

**SENATE . . . . . No. 168**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Marc R. Pacheco*

*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 establishing and regulating resort-style entertainment in the Commonwealth.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Marc R. Pacheco*

*5th Bristol*

*Patricia A. Haddad*

**SENATE . . . . . No. 168**

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By Mr. Pacheco, petition (accompanied by bill, Senate, No. 168) of Marc R. Pacheco and Patricia A. Haddad for legislation to establish and regulate resort-style entertainment in the Commonwealth [Joint Committee on Economic Development and Emerging Technologies].

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**

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An Act establishing and regulating resort-style entertainment in the Commonwealth.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide for the immediate economic development and revenue needs of the commonwealth, 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. The general court finds and declares that:

2 (a) promoting the economic viability of the commonwealth is a fundamental purpose of  
3 state government;

4 (b) growing the commonwealth's economy is the best way to make the investments in  
5 those areas that will strengthen the commonwealth;

6 (c) the creation of resort-style entertainment complexes is an important part of an overall  
7 strategy to ensure the state's economic growth;

8 (d) authorizing 3 resort-style entertainment complexes will result in thousands of  
9 construction jobs and billions of dollars of construction-related spending in the commonwealth;

10 (e) once constructed, the 3 resort-style entertainment complexes will create thousands of  
11 new jobs for residents of the commonwealth and offer a wide array of employment opportunities  
12 for individuals with diverse educational backgrounds and skills, while enhancing the  
13 commonwealth's workforce development system by creating career advancement opportunities  
14 for casino employees;

15 (f) ensuring that the resort casinos are located in distinct markets of the state expands  
16 economic development and job creation broadly throughout the whole commonwealth and  
17 recognizes that the needs of regional economies must be addressed;

18 (g) revenue generated from resort casinos can be used to fund critical needs in the  
19 commonwealth, and our cities and towns;

20 (h) such investment in infrastructure is an economic necessity and will facilitate  
21 economic development and job creation;

22 (i) offsetting property tax burden, hitting middle and lower income homeowners the  
23 hardest, and providing local services;

24 (j) retooling and modernizing the racing industry and workforce in the commonwealth is  
25 critical to the success of the resort-style entertainment industry and to the state's economic  
26 growth overall;

27 (k) addressing the social costs of gaming is an important and necessary part of any  
28 comprehensive gaming plan and therefore this act provides for a high level of funding for these  
29 costs and an evaluation mechanism to ensure we understand fully the impacts of gaming in the  
30 commonwealth;

31 (l) a rigorous gaming regulatory and enforcement scheme is needed to ensure fairness and  
32 integrity in the gaming industry, and therefore this act contains a detailed strategy to ensure  
33 proper oversight and evaluation of resort casinos in our commonwealth;

34 (m) the success of gaming in this commonwealth requires public confidence and trust that  
35 licensed gaming will be conducted honestly and competitively, that the resort-style entertainment  
36 complexes licensed in the commonwealth will not unduly impact the quality of life enjoyed by  
37 residents of the surrounding communities, and that gaming will be free from criminal and  
38 corruptive elements;

39 (n) public confidence and trust can only be maintained by strict regulation of all persons,  
40 locations, practices, associations and activities related to the operation of the resort casinos  
41 licensed in the commonwealth;

42 (o) the resort-style entertainment complexes licensed in the commonwealth must  
43 therefore be controlled to protect the public health, safety, and well being of the inhabitants of  
44 the commonwealth, to foster the stability and success of gaming and to preserve the competitive  
45 economy of the commonwealth;

46 (p) the Massachusetts gaming control authority is therefore created as the custodian of the  
47 public trust relative to the gaming industry and is explicitly granted broad powers within this act  
48 so it may have the full authority to oversee the gaming industry and ensure that resort casino  
49 operations are transparent; and

50 (q) to delay or deny the commonwealth the opportunity to increase jobs, attain new  
51 revenue, and address critical needs would be contrary to the best interests of our residents.

52 SECTION 2. Section 39 of chapter 3 of the General Laws, as appearing in the 2006  
53 Official Edition, is hereby amended by inserting in line 63 after the words "Loan Authority" the  
54 following words: Massachusetts Gaming Control Authority.

55 SECTION 3. Section 7 of chapter 4 of the General Laws, as so appearing, is hereby  
56 amended by deleting lines 63 through 65 and inserting in place thereof the following paragraphs:

57 Tenth, "Gaming," any banking or percentage game played with cards, dice, tiles,  
58 dominoes, or any electronic, electrical, or mechanical device or machine for money, property,  
59 checks, credit or any representative of value, but excluding:

60 (a) the game of bingo conducted pursuant to chapter 271;

61 (b) any charitable gaming, so called, conducted pursuant to chapter 271;

62 (c) pari-mutuel wagering on horse and dog races, whether live or simulcast, authorized  
63 under chapter 128A and chapter 128C; and

64 (d) any lottery game conducted by the state lottery commission, in accordance with  
65 section 24 of chapter 10.

66 "Illegal gaming" or "unlawful gaming" shall include every act punishable under any law  
67 relative to lotteries and the buying and selling of pools or registering of bets, except those acts  
68 permitted under section 24 of chapter 10, chapter 12B, chapter 128A, chapter 128C, and chapter  
69 271.

70 SECTION 4. Section 22B1/2 of chapter 7, is hereby amended by inserting in line 23 after  
71 the words "Massachusetts Educational Loan Authority" the following words: Massachusetts  
72 Gaming Control Authority.

73 SECTION 5. Section 22G of chapter 7, is hereby amended by inserting in line 54 after  
74 the words "Massachusetts Educational Loan Authority" the following words: Massachusetts  
75 Gaming Control Authority.

76 SECTION 6. The General Laws are hereby amended by striking out chapter 12B and  
77 inserting in place thereof the following chapter:

78 CHAPTER 12B. THE MASSACHUSETTS GAMING CONTROL AUTHORITY

79 Section 1. Definitions

80 As used in this chapter, the following words shall have the following meanings unless the  
81 context clearly requires otherwise:

82 "Affiliate", any person that a licensee or applicant directly or indirectly controls or in  
83 which an applicant or licensee possesses an interest. For the purposes of this definition,  
84 "controls" means either (i) directly or indirectly holding more than 10 percent of voting  
85 membership rights or voting stock or partnership interests, or (ii) that a majority of the directors,  
86 general partners, trustees, or members of an entity's governing body are representatives of, or are  
87 directly or indirectly controlled by, the licensee or applicant. For the purposes of this definition,  
88 "possesses an interest in" means either (i) directly or indirectly holding more than 5 percent of  
89 voting membership rights or voting stock, or (ii) that at least 25 percent of the directors, general  
90 partners, trustees, or members of an entity's governing body are representatives of, or are directly  
91 or indirectly controlled by, the licensee or applicant.

92 "Applicant", a person who has applied for a casino license, work permit, or approval of  
93 any act or transaction pursuant to this chapter.

94 "Authority", the Massachusetts gaming control authority, established pursuant to this  
95 chapter.

96 "Board", the board of the Massachusetts gaming control authority.

97 "Casino license", a license issued by the authority under this chapter that authorizes the  
98 person named therein to operate a resort casino in the commonwealth.

99 "Casino licensee", any licensee holding a valid casino license issued under this chapter.

100 "Casino work permit", any permit issued by the authority authorizing the holder to be  
101 employed as an employee in a licensed casino.

102 "Controlled game" or "controlled gaming", any gaming conducted in a gaming  
103 establishment and located in a licensed casino in the commonwealth pursuant to this chapter.

104 "Division", the division of gaming investigation and enforcement, within the department  
105 of the attorney general, as established pursuant to this chapter.

106 "Electronic gaming device", any game of chance, mechanical, electronic or otherwise  
107 featuring coin drop and payout as well as printed tabulations or credits to a paper or electronic  
108 account, whereby the software or hardware of the device predetermines the presence or lack of a  
109 winning combination and payout, including microprocessor-controlled electronic devices that  
110 allow a player to play games of chance, which may be affected by an element of skill, activated  
111 by the insertion of a coin or currency or by the use of a credit and awards game credits, cash,  
112 tokens, replays or a written statement of the player's accumulated credits, which written  
113 statements are redeemable for cash; and including slot machines, video lottery terminals and  
114 video facsimile machines of any type.

115 "Employee", any natural person employed to perform services for compensation as an  
116 employee by a casino, including but not limited to casino employees, casino key employees,  
117 casino security employees, casino service employees, or any other person who works for any  
118 ancillary service operating on the site of a casino, including but not limited to hotels, restaurants,  
119 gaming establishments, and entertainment facilities.

120 "Executive Director", the executive director of the Massachusetts gaming control  
121 authority, as established pursuant to this chapter.

122 "Gaming", as defined in section 7 of chapter 4.

123 "Gaming establishment", any building, room, place or other indoor or outdoor premises  
124 where any gaming occurs, including all public and non-public areas of any such establishment.

125 "Gaming equipment", any equipment, device, object or contrivance, or machine, whether  
126 mechanical, electromechanical, or electronic, which is specifically designed or manufactured for  
127 use in the operation of gaming.

128 "Gaming services", goods or services provided to any gaming establishment directly in  
129 conjunction with the operation of gaming, including security services, junket services, gaming  
130 schools or training activities, promotional services, printing or manufacture of betting tickets,  
131 gaming technology services, and manufacture, distribution, maintenance, testing or repair of  
132 electronic gaming devices, or goods or services provided by any person pursuant to which the  
133 person receives payments based on earnings, profits or net receipts from gaming.

134 "Gross gaming revenue", the total, prior to the deduction of any operating, capital or  
135 other expenses whatsoever, less only the total of all sums paid out as winnings, of all gaming

136 establishment revenue generated by the gaming establishment of any casino licensed under this  
137 chapter derived from the conduct of any game conducted at a licensed casino.

138 "Holding company", any corporation, firm, partnership, trust, or other entity that, directly  
139 or indirectly, owns, has the power or right to control, or holds the power to vote on, all or any  
140 part of the partnership interests or outstanding voting securities of a corporation or any other  
141 business entity that holds or applies for a gaming license. In addition, a holding company  
142 indirectly owns, has, or holds such power or right mentioned in the preceding sentence if it does  
143 so through any interest in a subsidiary or affiliate or successive subsidiaries or affiliates, however  
144 many of these subsidiaries or affiliates may intervene between the holding company and the  
145 corporate licensees or applicant.

146 "Intermediary company", any corporation, firm, partnership, trust, or other entity, other  
147 than a natural person, that is both of the following:

148 (a) a subsidiary of a holding company, and

149 (b) a holding company with respect to a corporation or limited partnership or  
150 other entity that holds or applies for a gaming license.

151 "License", a license issued to operate electronic gaming devices, to persons employed by  
152 gaming establishments, to gaming suppliers, to parties in interest, and to gaming schools.

153 "Licensed casino", any resort casino licensed to conduct controlled gaming pursuant to  
154 this chapter.

155 "Licensed casino operator", any operating entity that conducts controlled gaming within a  
156 gaming establishment pursuant to a license issued under this chapter.

157 "Licensee", any person or party holding a valid license under this chapter.

158 "Licensing fee", the fee required to be paid to the commonwealth by a licensed casino  
159 operator to operate a resort casino.

160 "Local host community", 1 or more towns or cities in which a resort casino is located.

161 "Market", any one of the following three market areas: Region 1—Suffolk, Middlesex  
162 and Essex counties; Region 2—Norfolk, Bristol and Plymouth counties; Region 3—Worcester,  
163 Hampden, Franklin and Berkshire counties.

164 "Operating licensing payment", the payment, based on a percentage of gross gaming  
165 revenue, that a licensed casino operator makes to the commonwealth.

166 "Party in interest", any corporation, firm, partnership, trust, or other entity or person with  
167 any direct or indirect pecuniary interest in a licensed gaming establishment, or a person who  
168 owns any interest in the premises of a licensed gaming establishment, or land upon which such  
169 premises is licensed, whether he leases the property directly or through an affiliate.

170 "Person" or "party", a natural person, corporation, partnership, limited partnership,  
171 trustee, holding company, joint venture, association, or any business entity.

