

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas A. Golden, Jr.

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 making the deposit of public monies uniform.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas A. Golden, Jr.	16th Middlesex
Denise Provost	27th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 964 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT MAKING THE DEPOSIT OF PUBLIC MONIES UNIFORM.

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

AN ACT MAKING THE DEPOSIT OF PUBLIC MONIES UNIFORM.

1

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

4

5 SECTION 1.

6 Section 22 of Chapter 35 is hereby amended by striking the section and inserting in place thereof
7 the following section:

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9 Section 22. Except as otherwise provided, county treasurers, clerks of the courts, clerks of
10 the district courts, sheriffs and superintendents of jails and houses of correction, probation
11 officers, registers of probate and insolvency and register of deeds, having more money in their
12 hands than is required for immediate use, shall deposit it, in their official names, in national
13 banks, trust companies, savings banks, co-operative banks, federal savings banks or banking
14 companies, lawfully doing business in the Commonwealth and qualified to receive demand
15 deposits under the provisions of section six A of chapter one hundred and seventy-two A, at the
16 best practicable interest rates. County treasurers may also deposit in time deposits in such

17 national banks, trust companies, savings banks, co-operative banks, federal savings banks or
18 banking companies, and invest in United State treasury bills. Interest thereon shall be paid to the
19 county, except that interest accruing to deposits by registers of probate and clerks of courts shall
20 be paid to the Commonwealth; provided, that interest accruing on the deposit as aforesaid of any
21 money paid to any official mentions in this section which is so paid under order of a court or
22 which is otherwise subject to the direction of a court shall, if the court so directs, be paid to the
23 parties entitled to the principal fund of such deposit.

24 SECTION 2:

25 Section 4 of chapter 40G of the General Laws is hereby amended by striking the section and
26 inserting in place thereof the following section:

27 Section 4. There is hereby established an investment fund to which shall be credited
28 any state appropriations or other moneys made available to the fund.

29 The corporation shall hold the investment fund in an account or accounts separate from other
30 funds. The corporation shall invest and reinvest the fund and the income thereof, in only two
31 ways: (1) in the purchase of qualified securities issued by enterprises for the purpose of raising
32 seed capital, provided that such investment complies with the requirements of this chapter and
33 the board makes the findings in connection with such investment required by this section 5; and
34 (2) in the purchase of such securities as may be lawful investments for fiduciaries in the
35 commonwealth. All appropriations, grants, contractual reimbursements and all other funds
36 designated for this purpose, and the proceeds of all investments made pursuant to the preceding
37 sentence, may be used to pay for the proper general expenses of the MTDC.

38 Unless otherwise specified, all moneys of the MTDC from whatever source derived shall be
39 paid to the treasurer of the MTDC. Said moneys shall be deposited in the first instance by the
40 treasurer in one or more national banks, trust companies, savings banks, cooperative banks,
41 federal savings banks or banking companies in compliance with section 34 of chapter 29. Funds
42 in said accounts shall be paid out on the warrant or other order of the treasurer of the MTDC or
43 of such other person or persons as the board may authorize to execute such warrants or orders.

44 The corporation shall purchase qualified securities issued by an enterprise only after (a) receipt
45 of an application from the enterprise which contains a business plan including a description of
46 the enterprise and its management, product and market, a statement of the amount, timing and
47 projected use of the capital required, a statement of the potential economic impact of the
48 enterprise, including the number, location and types of jobs expected to be created, and such
49 other information as the board shall request, and (b) approval of the investment by the board
50 after the board shall find, based upon the application submitted by the enterprise and such
51 additional investigation as the staff of the MTDC shall make, and incorporate in its minutes that:

52 (1) the proceeds of the investment will only be used to cover the seed capital needs of the
53 enterprise except as hereinafter authorized;

54 (2) the enterprise has a reasonable chance of success;

55 (3) MTDC participation is necessary to the success of the enterprise because funding for the
56 enterprise is unavailable in the traditional capital markets, or because funding has been offered
57 on terms that would substantially hinder the success of the enterprise;

58 (4) the enterprise has the reasonable potential to create a substantial amount of primary
59 employment within the commonwealth;

60 (5) the entrepreneur and other founders of the enterprise have already made or are prepared to
61 make a substantial financial and time commitment to the enterprise;

62 (6) the securities to be purchased are qualified securities;

63 (7) there is a reasonable possibility that the MTDC will recoup at least its initial investment;
64 and

65 (8) binding commitments have been made to the MTDC by the enterprise for adequate
66 reporting of financial data to the MTDC, which shall include a requirement for an annual or
67 other periodic audit of the books of the enterprise, and for such control on the part of the MTDC
68 as the board shall consider prudent over the management of the enterprise, so as to protect the
69 investment of the MTDC, including, in the discretion of the board and without limitation, right of
70 access to financial and other records of the enterprise.

71 If the MTDC makes a direct investment, the board shall also find that:

72 (9) a reasonable effort has been made to find a professional investor to make an investment in
73 the enterprise as a co-venture, and that such effort was unsuccessful. Such findings when made
74 by the board shall be conclusive.

75 The corporation shall not make investments in qualified securities issued by enterprises in
76 excess of the following limits:

77 (1) Not more than \$1,000,000 shall be invested in the securities of any one enterprise, except
78 that not more than a total of \$2,000,000 may be invested in the securities of any one enterprise, if
79 the board shall find, after the initial investment by the MTDC, that additional investments in
80 such enterprise are required to protect the initial investment of the MTDC. If the additional
81 investment does not meet all the conditions set forth in clauses (1) to (9), inclusive, in the fourth
82 paragraph for initial investments, the additional investment may only be made if the board of
83 directors, after considering the purposes of this chapter, makes a good faith determination that its
84 fiduciary responsibility to protect the initial investment in an entity requires that the additional
85 investment be made. From time to time, the board of directors may adjust these limits to reflect
86 changes in annual inflation of the dollar.

87 (2) At least 50 per cent of all MTDC investments shall be made in enterprises that will:

88 (a) locate in, or provide substantial employment to residents of, economic target areas as
89 defined in section 3D of chapter 23A or municipalities that satisfy the criteria for economic
90 target areas;

91 (b) provide substantial employment opportunities to unskilled or semi-skilled individuals;

92 (c) provide substantial employment opportunities for individuals undertaking job retraining as a
93 consequence of technological change or corporate restructuring; or

94 (d) provide a service that primarily benefits residents of low and moderate income
95 communities.

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