

SENATE No. 2042

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 passage of the accompanying bill:

An Act Establishing and Regulating Resort-Style Entertainment in the Commonwealth.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Marc R. Pacheco

First Plymouth and Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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 forthwith 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., 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.**

2 The general court finds and declares that:

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

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

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

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

- 11 (e) once constructed, the 3 resort-style entertainment complexes will create thousands of new
12 jobs for residents of the commonwealth and offer a wide array of employment opportunities for
13 individuals with diverse educational backgrounds and skills, while enhancing the
14 commonwealth's workforce development system by creating career advancement
15 opportunities for casino employees;
- 16 (f) ensuring that the resort casinos are located in distinct markets of the state expands
17 economic development and job creation broadly throughout the whole commonwealth and
18 recognizes that the needs of regional economies must be addressed;
- 19 (g) revenue generated from resort casinos can be used to fund critical needs in the
20 commonwealth, and our cities and towns;
- 21 (h) such investment in infrastructure is an economic necessity and will facilitate economic
22 development and job creation;
- 23 (i) offsetting property tax burden, hitting middle and lower income homeowners the hardest, and
24 providing local services;
- 25 (j) retooling and modernizing the racing industry and workforce in the commonwealth is
26 critical to the success of the resort-style entertainment industry and to the state's
27 economic growth overall;
- 28 (k) addressing the social costs of gaming is an important and necessary part of any
29 comprehensive gaming plan and therefore this act provides for a high level of funding for
30 these costs and an evaluation mechanism to ensure we understand fully the impacts of
31 gaming in the commonwealth;

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

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

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

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

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

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

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

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

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

- 63 (a) the game of bingo conducted pursuant to chapter 271;
- 64 (b) any charitable gaming, so called, conducted pursuant to chapter 271;
- 65 (c) pari-mutuel wagering on horse and dog races, whether live or simulcast, authorized under
66 chapter 128A and chapter 128C; and
- 67 (d) any lottery game conducted by the state lottery commission, in accordance with section
68 24 of chapter 10.

69 "Illegal gaming" or "unlawful gaming" shall include every act punishable under any law
70 relative to lotteries and the buying and selling of pools or registering of bets, except those acts
71 permitted under section 24 of chapter 10, chapter 12B, chapter 128A, chapter 128C, and chapter
72 271.

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

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

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

85 CHAPTER 12B. THE MASSACHUSETTS GAMING CONTROL AUTHORITY

86 Section 1. Definitions

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

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

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

100 **"Authority"**, the Massachusetts gaming control authority, established pursuant to this chapter.

101 **"Board"**, the board of the Massachusetts gaming control authority.

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

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

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

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

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

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

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

124 **"Executive Director"**, the executive director of the Massachusetts gaming control authority, as
125 established pursuant to this chapter.

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

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

129 **"Gaming equipment"**, any equipment, device, object or contrivance, or machine, whether
130 mechanical, electromechanical, or electronic, which is specifically designed or manufactured for use
131 in the operation of gaming.

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

138 **"Gross gaming revenue"**, the total, prior to the deduction of any operating, capital or other expenses
139 whatsoever, less only the total of all sums paid out as winnings, of all gaming establishment revenue
140 generated by the gaming establishment of any casino licensed under this chapter derived from the
141 conduct of any game conducted at a licensed casino.

142 **"Holding company"**, any corporation, firm, partnership, trust, or other entity that, directly or
143 indirectly, owns, has the power or right to control, or holds the power to vote on, all or any part of the
144 partnership interests or outstanding voting securities of a corporation or any other business entity that
145 holds or applies for a gaming license. In addition, a holding company indirectly owns, has, or holds
146 such power or right mentioned in the preceding sentence if it does so through any interest in a

147 subsidiary or affiliate or successive subsidiaries or affiliates, however many of these subsidiaries or
148 affiliates may intervene between the holding company and the corporate licensees or applicant.

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

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

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

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

156 **"Licensed casino"**, any resort casino licensed to conduct controlled gaming pursuant to this chapter.

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

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

160 **"Licensing fee"**, the fee required to be paid to the commonwealth by a licensed casino operator to
161 operate a resort casino.

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

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

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

168 **"Party in interest"**, any corporation, firm, partnership, trust, or other entity or person with any direct
169 or indirect pecuniary interest in a licensed gaming establishment, or a person who owns any interest

170 in the premises of a licensed gaming establishment, or land upon which such premises is licensed,
171 whether he leases the property directly or through an affiliate.

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

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

177 **"Substantial party in interest"**, any person holding a greater than 1 percent direct or indirect
178 pecuniary interest, whether as owner, mortgagee or otherwise, in an operating entity, premises, or any
179 other licensee or applicant; but, excluding any shareholder holding less than a 5 percent interest in a
180 public company that is a substantial party in interest.

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182 Section 2. Establishment of the Massachusetts Gaming Control Authority

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

190 (b) The authority shall be governed and have its corporate powers exercised by a board of
191 directors consisting of the auditor or his designee, and 6 members to be appointed by the
192 governor, 1 of whom shall have experience in legal issues with respect to gaming

193 establishments; 1 of whom shall have experience in finance and financial markets; 1
194 of whom shall have experience with the regulatory aspects needed for gaming
195 establishments; 1 of whom shall have experience in accounting; and 1 of whom shall
196 have experience in public health.

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

201 Three of the members appointed by the governor shall serve a term coterminous with that of
202 the governor. The other 3 members appointed by the governor shall serve a term of 5 years.

203 Any person appointed to fill a vacancy in the office of a member of the board shall be
204 appointed in a like manner and shall serve for only the unexpired term of such member. Any
205 member shall be eligible for reappointment but no member shall serve more than 2 terms of
206 5 years each. Any member may be removed from his appointment by the governor for cause.

207 The governor shall from time to time designate a member or members of the board as its
208 chairperson or co-chairperson as applicable. Five of the members shall constitute a quorum
209 and the affirmative vote of a majority of members present at a duly called meeting where a
210 quorum is present shall be necessary for any action to be taken by the board. Any action
211 required or permitted to be taken at a meeting of the board may be taken without a meeting if
212 all of the members consent in writing to such action and such written consents are filed with
213 the records of the minutes of the meetings of the board. Such consents shall be treated for all
214 purposes as a vote at a meeting.

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

218 The board annually may elect 1 of its members as vice-chairperson, shall elect a secretary and
219 a treasurer, and may elect or appoint other officers as it may deem necessary, none of whom,
220 other than the vice-chairperson, are required to be members of the board. The secretary shall
221 keep a record of the proceedings of the board and shall be custodian of all books, documents,
222 and papers filed by the board and of its minute book and seal. The secretary shall cause copies
223 to be made of all minutes and other records and documents of the authority and shall certify
224 that such copies are true copies, and all persons dealing with the authority may rely upon such
225 certification. The treasurer shall be the chief financial and accounting officer of the authority
226 and shall be in charge of its funds, books of account and accounting records. The officers of
227 the board shall be subject to the same requirements as the members of the board under this
228 act. Meetings of the authority board shall be subject to sections 11A and 11A1/2 of chapter
229 30A, provided, however, that any discussion or consideration of law enforcement or
230 investigatory information, trade secrets or commercial or financial information may be held
231 by the board in executive session closed to the public notwithstanding the provisions of section
232 11A1/2 of chapter 30A, but the purpose of any such executive session shall be set forth in the
233 official minutes of the authority board and no business which is not directly related to such
234 purpose shall be transacted nor shall any vote be taken during such executive session. A
235 public record of every vote shall be maintained at the authority.

236 (c) The board shall have the power to appoint and employ an executive director, and to fix
237 the director's compensation and conditions of employment. The executive director

238 shall be the chief executive, administrative and operational officer of the authority and
239 shall direct and supervise administrative affairs and the general management of the
240 authority. The executive director may, subject to the general supervision of the board,
241 employ other employees, consultants, agents, including legal counsel, and advisors,
242 and shall attend meetings of the board.

243 (d) The authority shall be advised by an advisory committee consisting of 12 members,
244 including: the secretary of health and human services, the secretary of administration
245 and finance, the secretary of housing and economic development, the secretary of
246 labor and workforce development, the secretary of public safety and security, or their
247 designees; 3 members of the committee who shall be appointed by the governor, 1 of
248 whom shall be a representative of organized labor, 1 of whom shall be an expert on
249 gaming addiction, and 1 of whom shall be a police chief; 2 of the members of the
250 committee who shall be appointed by the senate president; and 2 members who shall be
251 appointed by the speaker of the house of representatives. Each member of the advisory
252 committee shall serve for a term of 3 years; provided, however, that of the initial
253 appointed members, 1 of the senate president's and speaker's appointments, and 3 of the
254 governor's appointments shall serve a term of 2 years. Any person appointed to fill a
255 vacancy in the office of a member of the advisory committee shall be appointed in a like
256 manner and shall serve for only the unexpired term of such member. Any member shall
257 be eligible for reappointment but no member shall serve more than 2 three-year terms.
258 The governor shall from time to time designate a member or members of the advisory
259 committee as its chairperson or co-chairperson as applicable. The members of the advisory
260 committee shall serve without compensation, but each member shall be entitled to

261 reimbursement for his actual and necessary expenses incurred in the performance of his
262 official duties.