172 "Resort casino", a casino which shall include a gaming establishment and other non-  
173 gaming amenities, including but not limited to: hotels, entertainment venues, retail stores,  
174 recreational facilities, and restaurants all located at 1 site.

175 "Substantial party in interest", any person holding a greater than 1 percent direct or  
176 indirect pecuniary interest, whether as owner, mortgagee or otherwise, in an operating entity,

177 premises, or any other licensee or applicant; but, excluding any shareholder holding less than a 5  
178 percent interest in a public company that is a substantial party in interest.

179           Section 2.       Establishment of the Massachusetts Gaming Control Authority

180           (a) There is hereby created a body politic and corporate to be known as the Massachusetts  
181 gaming control authority. The authority is hereby constituted a public instrumentality and the  
182 exercise by the authority of the powers conferred by this chapter shall be deemed to be the  
183 performance of an essential governmental function. The purpose of the authority is to provide for  
184 the establishment of resort casinos, and to license, regulate, and oversee licensed casinos and  
185 controlled gaming at licensed casinos in the commonwealth.

186           (b) The authority shall be governed and have its corporate powers exercised by a board of  
187 directors consisting of the auditor or his designee, and 6 members to be appointed by the  
188 governor, 1 of whom shall have experience in legal issues with respect to gaming establishments;  
189 1 of whom shall have experience in finance and financial markets; 1 of whom shall have  
190 experience with the regulatory aspects needed for gaming establishments; 1 of whom shall have  
191 experience in accounting; and 1 of whom shall have experience in public health.

192           With the exception of the auditor, no board member shall hold or be a candidate for  
193 elected political office. Each board member shall be a citizen of the United States and a resident  
194 of the commonwealth. No person who has been convicted of a felony or of a misdemeanor shall  
195 be eligible to serve on the board.

196           Three of the members appointed by the governor shall serve a term coterminous with that  
197 of the governor. The other 3 members appointed by the governor shall serve a term of 5 years.  
198 Any person appointed to fill a vacancy in the office of a member of the board shall be appointed

199 in a like manner and shall serve for only the unexpired term of such member. Any member shall  
200 be eligible for reappointment but no member shall serve more than 2 terms of 5 years each. Any  
201 member may be removed from his appointment by the governor for cause. The governor shall  
202 from time to time designate a member or members of the board as its chairperson or co-  
203 chairperson as applicable. Five of the members shall constitute a quorum and the affirmative  
204 vote of a majority of members present at a duly called meeting where a quorum is present shall  
205 be necessary for any action to be taken by the board. Any action required or permitted to be  
206 taken at a meeting of the board may be taken without a meeting if all of the members consent in  
207 writing to such action and such written consents are filed with the records of the minutes of the  
208 meetings of the board. Such consents shall be treated for all purposes as a vote at a meeting.

209           The members of the board shall serve without compensation, but each member shall be  
210 entitled to reimbursement for his actual and necessary expenses incurred in the performance of  
211 his official duties.

212           The board annually may elect 1 of its members as vice-chairperson, shall elect a secretary  
213 and a treasurer, and may elect or appoint other officers as it may deem necessary, none of whom,  
214 other than the vice-chairperson, are required to be members of the board. The secretary shall  
215 keep a record of the proceedings of the board and shall be custodian of all books, documents, and  
216 papers filed by the board and of its minute book and seal. The secretary shall cause copies to be  
217 made of all minutes and other records and documents of the authority and shall certify that such  
218 copies are true copies, and all persons dealing with the authority may rely upon such  
219 certification. The treasurer shall be the chief financial and accounting officer of the authority and  
220 shall be in charge of its funds, books of account and accounting records. The officers of the  
221 board shall be subject to the same requirements as the members of the board under this act.

222 Meetings of the authority board shall be subject to sections 11A and 11A1/2 of chapter 30A,  
223 provided, however, that any discussion or consideration of law enforcement or investigatory  
224 information, trade secrets or commercial or financial information may be held by the board in  
225 executive session closed to the public notwithstanding the provisions of section 11A1/2 of  
226 chapter 30A, but the purpose of any such executive session shall be set forth in the official  
227 minutes of the authority board and no business which is not directly related to such purpose shall  
228 be transacted nor shall any vote be taken during such executive session. A public record of every  
229 vote shall be maintained at the authority.

230 (c) The board shall have the power to appoint and employ an executive director, and to  
231 fix the director's compensation and conditions of employment. The executive director shall be  
232 the chief executive, administrative and operational officer of the authority and shall direct and  
233 supervise administrative affairs and the general management of the authority. The executive  
234 director may, subject to the general supervision of the board, employ other employees,  
235 consultants, agents, including legal counsel, and advisors, and shall attend meetings of the board.

236 (d) The authority shall be advised by an advisory committee consisting of 12 members,  
237 including: the secretary of health and human services, the secretary of administration and  
238 finance, the secretary of housing and economic development, the secretary of labor and  
239 workforce development, the secretary of public safety and security, or their designees; 3  
240 members of the committee who shall be appointed by the governor, 1 of whom shall be a  
241 representative of organized labor, 1 of whom shall be an expert on gaming addiction, and 1 of  
242 whom shall be a police chief; 2 of the members of the committee who shall be appointed by the  
243 senate president; and 2 members who shall be appointed by the speaker of the house of  
244 representatives. Each member of the advisory committee shall serve for a term of 3 years;

245 provided, however, that of the initial appointed members, 1 of the senate president's and  
246 speaker's appointments, and 3 of the governor's appointments shall serve a term of 2 years. Any  
247 person appointed to fill a vacancy in the office of a member of the advisory committee shall be  
248 appointed in a like manner and shall serve for only the unexpired term of such member. Any  
249 member shall be eligible for reappointment but no member shall serve more than 2 three-year  
250 terms. The governor shall from time to time designate a member or members of the advisory  
251 committee as its chairperson or co-chairperson as applicable. The members of the advisory  
252 committee shall serve without compensation, but each member shall be entitled to  
253 reimbursement for his actual and necessary expenses incurred in the performance of his official  
254 duties.

255 (e) Board members, officers and members of the advisory committee who are not  
256 compensated employees of the authority shall not be liable to the commonwealth, to the  
257 authority, or to any other person as a result of their activities, whether ministerial or  
258 discretionary, as such board members, officers, or advisory committee members except for  
259 willful dishonesty or intentional violations of law. Neither members of the authority nor any  
260 person executing bonds or policies of insurance shall be liable personally thereon or be subject to  
261 any personal liability or accountability by reason of the issuance thereof. The board of directors  
262 may purchase liability insurance for board members, officers and employees and may indemnify  
263 these persons against claims of others.

264 (f) Any documentary materials or data whatsoever made or received by any member or  
265 employee of the authority and consisting of, or to the extent that such materials or data consist  
266 of, law enforcement or investigatory information, trade secrets or commercial or financial  
267 information regarding the operation of any business conducted by an applicant for any form of

268 assistance which the authority is empowered to render or regarding the competitive position of  
269 such applicant in a particular field of endeavor, shall not be deemed public records of the  
270 authority and specifically shall not be subject to the provisions of section 10 of chapter 66.

271 (g) The Massachusetts gaming control authority board shall be the successor to the  
272 Massachusetts gambling advisory board established by section 39 of chapter 60 of the acts of  
273 1994.

### 274 Section 3. Powers and Duties of the Authority

275 The authority shall have all powers necessary or convenient to carry out and effectuate its  
276 purposes, as defined in section 2(a), including, without limiting the generality of the foregoing,  
277 the powers to:

278 (a) adopt an official seal;

279 (b) sue and be sued, to initiate or defend civil actions relating to its properties and affairs,  
280 and to be liable in tort in the same manner as a private person; provided however, that the  
281 authority is not authorized to become a debtor under the United States Bankruptcy Code;

282 (c) appoint officers and employees;

283 (d) execute all instruments necessary or convenient thereto for accomplishing the  
284 purposes of this chapter;

285 (e) enter into agreements or other transactions with any person, including without  
286 limitation any public entity or other governmental instrumentality or authority in connection with  
287 its powers and duties under this chapter;

288 (f) appear in its own behalf before boards, commissions, departments or other agencies of  
289 municipal, state or federal government;

290 (g) obtain insurance;

291 (h) apply for and accept subventions, grants, loans, advances and contributions from any  
292 source of money, property, labor or other things of value, to be held, used and applied for its  
293 corporate purposes;

294 (i) provide and pay for such advisory services and technical assistance, including but not  
295 limited to accountants, financial experts, architects, attorneys, engineers, planners, real estate  
296 experts and other consultants as may be necessary in its judgment to carry out the purposes of  
297 this chapter and fix their compensation;

298 (j) prepare, publish and distribute, with or without charge, as the authority may  
299 determine, such studies, reports and bulletins and other material as the authority deems  
300 appropriate;

301 (k) investigate and determine the percentage of population of minority groups in the  
302 commonwealth or in areas thereof from which the work force for the casino is or may be drawn;

303 (l) establish and adopt such percentages as guidelines in determining the adequacy of  
304 affirmative-action programs submitted for approval pursuant to the provisions of this chapter;

305 (m) determine the types of conduct performed by licensees or applicants for licenses. The  
306 authority may approve or disapprove transactions and events as provided in this chapter, approve  
307 or disapprove gaming contracts with casino licensees based on their commercial reasonableness  
308 or the demonstrated capacity and experience of gaming services providers to perform the

309 requirements such contracts, take actions reasonably designed to ensure that no unsuitable  
310 persons are associated with controlled gaming, and take actions reasonably designed to ensure  
311 that gaming activities take place only in suitable premises within licensed casinos;

312 (n) monitor the conduct of all licensees and other persons having a material involvement,  
313 directly or indirectly, with a licensee for the purpose of ensuring that licenses are not issued to,  
314 or held by, and there is no direct or indirect material involvement with a licensee by unqualified,  
315 disqualified, or unsuitable persons, or persons whose operations are conducted in unsuitable  
316 manner or in unsuitable or prohibited places, as provided herein;

317 (o) annually determine the maximum number of electronic gaming devices and wagering  
318 games and the types of wagering games permitted in the commonwealth and the number  
319 permitted at each gaming establishment; provided however, that a licensee shall be permitted to  
320 petition the authority for approval of additional wagering games and new types of wagering  
321 games; and provided further that the number of devices and games permitted for any licensee  
322 shall not be reduced during the term of any license issued under this chapter or any renewal  
323 thereof or be less than a number necessary to obtain commercially reasonable financing for the  
324 development of a resort casino;

325 (p) develop criteria, other than those outlined herein, to assess which bids submitted by  
326 applicants for casino licenses under this chapter will provide the highest and best value to the  
327 commonwealth;

328 (q) determine which applicants shall be awarded casino licenses and other licenses in  
329 accordance with the terms of this chapter provided further, that the authority may award a license  
330 for 1200 electronic gaming devices to any racing licensee licensed under Section 3 of Chapter

331 128A as of January 1, 2009, if such licensee is required to cease race track operations as a result  
332 of chapter 388 of the Acts of 2008 and does not receive a resort casino under this chapter and  
333 does not elect to receive the benefits available under section 22, such award to be made at the  
334 discretion of the authority and upon terms and conditions to be established by the authority,  
335 which terms and conditions shall include without limitation a licensing fee of not less than  
336 \$15,000,000, and a requirement to invest not less than \$50,000,000 in the development and  
337 improvement of the gaming facility and related infrastructure;

338 (r) require any person to apply for a license as provided in this chapter and approve or  
339 disapprove any such application or other transactions, events, and processes as provided in this  
340 chapter;

341 (s) gather facts and information applicable to its obligation to issue licenses, to suspend  
342 or revoke licenses, work permits, or registrations granted to any person for: violation of any  
343 provision of this chapter or regulations adopted hereunder; willfully violating an order of the  
344 authority directed to such person; the conviction of any criminal offense under this chapter; or  
345 the commission of any violation of this chapter or other offense which would disqualify such  
346 person from holding a license or registration; provided, however, that if the basis for any  
347 suspension or revocation of a casino license is any action or omission of a party in interest to a  
348 licensee, then the authority shall prior to enacting such suspension or revocation grant the  
349 licensee a reasonable opportunity to remove such party in interest or take such other actions as  
350 the authority may deem reasonable or appropriate to address the cause of the suspension or  
351 revocation. The authority may also suspend the license or registration of any person pending  
352 hearing and determination, in any case in which license or registration revocation could result;

353 (t) with the assistance of the state police unit assigned to the division, conduct  
354 investigations into the qualifications of all applicants for employment by the authority and by  
355 any gaming establishment in a resort casino and all applicants for licensure;

356 (u) request and receive from the state police, the criminal history systems board, or other  
357 criminal justice agencies, including but not limited to the federal bureau of investigation and the  
358 federal internal revenue service, such criminal offender record information, criminal intelligence  
359 information and information relating to criminal and background investigations as necessary for  
360 the purpose of evaluating employees of, and applicants for employment by, the authority and any  
361 gaming establishment in a resort casino, and evaluating licensees and applicants for licensure.

