

SENATE No. 665

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 to establish a Massachusetts public bank.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/23/2021</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>3/12/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>3/23/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>4/9/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>9/24/2021</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>12/13/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>12/15/2021</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/21/2022</i>
<i>Adam Gomez</i>	<i>Hampden</i>	<i>1/24/2022</i>
<i>Lydia Edwards</i>	<i>First Suffolk and Middlesex</i>	<i>4/26/2022</i>

SENATE No. 665

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 665) of James B. Eldridge, Jack Patrick Lewis, Julian Cyr, Patrick M. O'Connor and others for legislation to establish a Massachusetts public bank. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 579 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act to establish a Massachusetts public bank.

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. The General Laws are hereby amended by inserting after chapter 10 the
2 following chapter:-

3 CHAPTER 10A

4 MASSACHUSETTS PUBLIC BANK

5 Section 1. Declarations.

6 (a) There shall be a Massachusetts public bank (the Bank), wholly owned by the
7 commonwealth, to provide a safe depository for a portion of the public funds in the
8 commonwealth and to support the economic well-being of the commonwealth, its cities and

9 towns, its residents, its businesses and its state and municipal institutions, with an accountable
10 and responsive governance structure that ensures community input.

11 (b) In order to obtain these benefits, the Massachusetts public bank shall

12 1) assist businesses and municipalities in recovering from the economic
13 repercussions of the COVID-19 pandemic;

14 2) expand affordable, sustainable financing in the commonwealth;

15 3) enable the commonwealth to share in the benefits extended by the Federal
16 Reserve to lending institutions;

17 4) ensure that a significant portion of public revenues function as deposits to finance
18 economic activity within the commonwealth, as opposed to financing activity out-of-state;

19 5) strengthen state-chartered banks, including through participatory loan programs;

20 6) support state-based public, quasi-public agencies and non-profits including,
21 Community Development Financial Institutions, Community Development Corporations and
22 Economic Development Corporations;

23 7) respond to the unmet affordable financing needs of cities and towns in the
24 commonwealth;

25 8) support small and medium-sized enterprises in the commonwealth, especially in
26 underserved communities or in lines of business where traditional sources of finance are not
27 available;

- 28 9) assist workers and communities in creating jobs by supporting cooperative
29 business models including worker-owned coops;
- 30 10) increase available affordable housing options for all residents in the
31 commonwealth;
- 32 11) promote sustainable agricultural production, address food insecurity, and provide
33 financing for rural business concerns tailored to the resource challenges they face;
- 34 12) address the historic and current economic inequities experienced by the state’s
35 communities of color, their neighborhoods and their enterprises through affordable financing;
- 36 13) offer affordable financing to non-profit and community-based organizations that
37 work to address the results of racial injustice;
- 38 14) address the historic and current disadvantages experienced by the state’s women-
39 owned enterprises with affordable financing, as well as community-based organizations that
40 work for women’s economic and social equity;
- 41 15) support the urgent expansion and development of public and private measures to
42 mitigate the grave dangers that climate change poses to the public and to promote substantial
43 reductions in greenhouse gas emissions;
- 44 16) provide financing, either directly, through participation loans or through
45 intermediaries such as community development financial institutions, that is long-term and
46 flexible in its terms and use, including debt, and under certain conditions, equity and all with the
47 purpose of filling a capital gap and supporting the Bank’s initiatives;
- 48 17) be supervised for safety and soundness by the commissioner of banks.

49 Section 2. Definitions.

50 The following words as used in this chapter, unless the context otherwise requires, shall
51 have the following meanings:

52 “Affordable financing”, as defined in section 13 below.

53 “Affordable housing”, housing that: (1) satisfies the definition in section 1 of chapter 60
54 or section 38D of chapter 121B; (2) is a qualified low-income housing project as defined in 26
55 U.S.C. 42(g); or (3) is owned by families that (i) reside in a census tract in which the median
56 income does not exceed 80 per cent of the area median income or (ii) have an income that does
57 not exceed area median income and that resides in a minority census tract.

58 “Commissioner”, as defined in section 1 of chapter 167.

59 “Community development corporation”, as defined in section 2 of chapter 40H.