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

273 (f) Any documentary materials or data whatsoever made or received by any member or
274 employee of the authority and consisting of, or to the extent that such materials or data
275 consist of, law enforcement or investigatory information, trade secrets or commercial or
276 financial information regarding the operation of any business conducted by an applicant
277 for any form of assistance which the authority is empowered to render or regarding the
278 competitive position of such applicant in a particular field of endeavor, shall not be
279 deemed public records of the authority and specifically shall not be subject to the
280 provisions of section 10 of chapter 66.

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

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Section 3. Powers and Duties of the Authority

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

- (a) adopt an official seal;
- (b) sue and be sued, to initiate or defend civil actions relating to its properties and affairs, and to be liable in tort in the same manner as a private person; provided however, that the authority is not authorized to become a debtor under the United States Bankruptcy Code;
- (c) appoint officers and employees;
- (d) execute all instruments necessary or convenient thereto for accomplishing the purposes of this chapter;
- (e) enter into agreements or other transactions with any person, including without limitation any public entity or other governmental instrumentality or authority in connection with its powers and duties under this chapter;
- (f) appear in its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;
- (g) obtain insurance;
- (h) apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value, to be held, used and applied for its corporate purposes;

- 306 (i) provide and pay for such advisory services and technical assistance, including but not
307 limited to accountants, financial experts, architects, attorneys, engineers, planners,
308 real estate experts and other consultants as may be necessary in its judgment to carry
309 out the purposes of this chapter and fix their compensation;
- 310 (j) prepare, publish and distribute, with or without charge, as the authority may determine,
311 such studies, reports and bulletins and other material as the authority deems
312 appropriate;
- 313 (k) investigate and determine the percentage of population of minority groups in the
314 commonwealth or in areas thereof from which the work force for the casino is or may be
315 drawn;
- 316 (l) establish and adopt such percentages as guidelines in determining the adequacy of
317 affirmative-action programs submitted for approval pursuant to the provisions of this
318 chapter;
- 319 (m) determine the types of conduct performed by licensees or applicants for licenses. The
320 authority may approve or disapprove transactions and events as provided in this
321 chapter, approve or disapprove gaming contracts with casino licensees based on their
322 commercial reasonableness or the demonstrated capacity and experience of gaming
323 services providers to perform the requirements such contracts, take actions reasonably
324 designed to ensure that no unsuitable persons are associated with controlled gaming, and
325 take actions reasonably designed to ensure that gaming activities take place only in
326 suitable premises within licensed casinos;
- 327 (n) monitor the conduct of all licensees and other persons having a material involvement,
328 directly or indirectly, with a licensee for the purpose of ensuring that licenses are not

329 issued to, or held by, and there is no direct or indirect material involvement with a
330 licensee by unqualified, disqualified, or unsuitable persons, or persons whose
331 operations are conducted in unsuitable manner or in unsuitable or prohibited places, as
332 provided herein;

333 (o) annually determine the maximum number of electronic gaming devices and wagering
334 games and the types of wagering games permitted in the commonwealth and the
335 number permitted at each gaming establishment; provided however, that a licensee shall
336 be permitted to petition the authority for approval of additional wagering games and new
337 types of wagering games; and provided further that the number of devices and games
338 permitted for any licensee shall not be reduced during the term of any license issued
339 under this chapter or any renewal thereof or be less than a number necessary to obtain
340 commercially reasonable financing for the development of a resort casino;

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

344 (q) determine which applicants shall be awarded casino licenses and other licenses in
345 accordance with the terms of this chapter provided further, that the authority may
346 award a license for 1200 electronic gaming devices to any racing licensee licensed
347 under Section 3 of Chapter 128A as of January 1, 2009, if such licensee is required to
348 cease race track operations as a result of chapter 388 of the Acts of 2008 and does not
349 receive a resort casino under this chapter and does not elect to receive the benefits
350 available under section 22, such award to be made at the discretion of the authority
351 and upon terms and conditions to be established by the authority, which terms and

352 conditions shall include without limitation a licensing fee of not less than
353 \$15,000,000, and a requirement to invest not less than \$50,000,000 in the
354 development and improvement of the gaming facility and related infrastructure;

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

358 (s) gather facts and information applicable to its obligation to issue licenses, to suspend
359 or revoke licenses, work permits, or registrations granted to any person for: violation
360 of any provision of this chapter or regulations adopted hereunder; willfully violating an
361 order of the authority directed to such person; the conviction of any criminal offense
362 under this chapter; or the commission of any violation of this chapter or other offense
363 which would disqualify such person from holding a license or registration; provided,
364 however, that if the basis for any suspension or revocation of a casino license is any
365 action or omission of a party in interest to a licensee, then the authority shall prior to
366 enacting such suspension or revocation grant the licensee a reasonably opportunity to
367 remove such party in interest or take such other actions as the authority may deem
368 reasonable or appropriate to address the cause of the suspension or revocation. The
369 authority may also suspend the license or registration of any person pending hearing
370 and determination, in any case in which license or registration revocation could result;

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

374 (u) request and receive from the state police, the criminal history systems board, or other
375 criminal justice agencies, including but not limited to the federal bureau of investigation
376 and the federal internal revenue service, such criminal offender record information,
377 criminal intelligence information and information relating to criminal and background
378 investigations as necessary for the purpose of evaluating employees of, and applicants
379 for employment by, the authority and any gaming establishment in a resort casino, and
380 evaluating licensees and applicants for licensure. Upon the written request of the
381 executive director, the state authority may receive from the district and juvenile courts,
382 the state police, or the criminal history systems board, such information relating to
383 juvenile proceedings as necessary for the purpose of evaluating employees of, and
384 applicants for employment by, the authority and any gaming establishment in a resort
385 casino, and evaluating licensees of, and applicants for, licensure;

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

387 (w) levy and collect fees, taxes, and fines and impose penalties and sanctions for the
388 violation of the provisions of the licensing provisions of this chapter and the
389 regulations adopted hereunder. At any time within 5 years after any amount of fees,
390 interest, penalties or tax required to be collected pursuant to the provisions of this
391 chapter shall become due and payable, the commission may bring a civil action in the
392 courts of this commonwealth or any other state or of the United States, in the name of
393 the commonwealth of Massachusetts, to collect the amount delinquent, together with
394 penalties and interest. An action may be brought whether or not the person owing the
395 amount is at such time an applicant, licensee or registrant pursuant to the provisions of
396 this act. If such action is brought in this commonwealth, a writ of attachment may be

397 issued and no bond or affidavit prior to the issuance thereof shall be required. In all
398 actions in this commonwealth, the records of the authority shall be prima facie
399 evidence of the determination of the fee or tax or the amount of the delinquency. Each
400 debt that is due and payable as a result of fees, interest, penalties, or taxes required to be
401 collected pursuant to the provisions of this chapter or the regulations adopted
402 thereunder, including any compensation authorized pursuant to this chapter, and each
403 regulatory obligation imposed as a condition upon the issuance or renewal of a license
404 which requires the licensee to maintain, as a fiduciary, a fund for a specific regulatory
405 purpose, shall constitute a lien on the real property in this commonwealth owned or
406 hereafter acquired by the applicant, licensee, or registrant owing such a debt or on whom
407 such an obligation has been imposed. Except as otherwise provided in this chapter, such a
408 lien shall be a first lien paramount to all prior or subsequent liens, claims, or
409 encumbrances on that property;

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

- 418 (y) visit, have access to and inspect, examine, photocopy, and test, without prior notice or
419 approval of any party, all equipment and supplies in any licensed gaming establishment
420 or in any premises where gaming equipment is manufactured, sold or distributed;
- 421 (z) have access to and inspect, examine, photocopy, and audit all relevant and material
422 papers, books, and records of any affiliate of a licensed gaming establishment that the
423 executive director knows or reasonably suspects is involved in the financing, operation, or
424 management of any entity licensed pursuant to this chapter, either on the affiliate's
425 premises or elsewhere, as practicable, in the presence of the affiliate or any agent
426 thereof;
- 427 (aa) require that the books and financial or other records or statements of any licensee be
428 kept in a manner that the authority or the bureau deems proper;
- 429 (bb) audit all relevant material papers, books, and records of an applicant for or person
430 holding any license under this chapter, on such applicant or licensee's premises or
431 elsewhere, as practicable, in the presence of the applicant or licensee or his agent;
- 432 (cc) provide access to records and cooperate with the division, including answering the
433 division's requests for documents and refer to the division any evidence of a violation of
434 this chapter or the regulations adopted thereunder;
- 435 (dd) establish licensure and work permits for employees working at the casino and
436 minimum training requirements; provided further the authority may review the
437 professional requirements of employees and update them as needed. The authority shall
438 require that all casino employees be properly trained in their respective professions.
439 The authority may recognize an employee's license from out of state gaming schools

440 if they meet the minimum requirements for the authority and may establish a process
441 for reciprocal licensing of out of state licensed casino employees;

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

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

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

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

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

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

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

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

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

- 465 (1) the licensing of resort casinos, including regulations relating to the types of
466 establishments, application process, background checks, license fees, bonding
467 requirements, and revocation, suspension, and renewal of licenses;
- 468 (2) the registration and licensing of gaming services suppliers and non-gaming
469 suppliers, including regulations relating to the application process, background
470 checks, license fees, bonding requirements, the commercial reasonableness of
471 gaming contracts with casino licensees, the demonstrated capacity and experience
472 of a supplier to perform the requirements a contract, and revocations and
473 suspension of licenses;
- 474 (3) the licensing of parties in interest, including regulations relating to the application
475 process, background checks, license fees, bonding requirements, and revocation
476 and suspension of licenses;
- 477 (4) the issuance of 1 or more classes of work permits, criteria for different classes of
478 work permits, including regulations relating to the application process, background
479 checks, fees, and revocation and suspension of work permits;
- 480 (5) the registration and licensing of labor organizations representing the employees of
481 a resort casino;
- 482 (6) the presentation and/or display of all licenses and work permits;