362 Upon the written request of the executive director, the state authority may receive from the  
363 district and juvenile courts, the state police, or the criminal history systems board, such  
364 information relating to juvenile proceedings as necessary for the purpose of evaluating  
365 employees of, and applicants for employment by, the authority and any gaming establishment in  
366 a resort casino, and evaluating licensees of, and applicants for, licensure;

367 (v) conduct hearings in accordance with the provisions of chapter 30A;

368 (w) levy and collect fees, taxes, and fines and impose penalties and sanctions for the  
369 violation of the provisions of the licensing provisions of this chapter and the regulations adopted  
370 hereunder. At any time within 5 years after any amount of fees, interest, penalties or tax required  
371 to be collected pursuant to the provisions of this chapter shall become due and payable, the  
372 commission may bring a civil action in the courts of this commonwealth or any other state or of  
373 the United States, in the name of the commonwealth of Massachusetts, to collect the amount  
374 delinquent, together with penalties and interest. An action may be brought whether or not the

375 person owing the amount is at such time an applicant, licensee or registrant pursuant to the  
376 provisions of this act. If such action is brought in this commonwealth, a writ of attachment may  
377 be issued and no bond or affidavit prior to the issuance thereof shall be required. In all actions in  
378 this commonwealth, the records of the authority shall be prima facie evidence of the  
379 determination of the fee or tax or the amount of the delinquency. Each debt that is due and  
380 payable as a result of fees, interest, penalties, or taxes required to be collected pursuant to the  
381 provisions of this chapter or the regulations adopted thereunder, including any compensation  
382 authorized pursuant to this chapter, and each regulatory obligation imposed as a condition upon  
383 the issuance or renewal of a license which requires the licensee to maintain, as a fiduciary, a fund  
384 for a specific regulatory purpose, shall constitute a lien on the real property in this  
385 commonwealth owned or hereafter acquired by the applicant, licensee, or registrant owing such a  
386 debt or on whom such an obligation has been imposed. Except as otherwise provided in this  
387 chapter, such a lien shall be a first lien paramount to all prior or subsequent liens, claims, or  
388 encumbrances on that property;

389 (x) be present through its inspectors and agents at all times during the operation of any  
390 resort casino for the purpose of certifying the revenue thereof, receiving complaints from the  
391 public relating to the conduct of gaming and wagering operations, examining records of revenues  
392 and procedures, inspecting and auditing all books, documents, and records of any licensee,  
393 conducting periodic reviews of operations and facilities for the purpose of evaluating current or  
394 suggested provisions of this chapter and the regulations adopted thereunder, and otherwise  
395 exercising its oversight responsibilities with respect to resort casinos;

396 (y) visit, have access to and inspect, examine, photocopy, and test, without prior notice or  
397 approval of any party, all equipment and supplies in any licensed gaming establishment or in any  
398 premises where gaming equipment is manufactured, sold or distributed;

399 (z) have access to and inspect, examine, photocopy, and audit all relevant and material  
400 papers, books, and records of any affiliate of a licensed gaming establishment that the executive  
401 director knows or reasonably suspects is involved in the financing, operation, or management of  
402 any entity licensed pursuant to this chapter, either on the affiliate's premises or elsewhere, as  
403 practicable, in the presence of the affiliate or any agent thereof;

404 (aa) require that the books and financial or other records or statements of any licensee be  
405 kept in a manner that the authority or the bureau deems proper;

406 (bb) audit all relevant material papers, books, and records of an applicant for or person  
407 holding any license under this chapter, on such applicant or licensee's premises or elsewhere, as  
408 practicable, in the presence of the applicant or licensee or his agent;

409 (cc) provide access to records and cooperate with the division, including answering the  
410 division's requests for documents and refer to the division any evidence of a violation of this  
411 chapter or the regulations adopted thereunder;

412 (dd) establish licensure and work permits for employees working at the casino and  
413 minimum training requirements; provided further the authority may review the professional  
414 requirements of employees and update them as needed. The authority shall require that all casino  
415 employees be properly trained in their respective professions. The authority may recognize an  
416 employee's license from out of state gaming schools if they meet the minimum requirements for

417 the authority and may establish a process for reciprocal licensing of out of state licensed casino  
418 employees;

419 (ee) refer to the Massachusetts commission against discrimination matters and  
420 information concerning possible violations of Massachusetts law;

421 (ff) require the designation by a licensee of an equal employment officer to enforce the  
422 provisions of this section and the regulations adopted hereunder;

423 (gg) ensure that there is no duplication of duties and responsibilities between it and the  
424 division, provided, however, that the authority may not place any restriction upon the division's  
425 ability to investigate or prosecute violations of this chapter or the regulations adopted hereunder;

426 (hh) enforce in a court of law the provisions of this section or to join in or assist any  
427 enforcement proceeding initiated by any aggrieved person;

428 (ii) refer any suspected criminal violation of this chapter to the division; provided,  
429 however, that nothing in this subsection shall be deemed to limit the investigatory and  
430 prosecutorial powers of other state and local officials and agencies;

431 (jj) provide technical assistance to towns, cities, and districts that are taking executive or  
432 legislative actions for the purposes of this chapter;

433 (kk) exercise any other powers of a corporation organized under chapter 156B;

434 (ll) make an annual report of its finance activities, including number of licenses, fines,  
435 penalties and violations and other relevant information and make recommendations for improved  
436 operations of the licensed casinos to the governor and the general court by March 31, for the  
437 prior calendar year; and,

438 (mm) adopt regulations, pursuant to sections 2 and 3 of chapter 30A, to carry out the  
439 powers and the provisions of this chapter; and specifically adopt regulations relating to the  
440 following matters:

441 (1) the licensing of resort casinos, including regulations relating to the types of  
442 establishments, application process, background checks, license fees, bonding requirements, and  
443 revocation, suspension, and renewal of licenses;

444 (2) the registration and licensing of gaming services suppliers and non-gaming suppliers,  
445 including regulations relating to the application process, background checks, license fees,  
446 bonding requirements, the commercial reasonableness of gaming contracts with casino licensees,  
447 the demonstrated capacity and experience of a supplier to perform the requirements a contract,  
448 and revocations and suspension of licenses;

449 (3) the licensing of parties in interest, including regulations relating to the application  
450 process, background checks, license fees, bonding requirements, and revocation and suspension  
451 of licenses;

452 (4) the issuance of 1 or more classes of work permits, criteria for different classes of  
453 work permits, including regulations relating to the application process, background checks, fees,  
454 and revocation and suspension of work permits;

455 (5) the registration and licensing of labor organizations representing the employees of a  
456 resort casino;

457 (6) the presentation and/or display of all licenses and work permits;

458 (7) the licensing of gaming schools, if any such school is established in the  
459 commonwealth, including regulations relating to the application process, background checks,  
460 license fees, and revocation and suspension of licenses;

461 (8) the monitoring of licensees to ensure compliance with this chapter and the regulations  
462 adopted thereunder, including but not limited to, requiring that licensees make readily available  
463 all documents, materials, equipment, personnel, and any other items that the division may wish  
464 to investigate;

465 (9) the posting of applicable statutes at casinos regarding civil and criminal laws  
466 applicable to gaming;

467 (10) minimum wage and benefits standards and other conditions of employment for resort  
468 casino employees, which standards or conditions may only be waived in a bona fide collective  
469 bargaining agreement;

470 (11) the method for collecting any fines, fees, penalties and interest imposed by the  
471 authority;

472 (12) the method and standards of operation of gaming establishments including, but not  
473 limited to, games, the type and manner of gaming, wagering limitations, odds, and hours of  
474 operation; provided, however, the authority shall not restrict the number of hours of operation of  
475 any gaming establishment to fewer hours than any competing gaming establishment in  
476 Massachusetts;

477 (13) the manufacturing, distribution, sale, testing, servicing, regulation and inspection of  
478 gaming equipment for use in licensed casinos, including requirements for the identification and  
479 licensing of same;

480 (14) any limitations on mortgage security interests and agreements relating to the  
481 property of licensed gaming establishments;

482 (15) any limitations on transfers of interests in licenses;

483 (16) advertising by licensed gaming establishments, including the monitoring of  
484 advertising, particularly to ensure that it is not directed at minors and other vulnerable  
485 populations; provided, however, licensees shall have the right to conduct reasonable advertising  
486 consistent with that of competing gaming facilities, and the state lottery;

487 (17) the manner in which winnings, compensation from games, and gaming devices must  
488 be compiled and reported by the authority; provided further, that electronic gaming devices shall  
489 return as winnings at a minimum 85 percent of all sums wagered;

490 (18) standards for protection of the health, safety, and security of the public at licensed  
491 gaming establishments;

492 (19) the procedures for renewal of all licenses awarded under this chapter;

493 (20) the minimum procedures to be adopted by each gaming establishment to exercise  
494 effective supervisory and management control over its fiscal affairs, including the requirement of  
495 an annual audit undertaken in accordance with generally accepted accounting principles, and the  
496 requirement that quarterly reports be provided by gaming establishments to the authority no  
497 more than 30 days after the close of each quarter;

498 (21) the persons to be excluded or ejected from gaming establishments, including the type  
499 of conduct prohibited and whether and under what conditions persons under age 21 may be  
500 permitted to enter casinos; and

501 (22) the licensing and regulation of the central computer system provider which services  
502 electronic gaming devices and on and off site auditing of electronic gaming devices; provided  
503 that, the authority shall ensure that the central computer system shall employ a widely accepted  
504 gaming industry protocol to facilitate slot machine manufacturers' ability to communicate with  
505 the statewide system; and provided further, that the central computer system provider selected by  
506 the authority shall be prohibited from providing electronic gaming devices, or any other form of  
507 player activated terminal, for use in connection with the central computer system.

508 The commissioner of revenue shall act as the fiscal agent for the authority for the  
509 purposes of collecting all fees and assessments and for this purpose shall have all the powers  
510 provided in chapter 62C.

511 In emergencies, the authority may, without complying with sections 2 or 3 of chapter  
512 30A, summarily adopt, amend, or repeal any regulation, if, at the time, the authority makes a  
513 finding that such action is necessary for the preservation of the public peace, health, safety,  
514 morals, good order, or general welfare, together with a statement of the facts constituting the  
515 emergency; provided, however, that no emergency action shall exceed 90 days.

516 Notwithstanding any other general or special law to the contrary, all files, records,  
517 reports, and other information in the possession of any state or local governmental agency  
518 including tax filings and related information that are relevant to an investigation by the authority  
519 conducted pursuant to this chapter shall be made available by such agency to the authority as

520 requested, except that investigatory materials compiled by law enforcement out of the public  
521 view whose disclosure would materially prejudice the possibility of effective law enforcement  
522 shall not be subject to this requirement. Any tax or financial information received from a  
523 governmental agency shall be used solely for effectuating the purposes of this chapter. To the  
524 extent that these files, records, reports, or information are confidential or otherwise privileged  
525 from disclosure under any law, they shall not lose that confidential or privileged status for having  
526 been disclosed to the authority; provided further, that the authority shall consult with the division  
527 of public records regarding the handling of this information.