60 “Community development financial institution”, a private financial entity dedicated to
61 delivering non-predatory affordable lending to help low-income, low-wealth and other
62 disadvantaged people and communities that shall have the meaning ascribed to it under 12
63 U.S.C. 472(5)(a), including, but not limited to, those institutions that are not certified by the
64 United States Treasury Community Development Financial Institution Fund.

65 “Eligible recipients”, as defined in section 12.

66 “Land trust”, a private, non-profit corporation or organization that acquires, manages,
67 develops or maintains land or easements to promote the preservation or restoration of land in the
68 commonwealth either for recreational, agricultural, scenic, residential or commercial use

69 including, but not limited to, affordable housing, climate security or water resource protection
70 uses.

71 “Massachusetts bank”, an association or corporation chartered by the commonwealth
72 under chapter 168, 170, 171 or 172.

73 “Massachusetts Public Bank” or “Bank”, a bank chartered by the commonwealth and
74 wholly owned by the commonwealth to accept deposits of public funds and provide affordable
75 financing to eligible recipients so as to enhance the economic health of the commonwealth.

76 “Minimum Average Annual Balance” or “MAAB”, the minimum amount of funds that
77 the state treasurer shall keep with the Bank as a minimum average daily balance, which is
78 \$1,400,000,000. Annually, the state treasurer shall adjust the MAAB upwards by multiplying the
79 MAAB by the most recent reported average amount of cash and cash equivalents reported by the
80 state treasurer under section 11, divided by the average amount of cash and cash equivalents
81 reported in the year before that. The state treasurer shall not adjust the MAAB downwards.

82 “Participation loan”, a loan in which the Bank shares in funding or overseeing an advance
83 of credit under a written agreement between the originator of the loan and the Bank.

84 “Rural area”, a municipality with population density of less than 500 residents per square
85 mile, according to the latest decennial census of the United States.

86 “Rural business concern”, a business that (1) is a smaller business entity; (2) has its
87 principal business operations in 1 or more rural areas in the commonwealth; and (3) is engaged
88 in an occupation that directly supports the economy of the rural area or areas in which it is
89 located.

90 “Underserved neighborhood”, a neighborhood that meets 1 or more of the following
91 criteria: (1) the annual median household income is not more than 65 per cent of the statewide
92 annual median household income; (2) minorities comprise 40 per cent or more of the population;
93 (3) 25 per cent or more of households lack English language proficiency; or (4) minorities
94 comprise 25 per cent or more of the population and the annual median household income of the
95 municipality in which the neighborhood is located does not exceed 150 per cent of the statewide
96 annual median household income.

97 “Smaller business entity”, a business that has 40 per cent of the employee count of a
98 small business as defined under section 57 of chapter 23A.

99 Section 3. Authorities and Examinations.

100 (a) Unless explicitly provided otherwise under this chapter, the Bank shall have all the
101 powers under the provisions of chapter 167F, as well as the other powers available to
102 Massachusetts banks under the law.

103 (b) In the provision of financing, the Bank shall only exercise its powers so as to support
104 eligible recipients by providing them with affordable financing. In the opening of deposit
105 accounts, the Bank shall only open deposit accounts as provided in section 9.

106 (c) The Bank is authorized to become a member of the Federal Reserve System.

107 (d) The Bank is not authorized to become a member of the Federal Deposit Insurance
108 Corporation.

109 (e) To the extent convenient for its operations, the Bank may pursue its goals through
110 affiliates, to be established under the same rules and regulations applying to other state-chartered

111 depository institutions. These affiliates shall be subject to the same restrictions applying to the
112 Bank with respect to deposits, eligible recipients and affordable financing as set forth in sections
113 9, 12 and 13.

114 (f) The Bank may accept and solicit property, including any gifts, donations, grants or
115 bequests or any federal funds for any of the purposes of this chapter.

116 (g) Beginning 1 year after the Bank has commenced operations and at least annually
117 thereafter, the commissioner of banks shall examine the bank under its authority to examine
118 Massachusetts banks. The Bank shall be subject to the provisions of chapter 167 and section 13
119 of chapter 167J; provided, however, that sections 2I, 14, 14A, 14C, 15-15K, 19, 20, 34, 37, 37A,
120 37B, 40, 41, 42, 43, 44, 45 and 46 of chapter 167 shall not apply to the Bank.