- 483 (7) the licensing of gaming schools, if any such school is established in the
484 commonwealth, including regulations relating to the application process, background
485 checks, license fees, and revocation and suspension of licenses;
- 486 (8) the monitoring of licensees to ensure compliance with this chapter and the
487 regulations adopted thereunder, including but not limited to, requiring that
488 licensees make readily available all documents, materials, equipment, personnel, and
489 any other items that the division may wish to investigate;
- 490 (9) the posting of applicable statutes at casinos regarding civil and criminal laws
491 applicable to gaming;
- 492 (10) minimum wage and benefits standards and other conditions of employment for
493 resort casino employees, which standards or conditions may only be waived in a
494 bona fide collective bargaining agreement;
- 495 (11) the method for collecting any fines, fees, penalties and interest imposed by the
496 authority;
- 497 (12) the method and standards of operation of gaming establishments including, but not
498 limited to, games, the type and manner of gaming, wagering limitations, odds, and
499 hours of operation; provided, however, the authority shall not restrict the number of
500 hours of operation of any gaming establishment to fewer hours than any competing
501 gaming establishment in Massachusetts;
- 502 (13) the manufacturing, distribution, sale, testing, servicing, regulation and inspection
503 of gaming equipment for use in licensed casinos, including requirements for the
504 identification and licensing of same;

- 505 (14) any limitations on mortgage security interests and agreements relating to the
506 property of licensed gaming establishments;
- 507 (15) any limitations on transfers of interests in licenses;
- 508 (16) advertising by licensed gaming establishments, including the monitoring of
509 advertising, particularly to ensure that it is not directed at minors and other
510 vulnerable populations; provided, however, licensees shall have the right to conduct
511 reasonable advertising consistent with that of competing gaming facilities, and the
512 state lottery;
- 513 (17) the manner in which winnings, compensation from games, and gaming devices
514 must be compiled and reported by the authority; provided further, that electronic
515 gaming devices shall return as winnings at a minimum 85 percent of all sums
516 wagered;
- 517 (18) standards for protection of the health, safety, and security of the public at licensed
518 gaming establishments;
- 519 (19) the procedures for renewal of all licenses awarded under this chapter;
- 520 (20) the minimum procedures to be adopted by each gaming establishment to exercise
521 effective supervisory and management control over its fiscal affairs, including the
522 requirement of an annual audit undertaken in accordance with generally accepted
523 accounting principles, and the requirement that quarterly reports be provided by
524 gaming establishments to the authority no more than 30 days after the close of each
525 quarter;

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

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

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

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

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

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

557 The authority shall make a continuous study and investigation of gaming throughout the
558 commonwealth in order to ascertain the adequacy and effectiveness of state gaming law or
559 regulations and may formulate recommendations for changes in such laws and regulations;
560 provided further, that the study shall include economic, public health, security, taxation,
561 traffic, regional housing, regional education, regional infrastructure and environmental
562 impacts. The authority shall also make a continuous study and investigation of the operation
563 and administration of similar laws in other states or countries, of any literature or reports on
564 the subject, and of any federal laws which may affect the operation of gaming in the
565 commonwealth, all with a view to recommending or effecting changes that will tend to better
566 serve and implement the purposes of this chapter.

567
568 Section 4. Restrictions on prior employment and post employment by authority employees,
569 members of the board, and executive branch employees; conflicts of interest and
570 scope of employment.

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

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

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

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

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

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

594 financial interests shall be filed with the state ethics commission within 30 days
595 after the individual assumed his or her responsibilities with the authority, on or
596 before May first of each year thereafter that such individual is associated with the
597 authority as a board member, advisory committee member or employee, and on or
598 before May first of the year after such individual ceases to be associated with the
599 authority; provided, however, that no statement of financial interest shall be
600 required to be filed for the year in which the individual ceased to be associated
601 with the authority if he or she served less than thirty days in such year.

602 (c) Restrictions on Post Employment.

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

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

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

615 (4) No partnership, firm or corporation in which a former authority board member or
616 employee or former division employee or agent has an interest, nor any partner,

617 officer or employee of any such partnership, firm or corporation shall make any
618 appearance or representation which is prohibited to that former member, employee, or
619 agent; provided, however, that nothing herein shall prohibit such partnership, firm
620 or corporation from making such appearance or representation on behalf of a casino
621 service industry licensed under this chapter.

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

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

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

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

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

643 All officers and employees of the authority having access to its cash or negotiable
644 securities shall give bond to the authority at its expense in such amounts and with such
645 surety as the board may prescribe. The persons required to give bond may be included in
646 1 or more blanket or scheduled bonds.

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

650

651 Section 5. Provisions for Applications of Casino Licenses

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

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

656 (i) the name of the applicant;

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

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

- 664 (iv) an independent audit report of all of the applicants' financial interests;
- 665 (v) the location of the proposed resort casino, which shall include address(es),
666 maps, and book and page numbers from the appropriate registry of deeds,
667 assessed value of land to be purchased or currently in ownership, market value
668 of the land at the time of application, the zoning of the site (including whether
669 gaming facilities are allowed either as a matter of right or by special permit on any
670 portion of the property), ownership status over the past 5 years, (including all
671 interests, options, agreements in property), demographic, geographic, and
672 environmental information, and any other information requested by the
673 authority;
- 674 (vi) the proposed architects and designers for the resort casino, which shall include
675 the name and addresses of the architects, engineers, and designers, and timeline
676 of construction and phases of construction;
- 677 (vii) the types of games and gaming to be conducted at the resort casino, number of
678 tables and electronic gaming devices that are proposed to be employed at the
679 casino, and the specific location of the gaming at the casino site;
- 680 (viii) a description of the ancillary entertainment services and amenities to be
681 provided at the proposed resort casino;
- 682 (ix) the number of hotels, rooms per hotel and other amenities located at the
683 proposed resort casino;
- 684 (x) the number of employees to be employed at the resort casino, including detailed
685 information on the pay rate and benefits for employees, including any
686 contractors;

- 687 (xi) the total amount of investment by the applicant in the resort casino, including
688 all facilities located at the casino site and all infrastructure improvements
689 related to the project;
- 690 (xii) completed studies and reports as required by the authority, which shall include,
691 but are not limited to, an economic benefit study, both for the commonwealth
692 and region; a study of the potential impact on the host community and other
693 impacted communities; an environmental, traffic and local infrastructure
694 impact study, a study on the impact of the proposed resort casino to the local and
695 regional economy, the cost to the municipality and the state for the casino to be at
696 its proposed location, and the total amounts of municipal and state tax revenue
697 to be generated by the applicant;
- 698 (xiii) whether the applicant's casino is part of a regional or local economic plan;
- 699 (xiv) whether the applicant is partnering with a federally recognized native
700 American tribe located in the commonwealth;
- 701 (xv) whether the applicant has a contract with organized labor and has the support
702 of organized labor for its application;
- 703 (xvi) whether the applicant will be using publicly owned land for the resort casino;
- 704 (xvii) a statement that the applicant will comply, in case such a license is issued,
705 with all applicable laws and with all applicable rules and regulations prescribed
706 by the authority or any other relevant entity;
- 707 (xviii) a statement that the applicant shall mitigate the potential negative public health
708 consequences associated with gambling and the operation of a destination
709 resort casino. As part of this submission, the applicant must agree to:

- 710 (A) maintain as smoke free all indoor facilities operated by the licensee or
711 anyone working for or under contract with the licensee;
- 712 (B) provide complimentary on-site space for an independent substance abuse and
713 mental health counseling service to be selected by the commonwealth;
- 714 (C) prominently display information on the signs of problem gambling and
715 how to access assistance;
- 716 (D) describe a process for individuals to exclude their names and contact
717 information from the licensee's database or any other list held by the
718 licensee for use in marketing or promotional communications;
- 719 (E) provide to the commonwealth aggregate demographic information with
720 respect to its customers in a manner and pursuant to a schedule to be defined
721 by the commonwealth;
- 722 (F) institute other public health strategies as determined by the authority;
- 723 (xix) a detailed plan showing the levels of security and safety for its employees,
724 guests, equipment and money; and
- 725 (xx) answers to such other questions as the authority may prescribe.
- 726 (2) The authority may prescribe forms and additional information to be used in
727 making such applications.
- 728 (3) An applicant's request to receive a license under this chapter shall constitute a
729 request for a determination of the applicant's general character, integrity, and ability
730 to participate or engage in, or be associated with, gaming.
- 731 (4) Such applications shall be signed and sworn to, if made by an individual, by such
732 individual; if made by 2 or more individuals or a partnership, by 1 of such

733 individuals or by a member of such partnership; if made by a trust, by a trustee of
734 such trust; and if made by an association or corporation, by the chief executive and
735 chief financial officers thereof.

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

738 (6) With each application, there shall be delivered to the authority a certified check or
739 bank draft, payable to the authority, of a non-refundable deposit in the amount of
740 \$350,000 for the processing, analysis and review of the application.