528         The authority shall make a continuous study and investigation of gaming throughout the  
529 commonwealth in order to ascertain the adequacy and effectiveness of state gaming law or  
530 regulations and may formulate recommendations for changes in such laws and regulations;  
531 provided further, that the study shall include economic, public health, security, taxation, traffic,  
532 regional housing, regional education, regional infrastructure and environmental impacts. The  
533 authority shall also make a continuous study and investigation of the operation and  
534 administration of similar laws in other states or countries, of any literature or reports on the  
535 subject, and of any federal laws which may affect the operation of gaming in the commonwealth,  
536 all with a view to recommending or effecting changes that will tend to better serve and  
537 implement the purposes of this chapter.

538         Section 4.       Restrictions on prior employment and post employment by authority  
539 employees, members of the board, and executive branch employees; conflicts of interest and  
540 scope of employment.

541 (a) Prior Employment. No person shall be appointed to or employed by the authority if,  
542 during the period commencing 3 years prior to appointment or employment, that person held any  
543 direct or indirect interest in, or any employment by, any person which is licensed as a casino  
544 licensee, a casino service industry licensee, or a dog or horse racing licensee in the  
545 commonwealth or in another state or has an application for a gaming establishment license  
546 pending before the authority.

547 (b) Conflicts of Interest. Chapter 268A shall apply to all board members of the authority,  
548 all advisory committee members, and to all employees of the authority, except as specifically  
549 provided herein.

550 (1) The authority shall adopt a code of ethics that governs relationships and dealings  
551 between authority employees and licensees or applicants for licensure under this chapter.

552 (2) The codes of ethics adopted by the authority shall not be in conflict with the laws of  
553 the commonwealth, provided, however, that those codes of ethics may be more restrictive than  
554 any law of this commonwealth, including chapter 268A.

555 (3) The codes of ethics adopted by the authority shall be subject to the approval of the  
556 state ethics commission.

557 (4) All board members of the authority, all advisory committee members, all employees  
558 of the authority, and the spouse of each such individual, shall file a statement of financial  
559 interests for the preceding calendar year with the state ethics commission. The statement of  
560 financial interests filed pursuant to this section shall be on a form prescribed by the state ethics  
561 commission pursuant to chapter 268B and shall be signed under penalty of perjury by the  
562 reporting person. The statement of financial interests shall be filed with the state ethics

563 commission within 30 days after the individual assumed his or her responsibilities with the  
564 authority, on or before May first of each year thereafter that such individual is associated with  
565 the authority as a board member, advisory committee member or employee, and on or before  
566 May first of the year after such individual ceases to be associated with the authority; provided,  
567 however, that no statement of financial interest shall be required to be filed for the year in which  
568 the individual ceased to be associated with the authority if he or she served less than thirty days  
569 in such year.

570 (c) Restrictions on Post Employment.

571 (1) No board member, including those board members who hold elected office, and no  
572 advisory committee member of the authority shall hold any direct or indirect interest in, or be  
573 employed by, any applicant or by any person licensed by or registered with the authority for a  
574 period of 3 years commencing on the date the membership on the authority terminates.

575 (2) No employee of the authority may acquire any direct or indirect interest in, or accept  
576 employment with, any applicant or any person licensed by or registered with the authority, for a  
577 period of 3 years commencing at the termination of employment with the authority.

578 (3) No authority employee shall represent any person or party other than the  
579 commonwealth before or against the authority for a period of 3 years from the termination of the  
580 employee's employment with the authority.

581 (4) No partnership, firm or corporation in which a former authority board member or  
582 employee or former division employee or agent has an interest, nor any partner, officer or  
583 employee of any such partnership, firm or corporation shall make any appearance or  
584 representation which is prohibited to that former member, employee, or agent; provided,

585 however, that nothing herein shall prohibit such partnership, firm or corporation from making  
586 such appearance or representation on behalf of a casino service industry licensed under this  
587 chapter.

588 (5) No person who was an employee of the commonwealth's executive branch between  
589 January 4, 2007 and the date of enactment of this act, shall be employed by the authority, for a  
590 period of 3 years commencing at the termination of employment with the executive branch.

591 (6) No person who was an employee of the commonwealth's executive branch between  
592 January 4, 2007 and the date of enactment of this act, shall be employed by any person which is  
593 licensed as a casino licensee, a casino service industry licensee, or a dog or horse racing licensee  
594 in the commonwealth or has an application for a gaming establishment license pending before  
595 the authority, for a period of 3 years commencing at the termination of employment with the  
596 executive branch.

597 (7) Prior to appointment or employment, each board member of the authority, each  
598 advisory committee member, and each employee of the authority, shall swear or affirm that he  
599 possesses no interest in any business or organization licensed by, or registered with, the  
600 authority.

601 (d) Scope of Employment. In addition to the requirements stated herein, all authority  
602 employees, authority board members, and advisory committee members shall be subject to  
603 chapter 268B. The stricter provisions of this section shall prevail over the provisions of chapter  
604 268A.

605 Neither the authority nor any of its officers, agents, employees, consultants or advisors  
606 shall be subject to the provisions of sections 9A, 45, 46 and 52 of chapter 30, or to chapter 31, or  
607 to chapter 200 of the acts of 1976.

608 All officers and employees of the authority having access to its cash or negotiable  
609 securities shall give bond to the authority at its expense in such amounts and with such surety as  
610 the board may prescribe. The persons required to give bond may be included in 1 or more  
611 blanket or scheduled bonds.

612 No employee, or member of the authority, or their family members shall be permitted to  
613 place a wager in any gaming establishment licensed by the authority except in the course of his  
614 duties.

615 Section 5. Provisions for Applications of Casino Licenses

616 (a) Forms of Application. Any person desiring to establish a resort casino in the  
617 commonwealth shall bid for one by make an application to the authority for a casino license.

618 (1) Such application shall include, but shall not be limited to the following:

619 (i) the name of the applicant;

620 (ii) the post office address of the applicant, and if a corporation, the name of the  
621 state under the laws of which it is incorporated, the location of its principal place of business and  
622 the names and addresses of its directors and stockholders;

623 (iii) an independent audit report of all the applicant's financial activities,  
624 including but not limited to the disclosure of all contributions, donations, loans or any other  
625 financial transactions to or from any gaming entity or operator in the past 5 years;

626 (iv) an independent audit report of all of the applicants' financial interests;

627 (v) the location of the proposed resort casino, which shall include address(es),  
628 maps, and book and page numbers from the appropriate registry of deeds, assessed value of land  
629 to be purchased or currently in ownership, market value of the land at the time of application, the  
630 zoning of the site (including whether gaming facilities are allowed either as a matter of right or  
631 by special permit on any portion of the property), ownership status over the past 5 years,  
632 (including all interests, options, agreements in property), demographic, geographic, and  
633 environmental information, and any other information requested by the authority;

634 (vi) the proposed architects and designers for the resort casino, which shall include the  
635 name and addresses of the architects, engineers, and designers, and timeline of construction and  
636 phases of construction;

637 (vii) the types of games and gaming to be conducted at the resort casino, number of tables  
638 and electronic gaming devices that are proposed to be employed at the casino, and the specific  
639 location of the gaming at the casino site;

640 (viii) a description of the ancillary entertainment services and amenities to be provided at  
641 the proposed resort casino;

642 (ix) the number of hotels, rooms per hotel and other amenities located at the proposed  
643 resort casino;

644 (x) the number of employees to be employed at the resort casino, including detailed  
645 information on the pay rate and benefits for employees, including any contractors;

646 (xi) the total amount of investment by the applicant in the resort casino, including all  
647 facilities located at the casino site and all infrastructure improvements related to the project;

648 (xii) completed studies and reports as required by the authority, which shall include, but  
649 are not limited to, an economic benefit study, both for the commonwealth and region; a study of  
650 the potential impact on the host community and other impacted communities; an environmental,  
651 traffic and local infrastructure impact study, a study on the impact of the proposed resort casino  
652 to the local and regional economy, the cost to the municipality and the state for the casino to be  
653 at its proposed location, and the total amounts of municipal and state tax revenue to be generated  
654 by the applicant;

655 (xiii) whether the applicant's casino is part of a regional or local economic plan;

656 (xiv) whether the applicant is partnering with a federally recognized native American  
657 tribe located in the commonwealth;

658 (xv) whether the applicant has a contract with organized labor and has the support of  
659 organized labor for its application;

660 (xvi) whether the applicant will be using publicly owned land for the resort casino;

661 (xvii) a statement that the applicant will comply, in case such a license is issued, with all  
662 applicable laws and with all applicable rules and regulations prescribed by the authority or any  
663 other relevant entity;

664 (xviii) a statement that the applicant shall mitigate the potential negative public health  
665 consequences associated with gambling and the operation of a destination resort casino. As part  
666 of this submission, the applicant must agree to:

667 (A) maintain as smoke free all indoor facilities operated by the licensee or anyone  
668 working for or under contract with the licensee;

669 (B) provide complimentary on-site space for an independent substance abuse and mental  
670 health counseling service to be selected by the commonwealth;

671 (C) prominently display information on the signs of problem gambling and how to access  
672 assistance;

673 (D) describe a process for individuals to exclude their names and contact information  
674 from the licensee's database or any other list held by the licensee for use in marketing or  
675 promotional communications;

676 (E) provide to the commonwealth aggregate demographic information with respect to its  
677 customers in a manner and pursuant to a schedule to be defined by the commonwealth;

678 (F) institute other public health strategies as determined by the authority;

679 (xix) a detailed plan showing the levels of security and safety for its employees, guests,  
680 equipment and money; and

681 (xx) answers to such other questions as the authority may prescribe.

682 (2) The authority may prescribe forms and additional information to be used in making  
683 such applications.

684 (3) An applicant's request to receive a license under this chapter shall constitute a request  
685 for a determination of the applicant's general character, integrity, and ability to participate or  
686 engage in, or be associated with, gaming.

687 (4) Such applications shall be signed and sworn to, if made by an individual, by such  
688 individual; if made by 2 or more individuals or a partnership, by 1 of such individuals or by a  
689 member of such partnership; if made by a trust, by a trustee of such trust; and if made by an  
690 association or corporation, by the chief executive and chief financial officers thereof.

691 (5) The authority shall investigate the qualifications of each applicant under this chapter  
692 before any license is issued.

693 (6) With each application, there shall be delivered to the authority a certified check or  
694 bank draft, payable to the authority, of a non-refundable deposit in the amount of \$350,000 for  
695 the processing, analysis and review of the application.

696 (b) Eligibility. No person shall be eligible to bid on a resort casino license unless the  
697 person meets the following initial criteria and clearly states as part of an application that the  
698 person:

699 (1) agrees to be a state lottery reseller for the purpose of lottery and keno games, and to  
700 demonstrate that state lottery and keno games are readily accessible to its guests;

701 (2) shall invest no less than \$1 billion into the resort casino project, with at least  
702 \$300,000,000 in investment in the project and related improvements committed in an initial  
703 phase and the balance being committed over the following five years, neither of which amounts  
704 shall include the purchase or lease price of the land where the casino will be located;

705 (3) meets the licensee bonding requirement as set by the authority;

706 (4) has a debt to equity ratio of not more than 4:1 when the application is submitted;

707 (5) has ownership of land located in a market where the resort casino will be constructed  
708 and that all or some portion of the land is zoned to allow gaming as-of right or by special permit;

709 (6) shall demonstrate that it is able to pay and shall commit to paying (y) the licensing fee  
710 of \$225,000,000, as established in section 6, and (z) the operating licensing payments of 27  
711 percent of all gross gaming revenues;

712 (7) has submitted certified copies of resolutions adopted after the effective date of this act  
713 by the legislative bodies of a majority of the municipalities in the applicable county, following  
714 recommendations from the respective chief executive municipal officials, which resolutions  
715 affirm that such legislative bodies approve the establishment of a resort casino within such  
716 county;

717 (8) shall provide for a community impact fee for the local host community;

718 (9) shall pay for infrastructure costs of the host and surrounding communities incurred in  
719 direct relation to the construction and operation of a resort casino;

720 (10) shall provide to the authority a signed agreement between the host community and  
721 the applicant to have a resort casino located within the host community; provided that the  
722 agreement shall include the community impact fee for the local host community and all  
723 stipulations of responsibilities between the local host community and the applicant;

724 (11) shall be able to comply with state and local building codes; and

725 (12) shall formulate for authority approval and abide by an affirmative-action program of  
726 equal opportunity whereby the applicant guarantees to provide equal employment opportunities

727 to all employees qualified for licensure in all employment categories, including a person with a  
728 disability, in accordance with Massachusetts law.