121 (h) In examining the Bank, the commissioner shall pay special attention to transaction
122 testing the Bank's compliance with its Business Plan. This part of the examination shall become
123 public 6 months after the conclusion of the examination.

124 Section 4. Governance Structure of the Bank.

125 The provisions of this section are subject to the initial organization provisions of section
126 6.

127 (a) There shall be a board of directors to govern the Bank consisting of 9 members: 8 of
128 whom shall be appointed by the state treasurer; and 1 of whom shall be the state treasurer or the
129 state treasurer's designee. The 8 appointed members shall include individuals who bring
130 professional experience, across their number, in the operation of (1) community development
131 financial institutions, (2) state-chartered depository institutions doing business primarily in the

132 state, (3) credit unions or cooperative banks chartered under chapter 170 or chapter 171, (4)
133 small business enterprises located in the commonwealth, and individuals who have expertise in
134 the fields of (5) public finance and economic development, (6) local government and
135 administration and (7) environmentally-conscious financing. The 8 appointed members shall
136 receive the advice and consent of the Governor's Council, in order to ensure that the board
137 collectively has experience with all of these subjects, as well as broad knowledge of the
138 economic needs of all the councilors' respective districts.

139 (b) Board representation shall reflect the geographical, racial and gender diversity of the
140 commonwealth as periodically determined by the state secretary as the commonwealth's chief
141 census officer. The members of the board of directors shall represent all geographic areas of the
142 commonwealth, including urban, rural and suburban areas.

143 (c) A board member shall be a resident of the commonwealth at least 90 days before
144 appointment and, with the exception of the state treasurer or the state treasurer's designee, while
145 serving on the board, shall not: (1) hold or be a candidate for federal, state or local elected office;
146 (2) hold an appointed office in a federal, state or local government; (3) serve as an official in a
147 political party; or (4) have served in any such office in the previous 4 years. The board members
148 shall take an oath to faithfully and impartially execute their duties as board members. The
149 members of the board shall be compensated for work performed for the board at such rate as the
150 secretary of administration and finance shall determine.

151 (d) A board member shall serve for a term of 4 years or until a successor is appointed
152 and shall be eligible for a single reappointment.

153 (e) The board of directors shall elect its own chair by majority vote. This election shall
154 take place whenever (1) a chair's term on the board of directors ends without reappointment or
155 (2) 2 or more members of the board of directors shall call for an election. Seven board members
156 shall constitute a quorum and the affirmative vote of a majority of board members present and
157 voting shall be required for an action of the board of directors. The board shall meet quarterly
158 and at other times as it shall deem necessary or upon the written request of 4 board members or
159 the chair. The chair of the board of advisors as established under section 7, the chair's designee
160 or both may attend all such meetings as a nonvoting participant. Notice of all meetings shall be
161 given to the board members, the chair of the board of advisors and to other persons who request
162 such notice. The board shall adopt regulations establishing procedures related to its meetings,
163 which may include electronic meetings and communications.

164 (f) The board shall annually elect 1 of the board members to serve as secretary. The
165 secretary shall keep a record of the proceedings of the board and shall be the custodian and
166 keeper of the records of all books, documents and papers filed by the board and of its minute
167 book. The secretary shall cause copies to be made of all minutes and other records and
168 documents of the board and shall certify that such copies are true copies, and all persons dealing
169 with the board may rely upon such certification.

170 (g) The board shall appoint a chief executive officer of the Bank by a two-thirds vote of
171 the full board. At the discretion of the chair of the board, the board may utilize a form of ranked-
172 choice voting to ensure that the two-thirds threshold is satisfied. The chief executive officer shall
173 not be a member of the board. If at any time, a majority of the board members shall declare a
174 vote of no confidence in the current chief executive officer, the chief executive officer shall be
175 terminated, and the board shall initiate the process of hiring a new chief executive officer

176 immediately. In the case of an absence or vacancy in the office of the chief executive officer, or
177 in the case of disability as determined by the board, the board may designate an acting chief
178 executive officer by majority vote to serve as chief executive officer until the vacancy is filled,
179 or the absence or disability ceases. Notwithstanding the provisions of any general or special law
180 to the contrary, all board meetings regarding the hiring or termination of the chief executive
181 officer or acting chief executive officer shall be executive sessions, and the voting records of the
182 directors at these meetings shall be kept confidential. The chief executive officer, acting chief
183 executive officer, the chair of the board of advisors or any designee thereof shall not attend
184 executive sessions.