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

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

746 (2) shall invest no less than \$1 billion into the resort casino project, with at least
747 \$300,000,000 in investment in the project and related improvements committed in an
748 initial phase and the balance being committed over the following five years, neither of
749 which amounts shall include the purchase or lease price of the land where the casino
750 will be located;

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

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

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

- 756 (6) shall demonstrate that it is able to pay and shall commit to paying (y) the licensing
757 fee of \$225,000,000, as established in section 6, and (z) the operating licensing
758 payments of 27 percent of all gross gaming revenues;
- 759 (7) has submitted certified copies of resolutions adopted after the effective date of this act
760 by the legislative bodies of a majority of the municipalities in the applicable county,
761 following recommendations from the respective chief executive municipal officials,
762 which resolutions affirm that such legislative bodies approve the establishment of a
763 resort casino within such county;
- 764 (8) shall provide for a community impact fee for the local host community;
- 765 (9) shall pay for infrastructure costs of the host and surrounding communities incurred
766 in direct relation to the construction and operation of a resort casino;
- 767 (10) shall provide to the authority a signed agreement between the host community and
768 the applicant to have a resort casino located within the host community; provided
769 that the agreement shall include the community impact fee for the local host
770 community and all stipulations of responsibilities between the local host
771 community and the applicant;
- 772 (11) shall be able to comply with state and local building codes; and
- 773 (12) shall formulate for authority approval and abide by an affirmative-action program of
774 equal opportunity whereby the applicant guarantees to provide equal employment
775 opportunities to all employees qualified for licensure in all employment categories,
776 including a person with a disability, in accordance with Massachusetts law.

777 (c) Bid Procedure for Each Market

- 778 (1) The authority shall request bids for the purpose of awarding casino licenses in
779 each market.
- 780 (2) The authority shall accept bids only from applicants who have met the initial
781 eligibility requirements pursuant to subsection (b) of this section.
- 782 (3) Before applications are received, the authority shall adopt regulations setting forth
783 criteria by which each bid shall be evaluated in each region.
- 784 (4) The bids shall be evaluated to determine which proposal provides the highest and
785 best value to the market and to the commonwealth. The criteria for determining the
786 highest and best value to each market and the commonwealth shall include, but shall
787 not be limited to, the following:
- 788 (i) the overall economic benefit to the commonwealth;
 - 789 (ii) the amount of the operating licensing payment projected by the application
790 based on payment of 27 percent of gross gaming revenue;
 - 791 (iii) the proposed infrastructure improvements and economic development
792 opportunities to the commonwealth, the local host community and the region
793 where the resort casino is located and the timeline for commencement and
794 completion of such improvements and opportunities;
 - 795 (iv) the extent to which the applicant shall contract with Massachusetts business
796 owners for the provision of services and goods at the casino;
 - 797 (v) whether, in the Bristol County market, the applicant is, or partners with, a
798 federally recognized Native American tribe situated and with governmental
799 offices in Massachusetts with land held in trust by the United States of
800 America for the use and benefit of said tribe and which land is otherwise

801 gaming eligible under the Indian Gaming Regulatory Act, that seeks and
802 agrees to accept a commercial license consistent with the terms and conditions
803 of this chapter and any regulations promulgate hereunder and waives its
804 sovereign immunity and rights under the Indian Gaming Regulatory Act, in
805 which case such applicant shall be given preference for a license in the Bristol
806 market;

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

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

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

- 823 (C) the electrical equipment and appliances used by the casino meet United
824 States Environmental Protection Agency efficiency standards;
- 825 (D) the casino shall procure 10 percent of its annual electricity consumption
826 from renewable sources identified by the division of energy resources
827 pursuant to section 11F of chapter 25A. This requirement may be achieved
828 through procurement of renewable energy supply, through the production
829 of on-site renewable power, and/or the purchase of renewable energy
830 certificates;
- 831 (E) should the casino develop open space land, the applicant shall purchase, or
832 impose a conservation restriction upon, open space land of equal or greater
833 size to the open space land developed by the casino. Any such conservation
834 restriction shall comply with section 32 of chapter 184; and
- 835 (F) there are alternative transportation options for patrons to access the casino
836 so that carbon emissions are minimized.
- 837 (vii) the number of permanent jobs created by the casino licensee; provided, that the
838 licensee shall create at least 5,000 new permanent jobs at the casino, or through
839 casino service providers, over a 5-year period;
- 840 (viii) whether the applicant agrees to work collaboratively with the Massachusetts
841 workforce development system, including the appropriate local workforce
842 entities, to create a workforce development plan to recruit and train residents
843 of the commonwealth for the casinos, including those who face barriers in finding
844 employment, such as people with low incomes or receiving public assistance,

845 the long-term unemployed, veterans, individuals with disabilities, and participants
846 in federal and state workforce programs;

847 (ix) whether the applicant shall establish, fund, and maintain internal human resource
848 hiring and training practices that promote the development of a skilled and
849 diverse workforce with access to promotion opportunities by a workforce-
850 training program designed to foster a skilled and diverse workforce by:

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

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

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

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

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

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

- 868 (x) the architectural plans or site plans of all structures and facilities to be used as
869 part of the resort casino;
- 870 (xi) whether the applicant is including in its application contracts with labor
871 organizations and a provision assuring labor harmony during all phases of
872 such construction, renovation, or reconstruction of the resort casino;
- 873 (xii) whether all contracts and subcontracts to be awarded in connection therewith
874 shall contain appropriate provisions by which contractors and subcontractors
875 or their assignees agree to afford an equal employment opportunity to all
876 prospective employees and to all actual employees to be employed by the
877 contractor or subcontractor in accordance with an affirmative action program
878 approved by the authority and consonant with the provisions of Massachusetts
879 and federal law; and
- 880 (xiii) the extent to which the applicant shall mitigate public safety effects;
- 881 (xiv) the extent to which the applicant shall provide funding for the marketing of
882 Massachusetts as a tourist destination.
- 883 (5) In assessing the highest and best value to the commonwealth, the authority shall
884 take into account the commonwealth's policy determination that the commonwealth
885 shall have no more than 3 gaming establishments.
- 886 (6) It shall be the burden of the applicant to provide convincing evidence in its
887 application, to the satisfaction of the authority, that a resort casino shall provide the
888 highest and best value to the market in which it is located and to the commonwealth.
- 889 (7) As part of its determination for licensure, the authority shall investigate and
890 consider the positive and negative effects a casino facility will have to the host

891 community and communities impacted by the project, provided further, that factors
892 to consider include, but are not limited to, the regional and local economy, the
893 number and location of resort casinos, job creation or loss, road and traffic, public
894 access (including public transportation), water, drainage, sewer, fire department
895 coverage, police department coverage and other public safety coverage, emergency
896 access, housing, public education influx, state and municipal creation or reduction and
897 other infrastructure related issues.

898

899 Section 6. Awarding of and Conditions of Licenses

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

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

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

911 (d) For the purposes of determining which applicant may be awarded a license, each
912 applicant's bid shall be evaluated to determine which will provide the highest and best

913 value to the market and to the commonwealth based on the criteria set out in section 5,
914 and any other terms the authority determines by regulation.

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

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

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

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

928 (g) Provided that a casino licensee has first entered a memorandum of understanding with
929 the Secretaries of Transportation and Environmental Affairs regarding the gaming
930 establishment, related public infrastructure improvements and environmental impacts,
931 and except for any permit or approval required by local zoning and a building permit
932 and certificate of occupancy with respect to matters directly regulated by the state
933 building code, notwithstanding any general or special laws to the contrary an
934 applicant receiving a casino license shall not be required to apply for, file for, obtain
935 or maintain any permit, license or approval from, and shall not be required to apply

936 for, file for or undergo any impact or other review process with or by the
937 commonwealth or any political subdivision thereof or any agency, department,
938 commission or authority of any of the foregoing, for or directly or indirectly in
939 connection with the permitting, financing, construction, renovation, maintenance, use
940 and occupation of a resort casino and related site improvements and amenities on the
941 approved site of the gaming establishment and related public infrastructure
942 improvements.

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

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

949 (j) Conditions of Casino Licensure.

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

953 (2) No license for the Bristol County market shall be issued if a federally recognized
954 Native American tribe situated and with governmental offices in commonwealth
955 with land held in trust by the United States of America for the use and benefit of
956 said tribe and which land is otherwise gaming eligible under the Indian Gaming
957 Regulatory Act, enters a compact recommended by the Governor and approved by
958 a two-thirds majority of both chambers of the Legislature; said compact shall

959 replace the award of a license for the Bristol Market; provided further, any
960 compact with a federally recognized Native American tribe situated and with
961 governmental offices in the commonwealth with land held in trust by the United
962 States of America for the use and benefit of said tribe and which land is otherwise
963 gaming eligible under the Indian Gaming Regulatory Act, shall be recommended
964 by the Governor and approved by a two-thirds majority of both chambers of the
965 Legislature.