729 (c) Bid Procedure for Each Market

730 (1) The authority shall request bids for the purpose of awarding casino licenses in each  
731 market.

732 (2) The authority shall accept bids only from applicants who have met the initial  
733 eligibility requirements pursuant to subsection (b) of this section.

734 (3) Before applications are received, the authority shall adopt regulations setting forth  
735 criteria by which each bid shall be evaluated in each region.

736 (4) The bids shall be evaluated to determine which proposal provides the highest and best  
737 value to the market and to the commonwealth. The criteria for determining the highest and best  
738 value to each market and the commonwealth shall include, but shall not be limited to, the  
739 following:

740 (i) the overall economic benefit to the commonwealth;

741 (ii) the amount of the operating licensing payment projected by the application based on  
742 payment of 27 percent of gross gaming revenue;

743 (iii) the proposed infrastructure improvements and economic development opportunities  
744 to the commonwealth, the local host community and the region where the resort casino is located  
745 and the timeline for commencement and completion of such improvements and opportunities;

746 (iv) the extent to which the applicant shall contract with Massachusetts business owners  
747 for the provision of services and goods at the casino;

748 (v) the extent to which the proposed project is consistent with the commonwealth's  
749 sustainable development principles. For purposes of this section, consistency with these  
750 principles means at a minimum the following:

751 (A) the resort casino has been certified or is capable of being certified as gold or higher  
752 pursuant to the U.S. Green Building Council Neighborhood Development Rating System. The  
753 authority may prescribe an alternative, independent, third-party rating after consultation with the  
754 secretary of the executive office and energy and environmental affairs, if, for example, that  
755 rating system is not in effect at the time of the license application;

756 (B) the resort casino's proposed buildings have been certified or are capable of being  
757 certified as gold or higher pursuant to the green building rating system established by Leadership  
758 in Environmental and Energy Design (LEED). The authority may prescribe an alternative  
759 independent, third-party rating after consultation with the secretary of the executive office of  
760 energy and environmental affairs, if, for example, that rating system is not in effect at the time of  
761 the license application;

762 (C) the electrical equipment and appliances used by the casino meet United States  
763 Environmental Protection Agency efficiency standards;

764 (D) the casino shall procure 10 percent of its annual electricity consumption from  
765 renewable sources identified by the division of energy resources pursuant to section 11F of  
766 chapter 25A. This requirement may be achieved through procurement of renewable energy

767 supply, through the production of on-site renewable power, and/or the purchase of renewable  
768 energy certificates;

769 (E) should the casino develop open space land, the applicant shall purchase, or impose a  
770 conservation restriction upon, open space land of equal or greater size to the open space land  
771 developed by the casino. Any such conservation restriction shall comply with section 32 of  
772 chapter 184; and

773 (F) there are alternative transportation options for patrons to access the casino so that  
774 carbon emissions are minimized.

775 (vi) the number of permanent jobs created by the casino licensee; provided, that the  
776 licensee shall create at least 5,000 new permanent jobs at the casino, or through casino service  
777 providers, over a 5-year period;

778 (vii) whether the applicant agrees to work collaboratively with the Massachusetts  
779 workforce development system, including the appropriate local workforce entities, to create a  
780 workforce development plan to recruit and train residents of the commonwealth for the casinos,  
781 including those who face barriers in finding employment, such as people with low incomes or  
782 receiving public assistance, the long-term unemployed, veterans, individuals with disabilities,  
783 and participants in federal and state workforce programs;

784 (viii) whether the applicant shall establish, fund, and maintain internal human resource  
785 hiring and training practices that promote the development of a skilled and diverse workforce  
786 with access to promotion opportunities by a workforce-training program designed to foster a  
787 skilled and diverse workforce by:

788 (A) establishing transparent career paths with measurable criteria within the casinos that  
789 lead to increased responsibility and higher pay grades that are designed to allow employees to  
790 pursue career advancement and promotion;

791 (B) establishing employee access to additional resources, such as tuition reimbursement  
792 or stipend policies, to enable employees to acquire the education or job training needed to  
793 advance career ladders based on increased responsibility and pay grades;

794 (C) establishing an on-site child day care program;

795 (D) establishing a program to train the casino workforce in the identification of and  
796 intervention with customers exhibiting problem gaming behavior;

797 (E) where appropriate, applying for and using workforce training funds grants established  
798 under section 2RR of chapter 29 to enhance employee skills; and

799 (F) establishing access to "career coaches" to assist employees with understanding career  
800 advancement opportunities within the resort casino, as well as where appropriate, establishing an  
801 employee mentoring program to train and retain entry level employees.

802 (ix) the architectural plans or site plans of all structures and facilities to be used as part of  
803 the resort casino;

804 (x) whether the applicant is including in its application contracts with labor organizations  
805 and a provision assuring labor harmony during all phases of such construction, renovation, or  
806 reconstruction of the resort casino;

807 (xi) whether all contracts and subcontracts to be awarded in connection therewith shall  
808 contain appropriate provisions by which contractors and subcontractors or their assignees agree

809 to afford an equal employment opportunity to all prospective employees and to all actual  
810 employees to be employed by the contractor or subcontractor in accordance with an affirmative  
811 action program approved by the authority and consonant with the provisions of Massachusetts  
812 and federal law; and

813 (xii) the extent to which the applicant shall mitigate public safety effects;

814 (xiii) the extent to which the applicant shall provide funding for the marketing of  
815 Massachusetts as a tourist destination.

816 (5) In assessing the highest and best value to the commonwealth, the authority shall take  
817 into account the commonwealth's policy determination that the commonwealth shall have no  
818 more than 3 gaming establishments.

819 (6) It shall be the burden of the applicant to provide convincing evidence in its  
820 application, to the satisfaction of the authority, that a resort casino shall provide the highest and  
821 best value to the market in which it is located and to the commonwealth.

822 (7) As part of its determination for licensure, the authority shall investigate and consider  
823 the positive and negative effects a casino facility will have to the host community and  
824 communities impacted by the project, provided further, that factors to consider include, but are  
825 not limited to, the regional and local economy, the number and location of resort casinos, job  
826 creation or loss, road and traffic, public access (including public transportation), water, drainage,  
827 sewer, fire department coverage, police department coverage and other public safety coverage,  
828 emergency access, housing, public education influx, state and municipal creation or reduction  
829 and other infrastructure related issues.

830 Section 6. Awarding of and Conditions of Licenses

831 (a) The authority may award casino licenses based on the applications and bids submitted  
832 to the authority.

833 (b) Number of Casino Licenses. Notwithstanding any general or special laws to the  
834 contrary, the authority shall award no more than 3 casino licenses in the commonwealth, with no  
835 more than 1 license awarded per market; subject to the limitations set forth in Section 6(j)(2).

836 (c) Nothing in this chapter shall require the awarding of a license to a market. If the  
837 authority is not convinced that an applicant has both met the eligibility criteria and provided  
838 convincing evidence that the applicant shall provide the highest and best value to the market in  
839 which the resort casino is located and to the commonwealth, no casino license may be awarded  
840 in that market.

841 (d) For the purposes of determining which applicant may be awarded a license, each  
842 applicant's bid shall be evaluated to determine which will provide the highest and best value to  
843 the market and to the commonwealth based on the criteria set out in section 5, and any other  
844 terms the authority determines by regulation.

845 (e) If there is more than 1 applicant in a market who is determined by the authority to be  
846 eligible for a casino license pursuant to section 5, the authority shall determine which application  
847 presents the highest and best value to the market and the commonwealth according to the criteria  
848 set forth in section 5.

849 (f) If an applicant is awarded a casino license, the casino licensee shall pay the  
850 commonwealth the following fees:

851 (1) a licensing fee in the amount of \$225,000,000;

852 (2) an annual operating licensing payment in the amount equal to 27 percent of all gross  
853 gaming revenues. Following the initial issuance of a casino license, so long as the casino  
854 license remains in good standing, and to enable the applicant to secure commercially reasonable  
855 financing of the project, no casino licensee shall be required to make annual operating license  
856 payments at a rate in excess of the amount set forth in the preceding sentence.

857 (g) Provided that a casino licensee has first entered a memorandum of understanding with  
858 the Secretaries of Transportation and Environmental Affairs regarding the gaming establishment,  
859 related public infrastructure improvements and environmental impacts, and except for any permit  
860 or approval required by local zoning and a building permit and certificate of occupancy with  
861 respect to matters directly regulated by the state building code, notwithstanding any general or  
862 special laws to the contrary an applicant receiving a casino license shall not be required to apply  
863 for, file for, obtain or maintain any permit, license or approval from, and shall not be required to  
864 apply for, file for or undergo any impact or other review process with or by the commonwealth  
865 or any political subdivision thereof or any agency, department, commission or authority of any of  
866 the foregoing, for or directly or indirectly in connection with the permitting, financing,  
867 construction, renovation, maintenance, use and occupation of a resort casino and related site  
868 improvements and amenities on the approved site of the gaming establishment and related public  
869 infrastructure improvements.

870 (h) No person or affiliate may be awarded more than 1 license and no person directly, or  
871 indirectly through an affiliate, may have an interest in more than 1 license.

872 (i) Each license is renewable every 10 years, from the date of first issuance. The first 10-  
873 year renewal shall be automatic and shall not require any gaming license fee or renewal fee. The  
874 authority shall adopt regulations to establish standards and the process concerning the  
875 renewability of licenses subsequent to the second 10-year term.

876 (j) Conditions of Casino Licensure.

877 (1) Every casino licensee shall have an affirmative obligation to abide by every statement  
878 made in its application to the authority and every statement made in its bid submission to the  
879 authority pursuant to subsection (c) of section 5.

880 (2) The authority shall make an assessment in each fiscal year against each licensee  
881 operating a casino in the commonwealth. This assessment is in addition to the licensing fee and  
882 the operating licensing payment paid by each licensee. This assessment shall be reasonable and  
883 made at a rate as shall be reasonably determined and certified annually by the authority as  
884 sufficient to produce revenue to reimburse the commonwealth for funds appropriated for the  
885 operation of the authority and the division, including the dedicated state police units attached to  
886 the division, and public safety costs, including amounts sufficient to cover the cost of fringe  
887 benefits as established by the secretary of administration and finance under section 6B of chapter  
888 29. This assessment shall be made proportionately against each licensee based on the  
889 proportionate number of gaming devices and tables operated by that licensee. Each licensee  
890 against whom an assessment is made shall pay over daily to the authority a pro rata share of the  
891 assessment as determined by the authority. If the authority fails to expend in any fiscal year the  
892 total amount assessed under this section, any amount unexpended shall be credited against the

893 assessment to be made in the following year and the assessment in such following year shall be  
894 reduced by that unexpended amount.

895 (3) Each licensee shall pay the total amount of the licensing fee set forth in subsection  
896 6(f)(1) in three equal annual installments, the first such installment to be paid within 60 days of  
897 the grant of the resort casino license and receipt of all other licenses and permits reasonably  
898 necessary (as determined by the authority) for the applicant to secure commercially reasonable  
899 financing of the project, the second installment to be paid on or before the first anniversary of the  
900 first payment, and the third installment to be paid on or before the second anniversary of the first  
901 payment.

902 (4) Each licensee shall pay daily to the commissioner of the department of revenue as the  
903 agent of the authority, the operating licensing payment, as provided in section 5.

904 (5) No licensee shall operate, invest or own, in whole or in part, another licensee's license  
905 or casino. If a licensee is found in violation of this section, they will be fined up to \$5,000 per  
906 day for violations.