185 The chief executive officer shall serve at the pleasure of the board, shall receive such
186 salary as may be determined by the board and shall devote full time and attention to the duties of
187 the office. The chief executive officer shall be a person with skill and experience in management
188 and banking, shall be the executive and administrative head of the Bank and shall be responsible
189 for administering and enforcing the provisions of law relative to the Bank and to the
190 administrative units of the Bank. The acting chief executive officer shall have all of the powers
191 and duties of the chief executive officer and shall have similar qualifications as the chief
192 executive officer. The chief executive officer may, subject to the approval of the board, employ
193 other employees, consultants, agents and advisors, including legal counsel and shall attend
194 meetings of the board. The chief executive officer shall be responsible for all aspects of the
195 Bank's management, including its physical facilities, investments, loan portfolio, accounting,
196 risk management and regulatory compliance, as well as the drafting and subsequent execution of
197 its Business Plan.

198 (h) (1) The Business Plan shall codify the Bank’s strategy for achieving and maintaining
199 sound and responsible operation while enhancing the economic well-being of the commonwealth
200 and its citizenry. To the extent practical, the Business Plan shall be updated at least once every 4
201 years. By approving a Business Plan, the board of directors shall be certifying that it complies
202 with both the letter and the spirit of this chapter.

203 (2) The chief executive officer shall send the initial draft Business Plan to the chair of the
204 board of advisors concomitantly with conveying it to the board of directors, but at least 30 days
205 before the board of advisors' next scheduled quarterly meeting. The board of advisors shall
206 immediately make it publicly accessible via the internet and publicly announce that it is available
207 for public comment through the board of advisors’ internet-based comments portal. Within 30
208 days after said meeting, the chair of the board of advisors shall combine the board of advisors
209 members’ comments and suggestions, along with any public input that the board deems
210 pertinent, into a concise list of recommended modifications to the Business Plan and distribute
211 those recommendations to the members of the board of advisors and of the board of directors.
212 The board of directors shall promptly convey these recommendations, together with any
213 comments of its own, to the chief executive officer. The chief executive officer shall then
214 prepare a new draft Business Plan taking these recommendations into account as the chief
215 executive officer sees fit and convey it to the board of directors and board of advisors within 30
216 days of the recommendations’ receipt. This updated draft Business Plan shall be voted upon by
217 the board of directors within 30 days of receiving the updated draft from the chief executive
218 officer, at an ad hoc board of directors meeting if necessary. The board of advisors’ comments
219 and recommendations, together with the public’s input from the board of advisors’ meetings and

220 from the comments portal and the approved Business Plan itself, shall be made publicly available
221 via the internet.

222 (3) A Business Plan, once approved, may not be overridden by the board of directors
223 except through a declaration of emergency, as described in section 5. If the board of directors
224 disapproves a draft Business Plan, this process shall begin anew and be repeated until a Business
225 Plan is approved. Upon the third consecutive disapproval of a draft Business Plan, the chief
226 executive officer who drafted those Business Plans shall be deemed to have been terminated by
227 the board of directors, and the board of directors shall hire a new chief executive officer before a
228 further draft Business Plan may be considered.

229 Section 5. Powers and Duties of the Board of Directors

230 The board of directors shall have all powers necessary or convenient to carry out and
231 effectuate its purposes, including, but not limited to, the power to:

232 (a) approve of the Business Plan of the Bank, to ensure that the Plan pays due attention to
233 the recommendations of the Bank's board of advisors and to monitor the Bank's subsequent
234 compliance with the currently operative Plan. A two-thirds majority of the full board shall
235 approve of the Business Plan to be considered approved by the board as a whole.

236 (b) keep the board of advisors of the Bank fully informed of the Bank's operations and
237 loan portfolio and to convey the recommendations of the advisors to the chief executive officer.
238 To this end, there shall be an annual joint meeting of the board of directors, the board of advisors
239 and the chief executive officer. The chair of the board of directors shall preside over the joint
240 meeting. When requested by a majority of the board of advisors as established in section 7, the
241 board of directors shall schedule and hold a second joint meeting within the year.