966 (3) The authority shall make an assessment in each fiscal year against each licensee
967 operating a casino in the commonwealth. This assessment is in addition to the
968 licensing fee and the operating licensing payment paid by each licensee. This
969 assessment shall be reasonable and made at a rate as shall be reasonably determined
970 and certified annually by the authority as sufficient to produce revenue to reimburse
971 the commonwealth for funds appropriated for the operation of the authority and
972 the division, including the dedicated state police units attached to the division, and
973 public safety costs, including amounts sufficient to cover the cost of fringe benefits
974 as established by the secretary of administration and finance under section 6B of
975 chapter 29. This assessment shall be made proportionately against each licensee based
976 on the proportionate number of gaming devices and tables operated by that licensee.
977 Each licensee against whom an assessment is made shall pay over daily to the
978 authority a pro rata share of the assessment as determined by the authority. If the
979 authority fails to expend in any fiscal year the total amount assessed under this
980 section, any amount unexpended shall be credited against the assessment to be made

981 in the following year and the assessment in such following year shall be reduced by
982 that unexpended amount.

983 (4) Each licensee shall pay the total amount of the licensing fee set forth in subsection
984 6(f)(1) in three equal annual installments, the first such installment to be paid
985 within 60 days of the grant of the resort casino license and receipt of all other licenses
986 and permits reasonably necessary (as determined by the authority) for the applicant to
987 secure commercially reasonable financing of the project, the second installment to be
988 paid on or before the first anniversary of the first payment, and the third installment to
989 be paid on or before the second anniversary of the first payment.

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

992 (6) No licensee shall operate, invest or own, in whole or in part, another licensee's license
993 or casino. If a licensee is found in violation of this section, they will be fined up to
994 \$5,000 per day for violations.

995 (7) No licensee shall be permitted to transfer its casino license or any interest such
996 licensee may have in the gaming establishment or the real property upon which it
997 is located, and no substantial party in interest shall be permitted to transfer its
998 interest in the licensee, whether through a sale, option contract, or other agreement
999 or contract providing for such transfer in the present or future, without the
1000 notification of and approval by the authority. The authority shall adopt rules and
1001 regulations for determination of the approval of any such transfer. In the event that
1002 within the first five years following the issuance of a casino license to a licensee there
1003 is either (i) a transfer by a licensee of its casino license or any interest such licensee

1004 may have in the gaming establishment or the real property upon which it is
1005 located, or (ii) a transfer by a substantial party in interest of a controlling interest
1006 in the licensee, the authority may require either the transferor or transferee or both, as
1007 determined by the authority, to pay to the commonwealth an amount representing the
1008 increased value attributable specifically to the casino license; provided, that the
1009 authority shall consider as a factor in determining the amount of the payment the
1010 difference in value of the licensee's property and the improvements thereon (which
1011 shall be excluded from the value of the license) between the time when the licensee
1012 received the license and the time of or anticipated time of the transfer through the
1013 average of 3 separate assessments made by the licensee, the authority and an
1014 independent assessor chosen by the authority, and the cost of that assessment shall be
1015 part of the payment of the transfer; provided further, that the authority shall consider
1016 as a factor in determining the amount of the payment the increased value of the
1017 property, land, establishment, management agent, entity or business value as a result
1018 of possessing a gaming operator's license; provided further, that the authority shall
1019 consider as a factor in determining the amount of the payment the prior capital
1020 investments made by the licensee, the marketing and other business development
1021 expenses incurred by the licensee, the financing costs incurred by the licensee prior to
1022 such transfer, and any additional economic value created by the licensee. In no event
1023 shall a transfer of any rights to a bona fide commercial financial institution pursuant
1024 to any commercially reasonable financing be deemed to be a transfer; provided
1025 further, that the authority may reject such transfer if it deems the transferee to be
1026 unsuitable. The authority shall adopt rules and regulations for the reasonable

1027 determination of the payment which serves the best interest of the commonwealth as a
1028 result of the transfer; provided that the authority may consider the actual increase or
1029 decrease in the pecuniary value of the license, the real property, and the shares of
1030 interest among the time it was initially purchased, the time of receiving a license and
1031 the time of the transfer; provided further, that any payments collected by the authority
1032 on behalf of the Commonwealth are deposited in the same manner as license fees are
1033 deposited with the commonwealth.

1034 The authority may place any condition or restriction on the transfer of a license or
1035 interest held by a substantial party in interest, and in all instances it shall consider
1036 whether additional compensation is owed to the Commonwealth pursuant to the
1037 foregoing paragraph.

1038 No casino licensee shall be permitted to change its form of business governing
1039 structure on file with the secretary of state as of the date of its license application
1040 without the notification and approval of the authority.

1041 The authority shall monitor the conduct of all licensees and other persons having a
1042 material involvement, directly or indirectly, with a licensee for the purpose of ensuring
1043 that licenses are not issued to, or held by, and there is no direct or indirect material
1044 involvement with a licensee by unqualified, disqualified, or unsuitable persons.

1045 (8) Each licensee shall be required to have an office available to the authority. The
1046 authority shall establish the minimum requirements for the office.

1047 (9) Each licensee shall be required to have an office available for the division's state
1048 police personnel. The authority shall establish the minimum requirements for square
1049 footage for the state police office, office furnishings, and parking space.

1050 (10) All licensees shall make readily available all documents, materials, equipment,
1051 personnel and any other items that the attorney general may desire to conduct an
1052 investigation. A licensee may withhold material that may be considered a trade
1053 secret or detrimental to the licensee if it were made public and have it adjudicated
1054 before the authority as to its protected status, and require non-disclosure agreements
1055 between the attorney general and the authority for such material.

1056 (11) The licensee shall cooperate with the division with respect to the investigation of
1057 any criminal matter that is discovered on its property. The licensee shall, upon receipt
1058 of criminal or civil process compelling testimony or production of documents in
1059 connection with any civil or criminal investigation, immediately disclose such
1060 information to the authority. This section does not prohibit private persons or
1061 public entities from seeking any remedy or damages against a licensee.

1062 (12) All licensees shall have a duty to inform the authority of any action which they
1063 reasonably believe would constitute a violation of this chapter, and shall assist the
1064 authority and any federal or state law enforcement agency in the investigation and
1065 prosecution of such violation. No person who so informs the authority shall be
1066 discriminated against by an applicant or licensee because of the supplying of such
1067 information.

1068 (13) All licensees shall collect and annually report to the authority a statistical report on
1069 the number of candidates hired and retained in employment in connection with the
1070 workforce development plan and the affirmative action program respectively
1071 required by sections 5(b). Failure to comply with this section shall cause a licensee
1072 to forfeit any state workforce training funds or economic incentives.

1073 (14) All licensees shall agree to make a good faith effort to identify and recruit
1074 candidates from the local labor market area and other nearby labor market areas to
1075 ensure a diverse workforce. Failure to comply with this section shall cause a licensee
1076 to forfeit any state workforce training funds or economic incentives.

1077 (15) Every casino licensee shall keep conspicuously posted on his premises a notice
1078 containing the name and numbers of the council on compulsive gambling and a
1079 statement of its availability to offer assistance. The authority may require the licensee
1080 to provide this information in 1 or more languages.

1081

1082 Section 7. Storage of Documents and Non-Disclosure of Sensitive Documents and Materials

1083 The authority shall maintain a file of applications for licenses under this chapter, together with
1084 a record of all action taken by the authority on those applications. Such applications shall be open to
1085 public inspection; provided however, that the executive director shall prohibit access to information
1086 that contains law enforcement or investigatory information, is a trade secret, or puts the applicant for a
1087 license at an unfair disadvantage with other applicants; provided further, that the executive director
1088 shall consult with the division on public records on the appropriate manner of distributing or
1089 withholding of such information. The authority may maintain any other files and records as it deems
1090 appropriate.

1091

1092 Section 8. Authority Operating Account

1093 There shall be established upon the books of the commonwealth a separate fund to be known
1094 as the Massachusetts gaming control authority trust fund to be expended, without prior appropriation,
1095 by the Massachusetts gaming control authority. The fund shall consist of the application fees

1096 collected pursuant to section 5(a)(6), and all assessment payments collected from section 6. The
1097 executive director of the authority shall make necessary expenditures from this account for the shared
1098 administrative costs of the operations and programs of the authority. The executive director shall
1099 further direct that funds from the account shall be expended to provide services in an amount
1100 reasonably related to the functions of the authority and the comptroller may certify for payment
1101 amounts in anticipation of expected receipts; but no expenditure shall be made from the fund which
1102 shall cause the fund to be in deficit at the close of each fiscal year. The authority shall pay the
1103 attorney general the amount it requested under section 14(b) by July first of each year.

1104

1105 Section 9. Gaming License Fee Trust Fund

1106 (a) There shall be established and set up on the books of the commonwealth a separate
1107 fund, to be known as the gaming license fee trust fund, in this section called the
1108 license fee trust fund. The license fee trust fund shall consist of all license fees received
1109 in consideration of the award of licenses under section 6, and all other monies credited or
1110 transferred to the fund from any other fund or source pursuant to law.

1111 (b) The secretary of administration and finance shall be the trustee of the license fee trust
1112 fund, and shall transfer monies in the fund, without further appropriation, as of June
1113 30 of each fiscal year, only as follows and in the following order:

1114 (1) only if and to the extent determined by the secretary of administration and finance,
1115 initial payments to the authority and to the division for start-up expenses;

1116 (2) the remaining one-half of the balance in the fund, to the general fund; and

1117 (3) the other remaining one-half of the balance in the fund, to the local taxpayer relief
1118 aid trust fund established by section 14.