907 (6) No licensee shall be permitted to transfer its casino license or any interest such  
908 licensee may have in the gaming establishment or the real property upon which it is located, and  
909 no substantial party in interest shall be permitted to transfer its interest in the licensee, whether  
910 through a sale, option contract, or other agreement or contract providing for such transfer in the  
911 present or future, without the notification of and approval by the authority. The authority shall  
912 adopt rules and regulations for determination of the approval of any such transfer. In the event  
913 that within the first five years following the issuance of a casino license to a licensee there is  
914 either (i) a transfer by a licensee of its casino license or any interest such licensee may have in

915 the gaming establishment or the real property upon which it is located, or (ii) a transfer by a  
916 substantial party in interest of a controlling interest in the licensee, the authority may require  
917 either the transferor or transferee or both, as determined by the authority, to pay to the  
918 commonwealth an amount representing the increased value attributable specifically to the casino  
919 license; provided, that the authority shall consider as a factor in determining the amount of the  
920 payment the difference in value of the licensee's property and the improvements thereon (which  
921 shall be excluded from the value of the license) between the time when the licensee received the  
922 license and the time of or anticipated time of the transfer through the average of 3 separate  
923 assessments made by the licensee, the authority and an independent assessor chosen by the  
924 authority, and the cost of that assessment shall be part of the payment of the transfer; provided  
925 further, that the authority shall consider as a factor in determining the amount of the payment the  
926 increased value of the property, land, establishment, management agent, entity or business value  
927 as a result of possessing a gaming operator's license; provided further, that the authority shall  
928 consider as a factor in determining the amount of the payment the prior capital investments made  
929 by the licensee, the marketing and other business development expenses incurred by the licensee,  
930 the financing costs incurred by the licensee prior to such transfer, and any additional economic  
931 value created by the licensee. In no event shall a transfer of any rights to a bona fide commercial  
932 financial institution pursuant to any commercially reasonable financing be deemed to be a  
933 transfer; provided further, that the authority may reject such transfer if it deems the transferee to  
934 be unsuitable. The authority shall adopt rules and regulations for the reasonable determination of  
935 the payment which serves the best interest of the commonwealth as a result of the transfer;  
936 provided that the authority may consider the actual increase or decrease in the pecuniary value of  
937 the license, the real property, and the shares of interest among the time it was initially purchased,

938 the time of receiving a license and the time of the transfer; provided further, that any payments  
939 collected by the authority on behalf of the Commonwealth are deposited in the same manner as  
940 license fees are deposited with the commonwealth.

941 The authority may place any condition or restriction on the transfer of a license or interest  
942 held by a substantial party in interest, and in all instances it shall consider whether additional  
943 compensation is owed to the Commonwealth pursuant to the foregoing paragraph.

944 No casino licensee shall be permitted to change its form of business governing structure  
945 on file with the secretary of state as of the date of its license application without the notification  
946 and approval of the authority.

947 The authority shall monitor the conduct of all licensees and other persons having a  
948 material involvement, directly or indirectly, with a licensee for the purpose of ensuring that  
949 licenses are not issued to, or held by, and there is no direct or indirect material involvement with  
950 a licensee by unqualified, disqualified, or unsuitable persons.

951 (7) Each licensee shall be required to have an office available to the authority. The  
952 authority shall establish the minimum requirements for the office.

953 (8) Each licensee shall be required to have an office available for the division's state  
954 police personnel. The authority shall establish the minimum requirements for square footage for  
955 the state police office, office furnishings, and parking space.

956 (9) All licensees shall make readily available all documents, materials, equipment,  
957 personnel and any other items that the attorney general may desire to conduct an investigation. A  
958 licensee may withhold material that may be considered a trade secret or detrimental to the

959 licensee if it were made public and have it adjudicated before the authority as to its protected  
960 status, and require non-disclosure agreements between the attorney general and the authority for  
961 such material.

962         (10) The licensee shall cooperate with the division with respect to the investigation of any  
963 criminal matter that is discovered on its property. The licensee shall, upon receipt of criminal or  
964 civil process compelling testimony or production of documents in connection with any civil or  
965 criminal investigation, immediately disclose such information to the authority. This section does  
966 not prohibit private persons or public entities from seeking any remedy or damages against a  
967 licensee.

968         (11) All licensees shall have a duty to inform the authority of any action which they  
969 reasonably believe would constitute a violation of this chapter, and shall assist the authority and  
970 any federal or state law enforcement agency in the investigation and prosecution of such  
971 violation. No person who so informs the authority shall be discriminated against by an applicant  
972 or licensee because of the supplying of such information.

973         (12) All licensees shall collect and annually report to the authority a statistical report on  
974 the number of candidates hired and retained in employment in connection with the workforce  
975 development plan and the affirmative action program respectively required by sections 5(b).  
976 Failure to comply with this section shall cause a licensee to forfeit any state workforce training  
977 funds or economic incentives.

978         (13) All licensees shall agree to make a good faith effort to identify and recruit candidates  
979 from the local labor market area and other nearby labor market areas to ensure a diverse

980 workforce. Failure to comply with this section shall cause a licensee to forfeit any state  
981 workforce training funds or economic incentives.

982 (14) Every casino licensee shall keep conspicuously posted on his premises a notice  
983 containing the name and numbers of the council on compulsive gambling and a statement of its  
984 availability to offer assistance. The authority may require the licensee to provide this information  
985 in 1 or more languages.

986 Section 7. Storage of Documents and Non-Disclosure of Sensitive Documents and  
987 Materials

988 The authority shall maintain a file of applications for licenses under this chapter, together  
989 with a record of all action taken by the authority on those applications. Such applications shall be  
990 open to public inspection; provided however, that the executive director shall prohibit access to  
991 information that contains law enforcement or investigatory information, is a trade secret, or puts  
992 the applicant for a license at an unfair disadvantage with other applicants; provided further, that  
993 the executive director shall consult with the division on public records on the appropriate manner  
994 of distributing or withholding of such information. The authority may maintain any other files  
995 and records as it deems appropriate.

996 Section 8. Authority Operating Account

997 There shall be established upon the books of the commonwealth a separate fund to be  
998 known as the Massachusetts gaming control authority trust fund to be expended, without prior  
999 appropriation, by the Massachusetts gaming control authority. The fund shall consist of the  
1000 application fees collected pursuant to section 5(a)(6), and all assessment payments collected  
1001 from section 6. The executive director of the authority shall make necessary expenditures from

1002 this account for the shared administrative costs of the operations and programs of the authority.  
1003 The executive director shall further direct that funds from the account shall be expended to  
1004 provide services in an amount reasonably related to the functions of the authority and the  
1005 comptroller may certify for payment amounts in anticipation of expected receipts; but no  
1006 expenditure shall be made from the fund which shall cause the fund to be in deficit at the close of  
1007 each fiscal year. The authority shall pay the attorney general the amount it requested under  
1008 section 14(b) by July first of each year.

1009           Section 9.       Gaming License Fee Trust Fund

1010           (a) There shall be established and set up on the books of the commonwealth a separate  
1011 fund, to be known as the gaming license fee trust fund, in this section called the license fee trust  
1012 fund. The license fee trust fund shall consist of all license fees received in consideration of the  
1013 award of licenses under section 6, and all other monies credited or transferred to the fund from  
1014 any other fund or source pursuant to law.

1015           (b) The secretary of administration and finance shall be the trustee of the license fee trust  
1016 fund, and shall transfer monies in the fund, without further appropriation, as of June 30 of each  
1017 fiscal year, only as follows and in the following order:

1018           (1) only if and to the extent determined by the secretary of administration and finance,  
1019 initial payments to the authority and to the division for start-up expenses;

1020           (2) the remaining one-half of the balance in the fund, to the general fund; and

1021           (3) the other remaining one-half of the balance in the fund, to the local taxpayer relief aid  
1022 trust fund established by section 14.

1023 Section 10. Gaming Operating Licensing Payment Trust Fund

1024 (a) There shall be established and set up on the books of the commonwealth a separate  
1025 fund, to be known as the gaming operating license payment trust fund, in this section called the  
1026 operating licensing payment fund. The operating licensing payment fund shall consist of all  
1027 operating licensing payments received in consideration of the award of licenses under section 6,  
1028 and all other monies credited or transferred to the fund from any other fund or source pursuant to  
1029 law.

1030 (b) The secretary of administration and finance shall be the trustee of the license proceeds  
1031 fund, and shall transfer monies in the fund, without further appropriation, as of June 30 of each  
1032 fiscal year, only as follows and in the following order:

1033 (1) to the host community mitigation trust fund established by section 11, an amount that  
1034 is 2 percent of all operating licensing payments made to the operating licensing payment fund  
1035 under this section;

1036 (2) to the regional community mitigation trust fund established by section 12, an amount  
1037 that is 1 percent of all operating licensing payments made to the operating licensing payment  
1038 fund under this section;

1039 (3) to the public health trust fund established by section 13, an amount that is 2.5 percent  
1040 of all operating licensing payments made to the operating licensing payment fund under this  
1041 section, but in no event more than \$45,000,000 in any fiscal year;

1042 (4) to the public safety trust fund established by section 14, an amount that is 0.5 percent  
1043 of all operating licensing payments made to the operating licensing payment fund under this  
1044 section;

1045 (5) to the tourism promotion trust fund established by section 15, an amount that is 0.5  
1046 percent of all operating licensing payments made to the operating licensing payment fund under  
1047 this section;

1048 (6) to the live racing industry preservation trust fund established by section 16, an amount  
1049 that is 1 percent of all operating licensing payments made to the operating licensing payment  
1050 fund under this section, but in no event more than \$20,000,000 in any fiscal year;

1051 (7) to the fund any reduction in local aid payments made by the state lottery, an amount  
1052 that is the difference between the average of the total amounts funded to local cities and towns in  
1053 the three fiscal years prior to enactment of this Act, adjusted in each fiscal year after fiscal year  
1054 2009 by the average increase for the above period, and the total amount local aid payments made  
1055 by the state lottery in the current fiscal year if less than that adjusted average amount;

1056 (8) half of the remaining balance in the fund, to the general fund;

1057 (9) the remaining balance in the fund, to the local taxpayer relief aid trust fund  
1058 established by section 17.

1059 Section 11. Host Community Mitigation Trust Fund

1060 (a) There shall be established and set up on the books of the commonwealth a separate  
1061 fund, to be known as the host community mitigation trust fund, in this section called the  
1062 mitigation fund. The mitigation fund shall consist of the monies transferred under sections 10,

1063 and all other monies credited or transferred to the fund from any other fund or source pursuant to  
1064 law.

1065 (b) The secretary of administration and finance shall be the trustee of the mitigation fund  
1066 and shall expend monies in the fund, without further appropriation, to assist the local host  
1067 communities in which any resort casino facilities are located, to address any increases in police,  
1068 fire, transportation, water, sewer, enforcement and prosecution costs, or other services directly  
1069 related to the construction and operation of the facilities. The secretary of administration and  
1070 finance may adopt regulations, after a public hearing, governing these expenditures.

1071 Section 12. Regional Community Mitigation Trust Fund

1072 (a) There shall be established and set up on the books of the commonwealth a separate  
1073 fund, to be known as the regional community mitigation trust fund, in this section called the  
1074 mitigation fund. The mitigation fund shall consist of the monies transferred under section 10, and  
1075 all other monies credited or transferred to the fund from any other fund or source pursuant to  
1076 law.

1077 (b) The secretary of administration and finance shall be the trustee of the mitigation fund  
1078 and shall expend monies in the fund, without further appropriation, to assist the local host  
1079 community, cities, towns (other than the specific municipalities in which any resort casino  
1080 facilities are located, which shall be eligible for funds from the host community mitigation fund  
1081 under section 11) and district attorneys in the vicinity of resort casino facilities, to address any  
1082 increases in police, fire, transportation, water, sewer, enforcement and prosecution costs, or other  
1083 services directly related to the construction and operation of the facilities; provided, however,  
1084 that the authority shall determine which towns and cities will be affected by construction and

1085 operation of the facilities. The secretary of administration and finance may adopt regulations,  
1086 after a public hearing, governing these expenditures.

