

SENATE No. 232

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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

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

An Act encouraging small business growth in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Barbara L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

SENATE No. 232

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 232) of Karen E. Spilka, Josh S. Cutler, Jason M. Lewis, Michael F. Rush and other members of the General Court for legislation to encourage small business growth in the Commonwealth. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act encouraging small business growth in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 402 of chapter 110A of the General Laws is hereby amended by
2 striking out clause (13) of subsection (b) and inserting after clause (12) of subsection (b) the
3 following two clauses:

4 (13) any offer or sale of a security meeting all of the following requirements:

5 (A) The issuer is a business entity: (i) incorporated in the commonwealth; (ii) having its
6 principle place of business in the commonwealth; and (iii) authorized to do business in the
7 commonwealth;

8 (B) The issuer shall not be, either before or as a result of the offering, an investment
9 company as defined by 15 U.S.C. § 80a-3 or subject to the reporting requirements of the
10 Securities Exchange Act of 1934;

11 (C) The offering is sold only to residents of the commonwealth in compliance with §
12 3(a)(11) of the Securities Act of 1933 and 17 C.F.R. section 230.147;

13 (D) All securities sold in reliance of this exemption by a single issuer shall not exceed
14 \$1,000,000 within any 12-month period; provided however, that an offer or sale to an officer,
15 director, partner, trustee, person owning at least 10 percent of outstanding shares of the issuer, or
16 individual occupying similar status with respect to the issuer shall not be subject to this
17 limitation;

18 (E) Only accredited investors as defined by 17 C.F.R. section 230.501 may purchase over
19 \$5000 in securities sold in reliance of this exemption within any 12-month period;

20 (F) Commissions or other remunerations shall only be paid, directly or indirectly, for
21 participation in an offer or sale of securities under this item to registered broker-dealers or agents
22 under this chapter;

23 (G) The issuer shall place all funds received from investors in a bank or depository
24 institution authorized to do business in this commonwealth until the minimum offering amount is
25 reached; provided however, if the minimum offering amount is not met within one year of the
26 effective date of the offering, the issuer must return all funds to investors;

27 (H) The issuer must file a notice with the secretary not less than 10 days before the
28 offering commences or within 15 days after the first sale of a security in reliance on this
29 exemption specifying that the issuer is conducting an offering in reliance of this exemption and
30 providing the names and addresses of: (i) Officers, directors, and any control persons of the
31 issuer; (ii) All persons who will be involved in the offer or sale of securities on behalf of the

32 issuer; and (iii) The bank or depository institution in which the issuer will deposit investment
33 funds.

34 (I) The issuer shall inform all prospective purchasers of securities offered under this
35 exemption that the securities are not registered under federal or state securities law and,
36 therefore, cannot be resold;

37 (J) The issuer shall disclose to each prospective purchaser all of the following: (i) A
38 description of the company, the address and telephone number of its principal office, and the
39 intended use of the offering proceeds; (ii) The identity of all persons owning more than ten
40 percent of the ownership interests of any class of securities of the company; (iii) The identity of
41 the executive officers, directors, managing members, and other persons occupying a similar
42 status or performing similar functions in the name of and on behalf of the issuer; (iv) The
43 identity of any person who has been or will be retained by the issuer to assist the issuer in
44 conducting the offering and sale of the securities, including any Internet web site operator but
45 excluding persons acting solely as accountants or attorneys and employees whose primary job
46 responsibilities involve the operating business of the issuer rather than assisting the issuer in
47 raising capital; (v) The names and addresses of each Internet web site that will be used by the
48 issuer to offer or sell securities under this exemption; and (ix) Any additional information
49 material to the offering, including, if appropriate, a discussion of significant factors that make the
50 offering speculative or risky.

51 (14) any other transaction that the secretary by rule or order may exempt, conditionally or
52 unconditionally, on a finding that registration is not necessary or appropriate in the public
53 interest or for the protection of investors.

54 SECTION 2. The secretary shall make an annual report to be filed with the clerks of the
55 house of representative and senate, the house and senate committees on ways and means, and the
56 joint committee on financial services, not later than January 1 of each year on the effects the
57 (b)(13) exemption including, but not limited to, the number of issuers who have offered
58 securities in reliance on the exemption, the number of investors who have purchased securities in
59 reliance on the exemption, and the total amount of money given by investors who have
60 purchased securities in reliance of the exemption.