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Section 10. Gaming Operating Licensing Payment Trust Fund

- (a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the gaming operating license payment trust fund, in this section called the operating licensing payment fund. The operating licensing payment fund shall consist of all operating licensing payments received in consideration of the award of licenses under section 6, and all other monies credited or transferred to the fund from any other fund or source pursuant to law.
- (b) The secretary of administration and finance shall be the trustee of the license proceeds fund, and shall transfer monies in the fund, without further appropriation, as of June 30 of each fiscal year, only as follows and in the following order:
 - (1) to the host community mitigation trust fund established by section 11, an amount that is 2 percent of all operating licensing payments made to the operating licensing payment fund under this section;
 - (2) to the regional community mitigation trust fund established by section 12, an amount that is 1 percent of all operating licensing payments made to the operating licensing payment fund under this section;
 - (3) to the public health trust fund established by section 13, an amount that is 2.5 percent of all operating licensing payments made to the operating licensing payment fund under this section, but in no event more than \$45,000,000 in any fiscal year;
 - (4) to the public safety trust fund established by section 14, an amount that is 0.5 percent of all operating licensing payments made to the operating licensing payment fund under this section;

- 1142 (5) to the tourism promotion trust fund established by section 15, an amount that is 0.5
1143 percent of all operating licensing payments made to the operating licensing payment
1144 fund under this section;
- 1145 (6) to the live racing industry preservation trust fund established by section 16, an amount
1146 that is 1 percent of all operating licensing payments made to the operating licensing
1147 payment fund under this section, but in no event more than \$20,000,000 in any
1148 fiscal year;
- 1149 (7) to the fund any reduction in local aid payments made by the state lottery, an
1150 amount that is the difference between the average of the total amounts funded to
1151 local cities and towns in the three fiscal years prior to enactment of this Act,
1152 adjusted in each fiscal year after fiscal year 2009 by the average increase for the
1153 above period, and the total amount local aid payments made by the state lottery in
1154 the current fiscal year if less than that adjusted average amount;
- 1155 (8) half of the remaining balance in the fund, to the general fund;
- 1156 (9) the remaining balance in the fund, to the local taxpayer relief aid trust fund
1157 established by section 17.

1158

1159 Section 11. Host Community Mitigation Trust Fund

- 1160 (a) There shall be established and set up on the books of the commonwealth a separate
1161 fund, to be known as the host community mitigation trust fund, in this section called the
1162 mitigation fund. The mitigation fund shall consist of the monies transferred under
1163 sections 10, and all other monies credited or transferred to the fund from any other
1164 fund or source pursuant to law.

1165 (b) The secretary of administration and finance shall be the trustee of the mitigation fund
1166 and shall expend monies in the fund, without further appropriation, to assist the local host
1167 communities in which any resort casino facilities are located, to address any increases
1168 in police, fire, transportation, water, sewer, enforcement and prosecution costs, or other
1169 services directly related to the construction and operation of the facilities. The secretary
1170 of administration and finance may adopt regulations, after a public hearing, governing
1171 these expenditures.

1172

1173 Section 12. Regional Community Mitigation Trust Fund

1174 (a) There shall be established and set up on the books of the commonwealth a separate
1175 fund, to be known as the regional community mitigation trust fund, in this section called
1176 the mitigation fund. The mitigation fund shall consist of the monies transferred under
1177 section 10, and all other monies credited or transferred to the fund from any other
1178 fund or source pursuant to law.

1179 (b) The secretary of administration and finance shall be the trustee of the mitigation fund
1180 and shall expend monies in the fund, without further appropriation, to assist the local host
1181 community, cities, towns (other than the specific municipalities in which any resort
1182 casino facilities are located, which shall be eligible for funds from the host
1183 community mitigation fund under section 11) and district attorneys in the vicinity of
1184 resort casino facilities, to address any increases in police, fire, transportation, water,
1185 sewer, enforcement and prosecution costs, or other services directly related to the
1186 construction and operation of the facilities; provided, however, that the authority shall
1187 determine which towns and cities will be affected by construction and operation of

1188 the facilities. The secretary of administration and finance may adopt regulations, after a
1189 public hearing, governing these expenditures.

1190

1191 Section 13. Public Health Trust Fund

1192 (a) There shall be established and set up on the books of the commonwealth a separate
1193 fund, to be known as the public health trust fund, in this section called the public
1194 health fund. The public health fund shall consist of the monies transferred under section
1195 10, and all other monies credited or transferred to the public health fund from any other
1196 fund or source pursuant to law.

1197 (b) The secretary of health and human services shall be the trustee of the public health
1198 fund and shall expend monies in the fund, without further appropriation but subject to
1199 approval of an annual spending plan by the secretary of administration and finance, to
1200 meet increased demand for social service and public health programs resulting from
1201 gaming, including but not limited to gambling prevention and new substance abuse and
1202 addiction services, services to address other problems such as domestic violence and child
1203 welfare services, an educational campaign to mitigate the potential addictive nature of
1204 gambling, and on an annual basis, a comprehensive study and evaluation system to
1205 ensure proper and most effective mitigation of any negative public health costs. The
1206 secretary of health and human services may adopt regulations, after a public hearing,
1207 governing these expenditures.

1208

1209 Section 14. Public Safety Trust Fund

1210 (a) There shall be established and set up on the books of the commonwealth a separate
1211 fund, to be known as the public safety trust fund, in this section called the public safety
1212 fund. The public safety fund shall consist of the monies transferred under section 10,
1213 and all other monies credited or transferred to the fund from any other fund or source
1214 pursuant to law.

1215 (b) The commissioner of public safety shall be the trustee of the public safety fund and
1216 shall expend monies in the fund, without further appropriation, to address any
1217 increases in police, fire, enforcement and prosecution costs, or other services directly
1218 related to the operation of the facilities. The commissioner of public safety may adopt
1219 regulations, after a public hearing, governing these expenditures.

1220

1221 Section 15. Tourism Promotion Trust Fund

1222 (a) There shall be established and set up on the books of the commonwealth a separate
1223 fund, to be known as the tourism promotion trust fund, in this section called the tourism
1224 fund. The tourism fund shall consist of the monies transferred under section 10, and
1225 all other monies credited or transferred to the fund from any other fund or source
1226 pursuant to law.

1227 (b) The secretary of housing and economic development shall be the trustee of the
1228 tourism fund and shall expend monies in the fund, without further appropriation, to assist
1229 with the promotion of tourism in the commonwealth. The secretary of housing and
1230 economic development may adopt regulations, after a public hearing, governing these
1231 expenditures.

1232

1233 Section 16. Live Racing Industry Preservation Trust Fund

1234 (a) There shall be established and set up on the books of the commonwealth a separate
1235 fund, to be known as the live racing industry preservation trust fund, in this section called
1236 the live racing fund. The live racing fund shall consist of the monies transferred under
1237 section 10, and all other monies credited or transferred to the fund from any other
1238 fund or source pursuant to law.

1239 (b) The secretary of housing and economic development shall be the trustee of the live
1240 racing fund and shall expend monies in the fund, without further appropriation, to assist
1241 with the promotion and preservation of the live racing industry in the commonwealth,
1242 including by making payments to the purse accounts of racing facilities licensed
1243 pursuant to Chapter 128A and to Massachusetts based breeders associations. The
1244 secretary of housing and economic development may adopt regulations, after a public
1245 hearing, governing these expenditures.

1246

1247 Section 17. Local Taxpayer Relief Aid Trust Fund

1248 (a) There shall be established and set up on the books of the commonwealth a separate
1249 fund, to be known as the local taxpayer relief aid trust fund, in this section called the
1250 local taxpayer relief aid fund. The local taxpayer relief aid fund shall consist of the
1251 monies transferred under sections 9 and sections 10 of this act, and all other monies
1252 credited or transferred to the local taxpayer relief aid fund from any other fund or
1253 source pursuant to law.

1254 (b) The secretary of administration and finance shall be the trustee of the local taxpayer
1255 relief aid fund and shall allocate monies in the fund to municipalities, without further

1256 appropriation, to supplement local aid payments otherwise made by the
1257 commonwealth pursuant to section 18C of chapter 58.

1258

1259 Section 18. Division of Gaming Investigation and Enforcement

1260 (a) There is hereby established in the department of the attorney general a division of
1261 gaming investigation and enforcement. The attorney general shall designate an
1262 assistant attorney general as director of the division. The director of the division may
1263 appoint and remove, subject to the approval of the attorney general, such expert, clerical
1264 or other assistants as the work of the division may require. The attorney general may
1265 purchase any necessary equipment for the purpose of conducting an investigation.
1266 Subject to the approval of the secretary of public safety and security, the colonel of
1267 the state police shall assign such supervisory and investigative personnel and other
1268 resources to the division as may be necessary to fulfill its obligations under this chapter.