1087           Section 13. Public Health Trust Fund

1088           (a) There shall be established and set up on the books of the commonwealth a separate  
1089 fund, to be known as the public health trust fund, in this section called the public health fund.  
1090 The public health fund shall consist of the monies transferred under section 10, and all other  
1091 monies credited or transferred to the public health fund from any other fund or source pursuant to  
1092 law.

1093           (b) The secretary of health and human services shall be the trustee of the public health  
1094 fund and shall expend monies in the fund, without further appropriation but subject to approval  
1095 of an annual spending plan by the secretary of administration and finance, to meet increased  
1096 demand for social service and public health programs resulting from gaming, including but not  
1097 limited to gambling prevention and new substance abuse and addiction services, services to  
1098 address other problems such as domestic violence and child welfare services, an educational  
1099 campaign to mitigate the potential addictive nature of gambling, and on an annual basis, a  
1100 comprehensive study and evaluation system to ensure proper and most effective mitigation of  
1101 any negative public health costs. The secretary of health and human services may adopt  
1102 regulations, after a public hearing, governing these expenditures.

1103           Section 14. Public Safety Trust Fund

1104           (a) There shall be established and set up on the books of the commonwealth a separate  
1105 fund, to be known as the public safety trust fund, in this section called the public safety fund.

1106 The public safety fund shall consist of the monies transferred under section 10, and all other  
1107 monies credited or transferred to the fund from any other fund or source pursuant to law.

1108 (b) The commissioner of public safety shall be the trustee of the public safety fund and  
1109 shall expend monies in the fund, without further appropriation, to address any increases in  
1110 police, fire, enforcement and prosecution costs, or other services directly related to the operation  
1111 of the facilities. The commissioner of public safety may adopt regulations, after a public hearing,  
1112 governing these expenditures.

1113 Section 15. Tourism Promotion Trust Fund

1114 (a) There shall be established and set up on the books of the commonwealth a separate  
1115 fund, to be known as the tourism promotion trust fund, in this section called the tourism fund.  
1116 The tourism fund shall consist of the monies transferred under section 10, and all other monies  
1117 credited or transferred to the fund from any other fund or source pursuant to law.

1118 (b) The secretary of housing and economic development shall be the trustee of the  
1119 tourism fund and shall expend monies in the fund, without further appropriation, to assist with  
1120 the promotion of tourism in the commonwealth. The secretary of housing and economic  
1121 development may adopt regulations, after a public hearing, governing these expenditures.

1122 Section 16. Live Racing Industry Preservation Trust Fund

1123 (a) There shall be established and set up on the books of the commonwealth a separate  
1124 fund, to be known as the live racing industry preservation trust fund, in this section called the  
1125 live racing fund. The live racing fund shall consist of the monies transferred under section 10,

1126 and all other monies credited or transferred to the fund from any other fund or source pursuant to  
1127 law.

1128 (b) The secretary of housing and economic development shall be the trustee of the live  
1129 racing fund and shall expend monies in the fund, without further appropriation, to assist with the  
1130 promotion and preservation of the live racing industry in the commonwealth, including by  
1131 making payments to the purse accounts of racing facilities licensed pursuant to Chapter 128A  
1132 and to Massachusetts based breeders associations. The secretary of housing and economic  
1133 development may adopt regulations, after a public hearing, governing these expenditures.

1134 Section 17. Local Taxpayer Relief Aid Trust Fund

1135 (a) There shall be established and set up on the books of the commonwealth a separate  
1136 fund, to be known as the local taxpayer relief aid trust fund, in this section called the local  
1137 taxpayer relief aid fund. The local taxpayer relief aid fund shall consist of the monies transferred  
1138 under sections 9 and sections 10 of this act, and all other monies credited or transferred to the  
1139 local taxpayer relief aid fund from any other fund or source pursuant to law.

1140 (b) The secretary of administration and finance shall be the trustee of the local taxpayer  
1141 relief aid fund and shall allocate monies in the fund to municipalities, without further  
1142 appropriation, to supplement local aid payments otherwise made by the commonwealth pursuant  
1143 to section 18C of chapter 58.

1144 Section 18. Division of Gaming Investigation and Enforcement

1145 (a) There is hereby established in the department of the attorney general a division of  
1146 gaming investigation and enforcement. The attorney general shall designate an assistant attorney

1147 general as director of the division. The director of the division may appoint and remove, subject  
1148 to the approval of the attorney general, such expert, clerical or other assistants as the work of the  
1149 division may require. The attorney general may purchase any necessary equipment for the  
1150 purpose of conducting an investigation. Subject to the approval of the secretary of public safety  
1151 and security, the colonel of the state police shall assign such supervisory and investigative  
1152 personnel and other resources to the division as may be necessary to fulfill its obligations under  
1153 this chapter. The powers and duties of the division shall be as follows:

1154 (1) investigate allegations of crimes committed on the premises, crimes involving or  
1155 impacting the operation of the casino or games, and violations of this chapter;

1156 (2) be on the premises at any time that it deems appropriate and inspect and examine all  
1157 operations, books, records, and any other documents;

1158 (3) inspect all gaming devices and equipment used or to be used in a resort casino at any  
1159 time it deems appropriate;

1160 (4) have access to all records of the authority;

1161 (5) investigate all applications, certificates and permits issued pursuant to the provisions  
1162 of this chapter;

1163 (6) conduct all background checks on applicants for employment by the authority and any  
1164 gaming establishment in a resort casino and applicants for licensure, including obtaining criminal  
1165 record information, and share such information as necessary with the authority; provided that  
1166 such background checks shall be conducted by the state police unit assigned to the division;

1167 (7) conduct audits of casino operations at such times, under such circumstances, and to  
1168 such extent as the director shall determine, including reviews of accounting, administrative and  
1169 financial records, and management control systems, procedures and records utilized by a casino  
1170 licensee;

1171 (8) receive and take appropriate action on any referral from the authority relating to any  
1172 evidence of a violation of this chapter or the regulations adopted thereunder;

1173 (9) initiate, prosecute, intervene and defend proceedings before the authority, or appeals  
1174 therefrom, as the division may deem appropriate;

1175 (10) investigate and enforce the provisions of this chapter and any regulations adopted  
1176 hereunder or any gaming related statutes, rules or regulations adopted by any agency,  
1177 department, board, commission, division or authority of the commonwealth or any political  
1178 subdivision thereof that is involved in controlled gaming pursuant to this chapter, and prosecute  
1179 all proceedings for violations of this chapter or any regulations adopted hereunder;

1180 (11) be entitled to request and receive information, materials and any other data from any  
1181 licensee or registrant, or applicant for a license or registration under this chapter;

1182 (12) ensure that there is no duplication of duties and responsibilities between it and the  
1183 authority; and

1184 (13) report to the attorney general recommendations that promote more efficient  
1185 operations of the division.

1186 (b) The division shall be compensated for its duties through the assessment pursuant to  
1187 section 6. The attorney general shall submit a budget to the authority by January first for an

1188 annual appropriation, and the authority shall make such appropriation to the division by July first  
1189 of each year.

1190 Section 19. Penalties for Licensing and Gaming Violations

1191 (a) Willful evasion of license fees; other acts and omissions.

1192 (1) any person who willfully fails to report, pay, or truthfully account for and pay over  
1193 any license fee or tax imposed by the provisions of this chapter or by the regulations adopted by  
1194 the authority, or willfully attempts in any manner to evade or defeat any such license fee, tax, or  
1195 payment thereof shall be punished by imprisonment in state prison for not more than 5 years or  
1196 in a house of correction for not more than 2 and one-half years, or a fine of not more than  
1197 \$100,000, or both, and in the case of a person other than a natural person, the amount of a fine  
1198 may be up to \$5,000,000.

1199 (2) any person who willfully resists, prevents, impedes, interferes with, or makes any  
1200 false, fictitious, or fraudulent statement or representation to the authority or to the division or to  
1201 their agents or employees in the performance of duties pursuant to this chapter shall be punished  
1202 by imprisonment in state prison for not more than 5 years or in a house of correction for not  
1203 more than 2 years and one-half years, or a fine of not more than \$25,000, or both.

1204 (b) Unlicensed gaming unlawful.

1205 (1) any person who conducts or operates, or permits to be conducted or operated, any  
1206 game, electronic gaming device, or gaming equipment in violation of the licensing provisions of  
1207 this chapter or the regulations adopted by the authority shall be punished by imprisonment in  
1208 state prison for not more than 5 years or imprisonment in a house of correction for not more than

1209 2 and one-half years, or a fine of not more than \$25,000, or both such fine and imprisonment,  
1210 and in the case of a person other than a natural person, the amount of a fine may be up to  
1211 \$100,000.

1212 (2) any licensee who, without the permission of the authority, (1) places controlled  
1213 games, electronic gaming devices, or gaming equipment into play or displays such controlled  
1214 games, electronic gaming devices, or gaming equipment in a casino or gaming establishment or  
1215 (2) receives, directly or indirectly, any compensation or reward or any percentage or share of the  
1216 revenue, for keeping, running, or carrying on any controlled game, or owning the real property or  
1217 location in which any controlled game occurs, shall be punished by imprisonment in a house of  
1218 correction for not more than 2 and one-half years, or a fine of not more than \$25,000, or both,  
1219 and in the case of a person other than a natural person, the amount of a fine may be up to  
1220 \$100,000.

1221 (3) any person who conducts or operates any controlled game, electronic gaming device,  
1222 or gaming equipment after his license has expired and prior to the actual renewal thereof shall be  
1223 punished by imprisonment in a house of correction for not more than 1 and one-half years, or a  
1224 fine of not more than \$25,000, or both, and in the case of a person other than a natural person,  
1225 the amount of a fine may be up to \$100,000.

1226 (c) Swindling and cheating.

1227 (1) In addition to the provisions of section 75 of chapter 266, a person is guilty of  
1228 swindling and cheating if the person purposely or knowingly by any trick or sleight of hand  
1229 performance or by a fraud or fraudulent scheme, cards, dice, or other gaming equipment, for  
1230 himself or for another, wins or attempts to win money or property, or a representative of either,

1231 or reduces a losing wager or attempts to reduce a losing wager in connection to controlled  
1232 gaming.

1233 The penalties for swindling and cheating offenses shall be as follows:

1234 (i) any person who swindles or cheats where the amount involved is \$75,000 or more  
1235 shall be punished by imprisonment in state prison for not more than 10 years, or a fine of not  
1236 more than \$1,000,000, or both.

1237 (ii) any person who swindles or cheats where the amount involved is \$10,000 or more  
1238 and less than \$75,000 shall be punished by imprisonment in state prison for not more than 5  
1239 years, or a fine of not more than \$500,000, or both.

1240 (iii) any person who swindles or cheats where the amount involved is \$1,000 or more and  
1241 less than \$10,000 shall be punished by imprisonment in state prison for not more than 3 years or  
1242 imprisonment in a house of correction for not more than 2 and one-half years, or a fine of not  
1243 more than \$100,000, or both such fine and imprisonment.

1244 (iv) any person who swindles or cheats where the amount involved is less than \$1,000  
1245 shall be punished by imprisonment in a house of correction for not more than 2 and one-half  
1246 years, or by a fine of not more than \$10,000, or both.

1247 (d) Each episode or transaction of swindling or cheating may be the subject of a separate  
1248 prosecution and conviction. In the discretion of the prosecutor, multiple episodes or transactions  
1249 of swindling and cheating committed as part of a single scheme or course of conduct may be  
1250 treated as a single offense, and the amounts involved in acts of swindling and cheating

1251 committed pursuant to a scheme or course of conduct, whether by the same person or several  
1252 persons, may be aggregated in determining the amount involved in the offense.

1253 (e) Unlawful use or possession of devices to obtain an advantage.

1254 (1) Any person who in playing, conducting or operating a game in a licensed casino or  
1255 gaming establishment, uses or assists another in the use of (1) a computerized, electronic,  
1256 electrical, or mechanical device, which is designed, constructed, or programmed specifically for  
1257 use in obtaining an advantage in any game in a licensed casino or gaming establishment or (2)  
1258 any other cheating or thieving device, including, but not limited to, bogus or counterfeit chips,  
1259 coins or dice; coins or tokens attached to strings or wires; marked cards; electronic or magnetic  
1260 devices; or tools, drills, wires, keys, or devices designed for the purpose of and suitable for  
1261 opening, entering, or affecting the operation of any gaming equipment, or for removing money  
1262 or other contents therefrom, shall be punished by imprisonment in state prison for not more than  
1263 5 years or imprisonment in a house of correction for not more than 2 and one-half years, or a fine  
1264 of not more than \$25,000, or both such fine and imprisonment.