242 (c) regularly review the Bank's financial statements and other records to ensure that it is
243 in compliance with all applicable laws and regulations and with all reporting requirements under
244 section 11.

245 (d) in the event of a natural or man-made disaster, to declare a state of emergency that
246 requires the chief executive officer to override the currently operative Business Plan, in such
247 manner as the board of directors shall deem necessary to address and recover from the disaster.
248 Seven members of the board of directors shall approve the declaration of emergency, following
249 consultation with the chair of the board of advisors and shall specify a duration for the
250 emergency of no more than 1 year. At the conclusion of a 1-year declaration of emergency, the
251 board shall only approve an extension of the declaration of emergency by unanimous re-
252 approval.

253 Section 6. Initial Organization Development

254 (a) The state treasurer shall appoint the initial board of directors within 120 days of the
255 effective date of this Act.

256 (b) Four of the 8 initially-appointed members of the board of directors shall serve 2-year
257 terms.

258 (c) The board shall elect its officers at its first meeting.

259 (d) The board chair shall publicly solicit applications for the chief executive officer
260 immediately upon the board's appointment. The board shall expeditiously determine the
261 applicant to hire.

262 (e) The chief executive officer shall cause to be drafted the initial Business Plan within 1
263 year of being hired by the board of directors.

264 (f) The initial board of advisors shall be appointed within 90 days of the appointment of
265 the initial board of directors. Of the advisors initially appointed by the governor, 8 shall serve 2-
266 year terms and the remaining 8 shall serve 4-year terms, with half the appointees from each
267 category to serve each length term.

268 Section 7. Appointment and Duties of the Board of Advisors.

269 The board of advisors shall consist of 18 members, 1 of whom shall be the lieutenant
270 governor or the lieutenant governor's designee and 1 of whom shall be the director of the
271 community development department at the Federal Reserve of Boston or that person's designee.
272 The governor shall appoint the remaining 16 members for 4-year terms. The governor shall make
273 appointments from persons nominated by entities or organizations representing the following
274 categories of concern, taking 2 persons per category of concern except where 1 person is
275 indicated, with a limit of 1 candidate per nominating entity: (1) state-chartered depository
276 institutions or credit unions that derive over 90 per cent of their deposits in-state, or associations
277 representing predominately these entities; (2) community development finance institutions and
278 community development organizations that focus primarily on supporting economic
279 development in the commonwealth, including, but not limited to, rural and economic cooperative
280 models and worker-owned enterprises; (3) entities organized under 26 U.S.C. 501(c)(3) to
281 support underserved neighborhoods; (4) associations representing the interests of small business
282 entities, particularly businesses owned by cognizable groups currently receiving less credit than
283 proportional to their size or serving in areas operating in underserved neighborhoods; (5) 1

284 appointee each from the following entities organized under 26 U.S.C. 501(c)(3) to support the
285 following ends: (i) sustainable agriculture; (ii) food security; (iii) climate change amelioration
286 and environmental finance and (iv) environmental justice; (6) municipalities, as represented
287 singly, by state-based associations of municipalities or by state-based chapters of municipal
288 planners or professionals; (7) organizations in which employees or workers participate and which
289 exist for the purpose, in whole or in part, of representing the interests of workers concerning
290 grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work. The
291 governor shall appoint 1 person from an organization in category (7) that represents low-income
292 workers.

293 The terms of members of the board of advisors shall be staggered: one-half of the board's
294 membership, consisting of 1 nomination from each category of concern shall terminate at 2-year
295 intervals. In order to submit a nomination, an entity or organization shall have been in existence
296 for at least 4 years. The governor's nominations and determinations shall be public, and the
297 Bank shall post them on the Bank's website.

298 (b) The board of advisors shall elect its own chair. An election shall take place whenever
299 (1) a chair's term on the board of directors ends without reappointment or (2) 4 or more members
300 of the board of directors shall call for an election. The board of advisors shall meet quarterly to
301 review the Bank's activities, including, but not limited to, the Bank's initial draft Business Plan.
302 These meetings shall be staggered with the board of directors' quarterly meetings, so that the 2
303 are separated by at least 30 days; provided, however, that the board of advisors' quarterly
304 meetings shall include the annual joint meeting and, when requested, a second joint meeting with
305 the board of directors and the chief executive officer. The board of advisors' meetings shall be
306 open to the public, publicized at least 30 days in advance and shall offer concerned citizens the

307 opportunity to provide input on the board of advisors' deliberations or to make proposals
308 regarding future initiatives for the Bank's consideration. The board of advisors shall also engage
309 in an interactive discussion with the board of directors and the chief executive officer at their
310 annual joint meetings, which shall likewise be open to the public.