1269 The powers and duties of the division shall be as follows:

- 1270 (1) investigate allegations of crimes committed on the premises, crimes involving or
1271 impacting the operation of the casino or games, and violations of this chapter;
- 1272 (2) be on the premises at any time that it deems appropriate and inspect and examine
1273 all operations, books, records, and any other documents;
- 1274 (3) inspect all gaming devices and equipment used or to be used in a resort casino at
1275 any time it deems appropriate;
- 1276 (4) have access to all records of the authority;
- 1277 (5) investigate all applications, certificates and permits issued pursuant to the
1278 provisions of this chapter;

- 1279 (6) conduct all background checks on applicants for employment by the authority and
1280 any gaming establishment in a resort casino and applicants for licensure, including
1281 obtaining criminal record information, and share such information as necessary
1282 with the authority; provided that such background checks shall be conducted by the
1283 state police unit assigned to the division;
- 1284 (7) conduct audits of casino operations at such times, under such circumstances, and to
1285 such extent as the director shall determine, including reviews of accounting,
1286 administrative and financial records, and management control systems, procedures
1287 and records utilized by a casino licensee;
- 1288 (8) receive and take appropriate action on any referral from the authority relating to any
1289 evidence of a violation of this chapter or the regulations adopted thereunder;
- 1290 (9) initiate, prosecute, intervene and defend proceedings before the authority, or
1291 appeals therefrom, as the division may deem appropriate;
- 1292 (10) investigate and enforce the provisions of this chapter and any regulations adopted
1293 hereunder or any gaming related statutes, rules or regulations adopted by any
1294 agency, department, board, commission, division or authority of the commonwealth
1295 or any political subdivision thereof that is involved in controlled gaming pursuant to
1296 this chapter, and prosecute all proceedings for violations of this chapter or any
1297 regulations adopted hereunder;
- 1298 (11) be entitled to request and receive information, materials and any other data from
1299 any licensee or registrant, or applicant for a license or registration under this chapter;
- 1300 (12) ensure that there is no duplication of duties and responsibilities between it and the
1301 authority; and

1302 (13) report to the attorney general recommendations that promote more efficient
1303 operations of the division.

1304 (b) The division shall be compensated for its duties through the assessment pursuant to
1305 section 6. The attorney general shall submit a budget to the authority by January first
1306 for an annual appropriation, and the authority shall make such appropriation to the
1307 division by July first of each year.

1308

1309 Section 19. Penalties for Licensing and Gaming Violations

1310 (a) Willful evasion of license fees; other acts and omissions.

1311 (1) any person who willfully fails to report, pay, or truthfully account for and pay over
1312 any license fee or tax imposed by the provisions of this chapter or by the
1313 regulations adopted by the authority, or willfully attempts in any manner to evade or
1314 defeat any such license fee, tax, or payment thereof shall be punished by
1315 imprisonment in state prison for not more than 5 years or in a house of correction
1316 for not more than 2 and one-half years, or a fine of not more than \$100,000, or both,
1317 and in the case of a person other than a natural person, the amount of a fine may be
1318 up to \$5,000,000.

1319 (2) any person who willfully resists, prevents, impedes, interferes with, or makes any
1320 false, fictitious, or fraudulent statement or representation to the authority or to the
1321 division or to their agents or employees in the performance of duties pursuant to this
1322 chapter shall be punished by imprisonment in state prison for not more than 5 years or
1323 in a house of correction for not more than 2 years and one-half years, or a fine of not
1324 more than \$25,000, or both.

1325 (b) Unlicensed gaming unlawful.

1326 (1) any person who conducts or operates, or permits to be conducted or operated, any
1327 game, electronic gaming device, or gaming equipment in violation of the licensing
1328 provisions of this chapter or the regulations adopted by the authority shall be
1329 punished by imprisonment in state prison for not more than 5 years or imprisonment in
1330 a house of correction for not more than 2 and one-half years, or a fine of not more than
1331 \$25,000, or both such fine and imprisonment, and in the case of a person other than
1332 a natural person, the amount of a fine may be up to \$100,000.

1333 (2) any licensee who, without the permission of the authority, (1) places controlled
1334 games, electronic gaming devices, or gaming equipment into play or displays such
1335 controlled games, electronic gaming devices, or gaming equipment in a casino or
1336 gaming establishment or (2) receives, directly or indirectly, any compensation or
1337 reward or any percentage or share of the revenue, for keeping, running, or carrying
1338 on any controlled game, or owning the real property or location in which any
1339 controlled game occurs, shall be punished by imprisonment in a house of correction
1340 for not more than 2 and one-half years, or a fine of not more than \$25,000, or both,
1341 and in the case of a person other than a natural person, the amount of a fine may be
1342 up to \$100,000.

1343 (3) any person who conducts or operates any controlled game, electronic gaming device,
1344 or gaming equipment after his license has expired and prior to the actual renewal
1345 thereof shall be punished by imprisonment in a house of correction for not more
1346 than 1 and one-half years, or a fine of not more than \$25,000, or both, and in the

1347 case of a person other than a natural person, the amount of a fine may be up to
1348 \$100,000.

1349 (c) Swindling and cheating.

1350 (1) In addition to the provisions of section 75 of chapter 266, a person is guilty of
1351 swindling and cheating if the person purposely or knowingly by any trick or sleight
1352 of hand performance or by a fraud or fraudulent scheme, cards, dice, or other gaming
1353 equipment, for himself or for another, wins or attempts to win money or property,
1354 or a representative of either, or reduces a losing wager or attempts to reduce a losing
1355 wager in connection to controlled gaming.

1356 The penalties for swindling and cheating offenses shall be as follows:

1357 (i) any person who swindles or cheats where the amount involved is \$75,000 or
1358 more shall be punished by imprisonment in state prison for not more than 10
1359 years, or a fine of not more than \$1,000,000, or both.

1360 (ii) any person who swindles or cheats where the amount involved is \$10,000 or
1361 more and less than \$75,000 shall be punished by imprisonment in state prison for
1362 not more than 5 years, or a fine of not more than \$500,000, or both.

1363 (iii) any person who swindles or cheats where the amount involved is \$1,000 or
1364 more and less than \$10,000 shall be punished by imprisonment in state prison
1365 for not more than 3 years or imprisonment in a house of correction for not
1366 more than 2 and one-half years, or a fine of not more than \$100,000, or both
1367 such fine and imprisonment.

1368 (iv) any person who swindles or cheats where the amount involved is less than
1369 \$1,000 shall be punished by imprisonment in a house of correction for not
1370 more than 2 and one-half years, or by a fine of not more than \$10,000, or both.

1371 (d) Each episode or transaction of swindling or cheating may be the subject of a separate
1372 prosecution and conviction. In the discretion of the prosecutor, multiple episodes or
1373 transactions of swindling and cheating committed as part of a single scheme or course
1374 of conduct may be treated as a single offense, and the amounts involved in acts of
1375 swindling and cheating committed pursuant to a scheme or course of conduct, whether
1376 by the same person or several persons, may be aggregated in determining the amount
1377 involved in the offense.

1378 (e) Unlawful use or possession of devices to obtain an advantage.

1379 (1) Any person who in playing, conducting or operating a game in a licensed casino or
1380 gaming establishment, uses or assists another in the use of (1) a computerized,
1381 electronic, electrical, or mechanical device, which is designed, constructed, or
1382 programmed specifically for use in obtaining an advantage in any game in a licensed
1383 casino or gaming establishment or (2) any other cheating or thieving device, including,
1384 but not limited to, bogus or counterfeit chips, coins or dice; coins or tokens attached
1385 to strings or wires; marked cards; electronic or magnetic devices; or tools, drills,
1386 wires, keys, or devices designed for the purpose of and suitable for opening,
1387 entering, or affecting the operation of any gaming equipment, or for removing
1388 money or other contents therefrom, shall be punished by imprisonment in state
1389 prison for not more than 5 years or imprisonment in a house of correction for not

1390 more than 2 and one-half years, or a fine of not more than \$25,000, or both such
1391 fine and imprisonment.

1392 (2) Any person who possesses any computerized, electronic, electrical, or mechanical
1393 device or other cheating or thieving device described in subsection (1) with the
1394 intent to defraud, cheat, or swindle shall be punished by imprisonment in a house
1395 of correction for not more than 2 and one-half years, or a fine of not more than
1396 \$10,000, or both. Possession of any computerized, electronic, electrical, or
1397 mechanical device or other cheating or thieving device described in subsection (1)
1398 within a casino or gaming establishment shall constitute prima facie evidence of
1399 an intent to defraud, cheat or swindle, except that possession by any licensee, or
1400 employee of a licensee, acting in furtherance of his employment within a licensed
1401 casino or gaming establishment shall not constitute such prima facie evidence.

1402 (3) Any cheating or thieving device used or possessed in violation of this section shall
1403 be subject to seizure and forfeiture by the division.

1404 (f) Unlawful operation of cheating games and devices by a licensee or employee;
1405 penalties.

1406 (1) It shall be unlawful for any licensee or employee to:

1407 (i) knowingly conduct or operate, or allow to be conducted or operated, any
1408 cheating or thieving game or device; or

1409 (ii) knowingly conduct or operate or expose for play any game or games played with
1410 cards, dice, or any electronic or mechanical device, or any combination of
1411 games or devices, which have in any manner been marked or tampered with, or
1412 placed in a condition, or operated in a manner, the result of which tends to

1413 deceive the public or tends to alter the normal random selection of
1414 characteristics or the normal chance of the game or to alter the result of the
1415 game.

1416 (2) Any person who violates this section shall be punished by imprisonment in state
1417 prison for not more than 5 years or imprisonment in a house of correction for not
1418 more than 2 and one-half years, or a fine of not more than \$25,000, or both such fine
1419 and imprisonment, and in the case of a person other than a natural person, the amount
1420 of a fine may be up to \$100,000.

1421 (3) Any cheating or thieving game or device used in violation of this section shall be
1422 subject to seizure and forfeiture by the division.

1423 (g) Unlawful manufacture, distribution, sale, or service of gaming equipment; penalties.

