154 the secretary of economic development, and shall continue for a period of thirty full calendar
155 years following such certification, expiring at the end of the thirtieth full calendar year following
156 the calendar year containing the effective date. If the qualified data center is comprised of more
157 than one data center building, then the qualification period for each subsequent data center
158 building that is constructed at the qualified data center facility shall become effective when each
159 data center building begins commercial operations, as evidenced by receipt of a certificate of

160 occupancy, and shall continue for a period of thirty full calendar years, expiring at the end of the
161 thirtieth full calendar year following the calendar year each respective data center building began
162 commercial operations. The sales and use tax exemption certification shall apply to an owner,
163 operator, colocation tenant, contractor and subcontractor of a qualified data center for such
164 thirty-year qualification period. If the qualified data center is sold to a new owner prior to the
165 expiration of the exemption, then the sales and use tax exemption shall remain in effect and
166 apply to a subsequent owner for the remaining duration of the thirty-year qualification period.