311 The public shall further be able to provide input to the board of advisors on an ongoing
312 basis through an internet-based comments portal. The board of advisors shall give the public's
313 input due consideration at its quarterly meetings. The board of advisors shall set up the
314 comments portal within 30 days of the initial appointment of the board of advisors and shall
315 provide the board of directors as well as the chief executive officer and staff full access to the
316 input residing on the comments portal as that input is submitted to it by the public. The chair of
317 the board of advisors shall be responsible for setting up and managing the comments portal as
318 well as preparing and maintaining the minutes and other documents. The chair shall convey the
319 minutes of and the recommendations from the board of advisors' meetings to the board of
320 directors in writing at most 30 days after each meeting and shall ensure that these minutes and
321 recommendations, together with the contents of the comments portal before each meeting,
322 excluding spam and abusive postings, are accessible to the public via the internet.

323 (c) The members of the board of advisors may be reimbursed for travel and other
324 expenses incurred in preparing for and attending the meetings. This reimbursement may include
325 a stipend for members not otherwise compensated for their time by an employer. These and all
326 other expenses incurred by the board of advisors in fulfilling its obligations, including the
327 comments portal, shall be paid for from the Bank's operating budget. The chair of the board of
328 advisors shall be responsible for the invoicing and payment of these expenses, including
329 management, equipment and supplies costs this may entail.

330 Section 8. Capitalization.

331 (a) The commonwealth shall make a \$200,000,000 initial equity investment for the Bank
332 under the schedule set forth in subsection (b). That amount shall be funded by direct legislative
333 appropriation or, at the discretion of the general court, by use of the Commonwealth Stabilization
334 Fund established under section 2H of chapter 29.

335 (b) The general court shall appropriate \$50,000,000 to the Bank in fiscal year 2022,
336 \$50,000,000 in fiscal year 2023, \$50,000,000 in fiscal year 2024 and \$50,000,000 in fiscal year
337 2025.

338 (c) The board of directors may decide to allocate a portion of the Bank's initial capital
339 and retained earnings between the Bank and its affiliates, established under section 3(e) under
340 the same terms governing other state-chartered depository institutions.

341 Section 9. Deposits.

342 (a) The state treasurer, along with the Bank's board of directors and its chief executive
343 officer, shall determine when the Bank has sufficient capacity to receive public funds. Following
344 that date, the state treasurer shall deposit state funds in the Bank sufficient to maintain a
345 Minimum Average Annual Balance. The transfer of deposits shall be coordinated with the
346 appropriation of bank capital pursuant to sections 8(a)-(b), such that for each \$50,000,000 in
347 appropriated capital, the state treasurer shall transfer deposits to the Bank amounting to one-
348 fourth or other fraction depending on the capitalization schedule of the MAAB. The state
349 treasurer shall have 3 months to complete these transfers.

350 (b) The state treasurer’s maintenance of the MAAB in the public bank shall be achieved
351 by reducing the average annual cash equivalents held in the Massachusetts Municipal Deposit
352 Trust. The state treasurer shall not reduce the amount of deposits maintained in the “Move
353 Money” program.

354 (c) During the course of the year, the state treasurer shall be free to use deposits in the
355 Bank to make payments; provided, however, that (1) deposits kept during other parts of the year
356 shall sufficiently exceed the MAAB, such that the MAAB amount shall be maintained
357 throughout the year; and (2) the state treasurer shall consult with public bank staff to devise
358 procedures to prevent disruptions to the public bank’s liquidity position.

359 (d) Given that the commonwealth is the sole shareholder of the Bank, the Bank shall not
360 pay interest on the commonwealth’s deposits; provided, however, that the Bank shall pay interest
361 to cities and towns with deposits held at the Bank at rates that the Bank sets.