1424 (1) Any person who manufactures, distributes, sells, or services any gaming
1425 equipment in violation of the provisions of this chapter or the regulations adopted by
1426 the authority for the purposes of defrauding, cheating, or swindling any person
1427 playing, operating, or conducting a controlled game at a casino or gaming
1428 establishment shall be punished by imprisonment in state prison for not more than 5
1429 years or imprisonment in a house of correction for not more than 2 and one-half
1430 years, or a fine of not more than \$25,000, or both such fine and imprisonment.

1431 (2) Any such unlawfully manufactured, distributed, sold, or serviced gaming
1432 equipment shall be subject to seizure and forfeiture by the division.

1433 (h) Employment without license or registration; penalties.

1434 (1) Any person who, without obtaining the requisite license or registration as provided
1435 in this chapter, works or is employed in a position whose duties would require

1436 licensing or registration under the provisions of this chapter shall be punished by
1437 imprisonment in a house of correction for not more than 6 months, or a fine of not
1438 more than \$10,000, or both.

1439 (2) Any person who employs or continues to employ an individual not duly licensed
1440 or registered under the provisions of this chapter in a position whose duties require
1441 a license or registration under the provisions of this chapter shall be punished by
1442 imprisonment in a house of correction for not more than 6 months, or a fine of not
1443 more than \$10,000, or both, and in the case of a person other than a natural person,
1444 the amount of a fine may be up to \$100,000.

1445 (i) Gaming by certain persons prohibited; penalties.

1446 (1) Any person under the age of 21 who plays, places wagers at, or collects winnings
1447 from, whether personally or through an agent, any controlled game shall be
1448 punished by imprisonment in a house of correction for not more than 6 months, or a
1449 fine of not more than \$1,000, or both.

1450 (2) Any licensee or employee who knowingly allows a person under the age of 21 to
1451 play, place wagers at, or collect winnings, whether personally or through an agent,
1452 shall be punished by imprisonment in a house of correction for not more than 1 year,
1453 or a fine of not more than \$10,000, or both, and in the case of a person other than a
1454 natural person, the amount of a fine may be up to \$500,000. A subsequent
1455 violation of this section shall subject the licensee or employee to imprisonment in
1456 a house of correction for not more than 2 years, or a fine of not more than \$50,000, or
1457 both, and in the case of a person other than a natural person, the amount of a fine
1458 may be up to \$1,000,000.

1459 (j) Placing, sending, transmitting, relaying wagers to another person prohibited under
1460 certain circumstances; penalties.

1461 Any person who, except in accordance with section 5C of chapter 128A, knowingly transmits
1462 or receives a wager of any type by any telecommunication device, including telephone, cellular
1463 phone, Internet, local area network, including wireless local networks, or any other similar device or
1464 equipment or other medium of communication, or knowingly installs or maintains said device or
1465 equipment for the transmission or receipt of wagering information shall be punished by imprisonment
1466 in a house of correction for not more than 2 years, or a fine of not more than \$25,000, or both.

1467 This section shall apply to any person who, from within this commonwealth, transmits a
1468 wager to, or receives a wager from, another person or gaming establishment within or outside of this
1469 commonwealth and any person who, from outside this commonwealth, transmits a wager to, or
1470 receives a wager from, another person or gaming establishment within this commonwealth.

1471 This section shall not apply to the use of a local area network as a means to place authorized
1472 wagers in a licensed gaming establishment, or use of said devices or equipment by the authority in its
1473 duties in regulating, enforcing, or auditing a licensed gaming operator.

1474 (k) Post employment restrictions; penalties.

1475 Any person who knowingly violates any of the provisions contained in subsection (a) or
1476 subsection (c) of section 4 shall be punished by imprisonment in state prison for not more than 5 years
1477 or in a house of correction for not more than 2 and one-half years, or a fine of not more than
1478 \$100,000, or both.

1479

1480 Section 20. Withholdings from Winnings for Child Support and Tax Payments

1481 Prior to disbursement of gambling winnings in excess of \$600, all licensed casinos shall
1482 review information furnished by the IV-D agency, as set forth in chapter 119A, and the
1483 department of revenue to ascertain whether the individual collecting such winnings owes past-
1484 due child support to the commonwealth or to an individual to whom the IV-D agency is
1485 providing services, and to ascertain whether the individual owes any past-due tax liability to the
1486 commonwealth. If the individual owes past-due child support or a past-due tax liability, after
1487 withholding state and federal taxes pursuant to this section, the casino shall first disburse to the IV-D
1488 agency the full amount of the winnings or such portion of the winnings that satisfies the
1489 individual's past-due child support obligation and, if funds remain available after that
1490 disbursement, the casino shall disburse to the department of revenue the full amount of the
1491 winnings or such portion of the winnings that satisfies the individual's past-due tax liability, and
1492 the casino shall notify the IV-D agency or the department of revenue, respectively, of the
1493 individual's name, address, and social security number. The casino shall disburse to the individual
1494 only that portion of the winnings, if any, remaining after the individual's past-due child support
1495 obligation and the individual's past-due tax liability have been satisfied.

1496

1497 Section 21. Other Tax Benefits Unavailable to Resort Casinos

1498 A casino or business located on casino property cannot be a certified project within the
1499 meaning of section 3F of chapter 23 A. Resort casinos may not be designated an economic
1500 opportunity area within the meaning of section 3E of chapter 23 A. Resort casinos are not eligible
1501 for tax increment financing as set forth in section 59 of chapter 40 or special tax assessments set forth
1502 in section 3E of chapter 23 A. Resort casinos may not be classified and taxed as recreational land
1503 under the provisions of chapter 61B. Resort casinos may not be designated as a development district

1504 within the meaning of chapter 40Q. Unless otherwise provided, a resort casino or any business
1505 located or to be located within a resort casino is not eligible for the following credits or deductions
1506 listed in chapter 62 or chapter 63: the investment tax credit under section 31A of chapter 63, the
1507 employment credit under section 31C of chapter 63, the van pool credit under section 31E of chapter
1508 63, the deduction for expenditures for industrial waste treatment or air pollution control under section
1509 38D of chapter 63, the deduction for compensation paid to an eligible business facility's employees
1510 domiciled in a section of substantial poverty under section 38F of chapter 63, the alternative energy
1511 sources deduction under section 38H of chapter 63, the research expense credit under section 38M of
1512 chapter 63, the economic opportunity area credit under section 6(g) of chapter 62, and section 38N of
1513 chapter 63, the abandoned building deduction under section 3B(a)(10) of chapter 62, and section 38O
1514 of chapter 63, the harbor maintenance tax credit under section 38P of chapter 63, the brownfields
1515 credit under section 6(j) of chapter 62, and section 38Q of chapter 63, the historic rehabilitation tax
1516 credit under section 6J of chapter 62 and section 38R of chapter 63, the automatic sprinkler system
1517 depreciation deduction under section 38S of chapter 63, and the credit for a solar water heating
1518 system under section 38T of chapter 63.

1519

1520 Section 22. Economic Assistance to Racing Licensees Not Obtaining Licenses

1521 Notwithstanding any general or special law to the contrary, any race track licensed in
1522 accordance with section 3 of chapter 128A that is not selected for a casino license under this Act
1523 and that is no longer conducting racing meetings in accordance with chapter 128A or accepting
1524 paramutuel wagers in accordance with chapter 128C, shall automatically be:

1525 (a) designated as an economic opportunity area within the meaning of section 3E of
1526 chapter 23A,

1527 (b) eligible for infrastructure financing for the purpose of stimulating economic
1528 development pursuant to:

1529 (i) the Public Works Economic Development (PWED) Program, as regulated by
1530 7.01 CMR 5.00 et seq.;

1531 (ii) the Infrastructure Investment Incentive (I-Cubed) program, as established by
1532 St. 2006, c. 293 §§ 5 - 12, as amended by St. 2008, c. 129; and

1533 (c) granted a property tax exemption of up to 100% of the tax increment, as authorized by
1534 section 59 of chapter 40, for any added value of new construction, rehabilitation or new
1535 equipment or machinery.

1536 Employees displaced by the termination of racing meetings at any such race track will
1537 receive reasonable priority job placement opportunities at any resort casino licensed under this
1538 Act during the two years immediately following said termination, and shall automatically be
1539 eligible for all state job training and education programs.

1540 The host municipality of said site, and if two or more municipalities host said site, then all
1541 such host municipalities, shall automatically:

1542 (a) qualify for a grant of not less than \$1,000,000, pursuant to the Community
1543 Development Action Grant (CDAG) program, to support activities including but not
1544 limited to workforce housing development, streetscape upgrades, publicly-owned
1545 infrastructure rehabilitation and construction, and local utility improvements; and

1546 (b) receive certification from the State Economic Assistance Coordinating Council to
1547 utilize tax increment District Improvement Financing (DIF), as authorized by chapter
1548 40Q, for activities including but not limited to acquiring land, reconstructing
1549 improvements, and incurring indebtedness to finance development projects.

1550

1551 **SECTION 7.** Subsection (d)(1) of section 2 of chapter 62, as appearing in the 2006 Official
1552 Edition, is hereby amended by inserting after paragraph (P) the following paragraph:-

1553 (Q) Any deduction for losses from wagering transactions allowed by section 165 of the
1554 Code.

1555

1556 **SECTION 8.** Subsection (k) of section 6 of chapter 62, as appearing in the 2006 Official Edition, is
1557 hereby amended by inserting after subsection (9) the following subsection :-

1558 (10) A person who is otherwise eligible to claim the credit under subsection (m) of this
1559 section may elect the credit available under this subsection or under subsection (m), but not both.