1265 (2) Any person who possesses any computerized, electronic, electrical, or mechanical  
1266 device or other cheating or thieving device described in subsection (1) with the intent to defraud,  
1267 cheat, or swindle shall be punished by imprisonment in a house of correction for not more than 2  
1268 and one-half years, or a fine of not more than \$10,000, or both. Possession of any computerized,  
1269 electronic, electrical, or mechanical device or other cheating or thieving device described in  
1270 subsection (1) within a casino or gaming establishment shall constitute prima facie evidence of  
1271 an intent to defraud, cheat or swindle, except that possession by any licensee, or employee of a

1272 licensee, acting in furtherance of his employment within a licensed casino or gaming  
1273 establishment shall not constitute such prima facie evidence.

1274 (3) Any cheating or thieving device used or possessed in violation of this section shall be  
1275 subject to seizure and forfeiture by the division.

1276 (f) Unlawful operation of cheating games and devices by a licensee or employee;  
1277 penalties.

1278 (1) It shall be unlawful for any licensee or employee to:

1279 (i) knowingly conduct or operate, or allow to be conducted or operated, any cheating or  
1280 thieving game or device; or

1281 (ii) knowingly conduct or operate or expose for play any game or games played with  
1282 cards, dice, or any electronic or mechanical device, or any combination of games or devices,  
1283 which have in any manner been marked or tampered with, or placed in a condition, or operated  
1284 in a manner, the result of which tends to deceive the public or tends to alter the normal random  
1285 selection of characteristics or the normal chance of the game or to alter the result of the game.

1286 (2) Any person who violates this section shall be punished by imprisonment in state  
1287 prison for not more than 5 years or imprisonment in a house of correction for not more than 2  
1288 and one-half years, or a fine of not more than \$25,000, or both such fine and imprisonment, and  
1289 in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.

1290 (3) Any cheating or thieving game or device used in violation of this section shall be  
1291 subject to seizure and forfeiture by the division.

1292 (g) Unlawful manufacture, distribution, sale, or service of gaming equipment; penalties.

1293 (1) Any person who manufactures, distributes, sells, or services any gaming equipment in  
1294 violation of the provisions of this chapter or the regulations adopted by the authority for the  
1295 purposes of defrauding, cheating, or swindling any person playing, operating, or conducting a  
1296 controlled game at a casino or gaming establishment shall be punished by imprisonment in state  
1297 prison for not more than 5 years or imprisonment in a house of correction for not more than 2  
1298 and one-half years, or a fine of not more than \$25,000, or both such fine and imprisonment.

1299 (2) Any such unlawfully manufactured, distributed, sold, or serviced gaming equipment  
1300 shall be subject to seizure and forfeiture by the division.

1301 (h) Employment without license or registration; penalties.

1302 (1) Any person who, without obtaining the requisite license or registration as provided in  
1303 this chapter, works or is employed in a position whose duties would require licensing or  
1304 registration under the provisions of this chapter shall be punished by imprisonment in a house of  
1305 correction for not more than 6 months, or a fine of not more than \$10,000, or both.

1306 (2) Any person who employs or continues to employ an individual not duly licensed or  
1307 registered under the provisions of this chapter in a position whose duties require a license or  
1308 registration under the provisions of this chapter shall be punished by imprisonment in a house of  
1309 correction for not more than 6 months, or a fine of not more than \$10,000, or both, and in the  
1310 case of a person other than a natural person, the amount of a fine may be up to \$100,000.

1311 (i) Gaming by certain persons prohibited; penalties.

1312 (1) Any person under the age of 21 who plays, places wagers at, or collects winnings  
1313 from, whether personally or through an agent, any controlled game shall be punished by

1314 imprisonment in a house of correction for not more than 6 months, or a fine of not more than  
1315 \$1,000, or both.

1316           (2) Any licensee or employee who knowingly allows a person under the age of 21 to  
1317 play, place wagers at, or collect winnings, whether personally or through an agent, shall be  
1318 punished by imprisonment in a house of correction for not more than 1 year, or a fine of not  
1319 more than \$10,000, or both, and in the case of a person other than a natural person, the amount of  
1320 a fine may be up to \$500,000. A subsequent violation of this section shall subject the licensee or  
1321 employee to imprisonment in a house of correction for not more than 2 years, or a fine of not  
1322 more than \$50,000, or both, and in the case of a person other than a natural person, the amount of  
1323 a fine may be up to \$1,000,000.

1324           (j) Placing, sending, transmitting, relaying wagers to another person prohibited under  
1325 certain circumstances; penalties.

1326           Any person who, except in accordance with section 5C of chapter 128A, knowingly  
1327 transmits or receives a wager of any type by any telecommunication device, including telephone,  
1328 cellular phone, Internet, local area network, including wireless local networks, or any other  
1329 similar device or equipment or other medium of communication, or knowingly installs or  
1330 maintains said device or equipment for the transmission or receipt of wagering information shall  
1331 be punished by imprisonment in a house of correction for not more than 2 years, or a fine of not  
1332 more than \$25,000, or both.

1333           This section shall apply to any person who, from within this commonwealth, transmits a  
1334 wager to, or receives a wager from, another person or gaming establishment within or outside of

1335 this commonwealth and any person who, from outside this commonwealth, transmits a wager to,  
1336 or receives a wager from, another person or gaming establishment within this commonwealth.

1337 This section shall not apply to the use of a local area network as a means to place  
1338 authorized wagers in a licensed gaming establishment, or use of said devices or equipment by the  
1339 authority in its duties in regulating, enforcing, or auditing a licensed gaming operator.

1340 (k) Post employment restrictions; penalties.

1341 Any person who knowingly violates any of the provisions contained in subsection (a) or  
1342 subsection (c) of section 4 shall be punished by imprisonment in state prison for not more than 5  
1343 years or in a house of correction for not more than 2 and one-half years, or a fine of not more  
1344 than \$100,000, or both.

1345 Section 20. Withholdings from Winnings for Child Support and Tax Payments

1346 Prior to disbursement of gambling winnings in excess of \$600, all licensed casinos shall  
1347 review information furnished by the IV-D agency, as set forth in chapter 119A, and the  
1348 department of revenue to ascertain whether the individual collecting such winnings owes past-  
1349 due child support to the commonwealth or to an individual to whom the IV-D agency is  
1350 providing services, and to ascertain whether the individual owes any past-due tax liability to the  
1351 commonwealth. If the individual owes past-due child support or a past-due tax liability, after  
1352 withholding state and federal taxes pursuant to this section, the casino shall first disburse to the  
1353 IV-D agency the full amount of the winnings or such portion of the winnings that satisfies the  
1354 individual's past-due child support obligation and, if funds remain available after that  
1355 disbursement, the casino shall disburse to the department of revenue the full amount of the  
1356 winnings or such portion of the winnings that satisfies the individual's past-due tax liability, and

1357 the casino shall notify the IV-D agency or the department of revenue, respectively, of the  
1358 individual's name, address, and social security number. The casino shall disburse to the  
1359 individual only that portion of the winnings, if any, remaining after the individual's past-due  
1360 child support obligation and the individual's past-due tax liability have been satisfied.

1361           Section 21. Other Tax Benefits Unavailable to Resort Casinos

1362           A casino or business located on casino property cannot be a certified project within the  
1363 meaning of section 3F of chapter 23 A. Resort casinos may not be designated an economic  
1364 opportunity area within the meaning of section 3E of chapter 23 A. Resort casinos are not  
1365 eligible for tax increment financing as set forth in section 59 of chapter 40 or special tax  
1366 assessments set forth in section 3E of chapter 23 A. Resort casinos may not be classified and  
1367 taxed as recreational land under the provisions of chapter 61B. Resort casinos may not be  
1368 designated as a development district within the meaning of chapter 40Q. Unless otherwise  
1369 provided, a resort casino or any business located or to be located within a resort casino is not  
1370 eligible for the following credits or deductions listed in chapter 62 or chapter 63: the investment  
1371 tax credit under section 31A of chapter 63, the employment credit under section 31C of chapter  
1372 63, the van pool credit under section 31E of chapter 63, the deduction for expenditures for  
1373 industrial waste treatment or air pollution control under section 38D of chapter 63, the deduction  
1374 for compensation paid to an eligible business facility's employees domiciled in a section of  
1375 substantial poverty under section 38F of chapter 63, the alternative energy sources deduction  
1376 under section 38H of chapter 63, the research expense credit under section 38M of chapter 63,  
1377 the economic opportunity area credit under section 6(g) of chapter 62, and section 38N of  
1378 chapter 63, the abandoned building deduction under section 3B(a)(10) of chapter 62, and section  
1379 380 of chapter 63, the harbor maintenance tax credit under section 38P of chapter 63, the

1380 brownfields credit under section 6(j) of chapter 62, and section 38Q of chapter 63, the historic  
1381 rehabilitation tax credit under section 6J of chapter 62 and section 38R of chapter 63, the  
1382 automatic sprinkler system depreciation deduction under section 38S of chapter 63, and the  
1383 credit for a solar water heating system under section 38T of chapter 63.

1384 Section 22. Economic Assistance to Racing Licensees Not Obtaining Licenses

1385 Notwithstanding any general or special law to the contrary, any race track licensed in  
1386 accordance with section 3 of chapter 128A that is not selected for a casino license under this Act  
1387 and that is no longer conducting racing meetings in accordance with chapter 128A or accepting  
1388 paramutuel wagers in accordance with chapter 128C, shall automatically be:

1389 (a) designated as an economic opportunity area within the meaning of section 3E of  
1390 chapter 23A,

1391 (b) eligible for infrastructure financing for the purpose of stimulating economic  
1392 development pursuant to:

1393 (i) the Public Works Economic Development (PWED) Program, as regulated by  
1394 7.01 CMR 5.00 et seq.;

1395 (ii) the Infrastructure Investment Incentive (I-Cubed) program, as established by  
1396 St. 2006, c. 293 §§ 5 - 12, as amended by St. 2008, c. 129; and

1397 (c) granted a property tax exemption of up to 100% of the tax increment, as authorized by  
1398 section 59 of chapter 40, for any added value of new construction, rehabilitation or new  
1399 equipment or machinery.

1400 Employees displaced by the termination of racing meetings at any such race track will  
1401 receive reasonable priority job placement opportunities at any resort casino licensed under this  
1402 Act during the two years immediately following said termination, and shall automatically be  
1403 eligible for all state job training and education programs.

1404 The host municipality of said site, and if two or more municipalities host said site, then  
1405 all such host municipalities, shall automatically:

1406 (a) qualify for a grant of not less than \$1,000,000, pursuant to the Community  
1407 Development Action Grant (CDAG) program, to support activities including but not limited to  
1408 workforce housing development, streetscape upgrades, publicly-owned infrastructure  
1409 rehabilitation and construction, and local utility improvements; and

1410 (b) receive certification from the State Economic Assistance Coordinating Council to  
1411 utilize tax increment District Improvement Financing (DIF), as authorized by chapter 40Q, for  
1412 activities including but not limited to acquiring land, reconstructing improvements, and incurring  
1413 indebtedness to finance development projects.

1414 SECTION 7. Subsection (d)(1) of section 2 of chapter 62, as appearing in the 2006  
1415 Official Edition, is hereby amended by inserting after paragraph (P) the following paragraph:-

1416 (Q) Any deduction for losses from wagering transactions allowed by section 165 of the  
1417 Code.

1418 SECTION 8. Subsection (k) of section 6 of chapter 62, as appearing in the 2006 Official  
1419 Edition, is hereby amended by inserting after subsection (9) the following subsection :-

1420 (10) A person who is otherwise eligible to claim the credit under subsection (m) of this  
1421 section may elect the credit available under this subsection or under subsection (m), but not both.