362 (e) After the Bank is well established, has a record of sound operation, and the state
363 treasurer, the board of directors and its chief executive officer have deemed the Bank to have the
364 requisite capacity, the board of directors and chief executive officer may agree to accept
365 deposits of funds from the commonwealth, cities, towns and quasi-public entities that have a
366 maturity of over 180 days.

367 (g) Nothing in this provision shall derogate from the Bank’s powers to incur non-deposit
368 liabilities, including, but not limited to, money market borrowing, Federal Reserve borrowing,
369 capital market borrowing or its other powers under section 3.

370 Section 10. State Guarantee.

371 All deposits and other liabilities of the Bank shall be guaranteed by the full faith and
372 credit of the commonwealth.

373 Section 11. Sound Operation and Reporting.

374 Provided that the primary goal of the Bank is to increase access to affordable financing
375 in underserved communities and to under-resourced enterprises conducted to benefit the
376 commonwealth, the board of directors shall operate the Bank to ensure its soundness and
377 sustainability. According to the board of directors' determination, the Bank's annual monetary
378 return may be provided to the commonwealth or reinvested in the capital of the Bank.

379 (a) Annually, the state treasurer shall publicly issue financial reports on the Bank to the
380 governor and to the clerks of the house of representatives and senate. An external party shall
381 audit these reports.

382 (b) Annually, the state treasurer shall publicly report the current and average amount of
383 cash and cash equivalents held by the commonwealth to the governor and to the clerks of the
384 house of representatives and senate. Under section 2 the reported amounts shall be used in the
385 calculation of the updated MAAB.

386 (c) The chief executive officer and board of directors shall maintain records of all
387 banking transactions and amounts throughout the year.

388 (d) The Bank shall submit an annual public report to the state treasurer, describing the
389 economic benefits of its activities to the commonwealth. In the report, the Bank shall include:

390 (1) Analysis of the extent to which it was able to meet priorities listed in section 13.

391 (2) For each type of eligible recipients specified under section 12 subsections (a) through
392 (l), the number of recipients to whom the bank extended affordable financing and the total
393 amount of the Bank's regulatory capital dedicated to each type of eligible recipient.

394 (3) A description of the main forms of affordable finance extended by the Bank in the 14
395 counties of the commonwealth.

396 (e) The Bank shall file an annual report on the compensation paid by the Bank to the
397 board of directors, the chief executive officer and other bank officers.

398 (f) The Bank shall be subject to chapter 66; provided however, that: (1) the Bank shall
399 not rely on subclause (d) of the 26th paragraph of section 4 of chapter 7 to deny a public records
400 request; and (2) the Bank shall not be required to reveal the identity of an eligible recipient as
401 defined in section 12 or information containing an eligible recipient's financial data.

402 Section 12. Eligible Recipients.

403 The Bank shall use its powers to extend affordable financing to the following eligible
404 recipients:

405 (a) Public or quasi-public entities, including, but not limited to, cities or towns located
406 within the commonwealth, enterprises managed in whole or in part by cities or towns and public
407 or quasi-public entities located in and primarily serving the commonwealth;

408 (b) Nonprofit organizations that are exempt from federal taxation under 26 U.S.C.
409 501(c)(3), whose primary goal is to benefit the commonwealth or its residents through
410 community development;

411 (c) Land trusts;

412 (d) Entities operating as, or transitioning to be cooperatives, including, but not limited to,
413 housing, worker and consumer cooperatives, employee stock ownership plans and worker-owned
414 cooperative enterprises;

415 (e) Entities created by financial institutions that pool funds to lend for affordable housing
416 development;

417 (f) Developers of housing or preservation projects, only when all entities financing the
418 project invite the Bank to participate with gap financing;

419 (g) State-chartered depository institutions, to the extent that the affordable financing
420 extended to these institutions is used to support the other eligible recipient in this provision;

421 (h) In-state community development corporations, community development financial
422 institutions or investment vehicles set by the latter to facilitate investment;

423 (i) Smaller business enterprises, defined as in section 2 and doing business primarily in
424 the commonwealth, that offer sustainable business plans and merit credit but are unable to
425 procure affordable financing from other Massachusetts banks with or without participation by the
426 Bank;

427 (j) Small- and medium-sized farms and related industries.

428 (k) Conduits or investment vehicles created for the primary purpose of supporting other
429 eligible recipients listed in this section.

430 Section 13. Affordable Financing.

431 The term “affordable financing” shall include the following types of finance, all to the
432 extent consistent with the Bank’s authorities in section 3(a) and subject to general banking
433 regulations set by the commissioner:

434 (a) For all eligible recipients listed in section 12:

435 (1) The provision of credit and loans, including long-term loans and unsecured loans.

436 The Bank may

437 employ underwriting methods which are flexible in their criteria, terms and uses and shall
438 provide loans at affordable rates;

439 (2) The provision of letters of credit, guarantees, subordinate loans and other forms of de-
440 risking for the purpose of crowding-in additional financing by non-Bank sources;

441 (3) The provision of technical assistance;

442 (b) For the eligible recipients listed in Section 12, subsections (c), (e), (h) and (k), the
443 term “affordable financing” shall additionally include the following:

444 (1) The provision of equity financing, including preferred stock, common stock, equity
445 equivalent capital and other hybrid instruments;

446 (2) The provision of grants, donations and contributions, including grants given over a
447 period of years (such as those for technical assistance) to provide predictability for eligible
448 recipients;

449 (2) The other activities permissible to the Bank under section 3(a).

450 (c) Nothing in this provision is meant to derogate from the Bank’s powers under section
451 3(a) to hold assets necessary for its liquidity management.

452 Section 14. Bank Priorities.

453 Without derogating from the Bank’s powers under sections 12 and 13 in formulating its
454 Business Plan, the Bank shall give priority to the following considerations:

455 (a) Supporting eligible recipients subject to the historic and current economic inequities
456 by communities in underserved neighborhoods, including, but not limited to, enterprises
457 established by residents there, as well as eligible recipients working to remedy those inequities;

458 (b) Supporting eligible recipients subject to the historic and current economic inequities
459 experienced by women throughout the commonwealth;

460 (c) Supporting rural business and farming concerns;

461 (d) Supporting businesses with compensation structures that provide a livable wage,
462 establish an equitable ratio between the least- and highest-paid members of the business or
463 otherwise demonstrate a commitment to equitable pay.

464 (e) Supporting entities that address the impacts of climate change and the reduction of
465 greenhouse gases.

466 (f) Funding the need of cities and towns in the commonwealth to update and build safe
467 and sustainable infrastructure.

468 (g) The Bank shall seek to complement and support the operation of public and quasi-
469 public agencies, non-profit organizations, Massachusetts banks and community development

470 financial institutions and community development corporations. The Bank shall partner rather
471 than compete with those entities to strengthen them and to expand affordable financing in the
472 commonwealth.

473 (h) To the extent possible, the Bank's provision of lending and de-risking under section
474 13(a) shall be conducted through participation lending programs, with these institutions
475 originating and servicing the loans.

476 (i) The bank shall promote equitable distribution of Bank resources across the
477 commonwealth, including ensuring that rural areas of the commonwealth are given full and fair
478 consideration.

479 (j) Provided that certain smaller towns in the commonwealth have scant resources for
480 administrative staff, the Bank shall make every effort to make the application process for these
481 towns as simple and affordable as possible.

482 Section 15. Conflicts of Interests.

483 (a) The Bank shall not transact with or extend financing to a member of the board of
484 directors, the chief executive officer or an officer of the Bank, including an immediate family
485 member of that person as defined in section 1 of chapter 268A or an entity in which that person
486 has an interest. This prohibition shall remain in effect for 4 years after the conclusion of the term
487 of the board member, chief executive officer or another officer of the Bank.

488 (b) The Bank shall not transact with or extend financing to a member of the board of
489 advisors, including an immediate family member of that person as defined in section 1 of chapter

490 268. Nothing in this provision shall prevent the Bank from transacting with or extending
491 financing to an entity with which a member of the board of advisors is associated.

492 Section 16. Liberal Construction.

493 The provisions of this chapter shall be interpreted and construed liberally in aid of its
494 declared purpose.

495 SECTION 2. Section 38 of chapter 29 of the General Laws is hereby amended by adding
496 the following subsection:-

497 (j) In the Massachusetts Public Bank established under chapter 10A.

498 SECTION 3. Notwithstanding any general or special law to the contrary, the
499 capitalization amounts set forth in section 8 of this act shall be available to the Bank by fiscal
500 year 2025, subject to appropriation.