

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Brian P. Wallace, Martin J. Walsh

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:
Joan M. Menard	First Bristol and Plymouth
Brian P. Wallace	4th Suffolk
Martin J. Walsh	13th Suffolk
Christine E. Canavan	10th Plymouth

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT ESTABLISHING AND REGULATING RESORT-STYLE ENTERTAINMENT 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 *Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide
2 forthwith for the immediate economic development and revenue needs of the commonwealth, therefore it
3 is hereby declared to be an emergency law, necessary for the immediate preservation of the public
4 convenience.

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

7

8 **SECTION 1.**

9 The general court finds and declares that:

- 10 (a) promoting the economic viability of the commonwealth is a fundamental purpose of state
11 government;
- 12 (b) growing the commonwealth's economy is the best way to make the investments in those
13 areas that will strengthen the commonwealth;
- 14 (c) the creation of resort-style entertainment complexes is an important part of an overall
15 strategy to ensure the state's economic growth;

- 16 (d) authorizing 3 resort-style entertainment complexes will result in thousands of construction
17 jobs and billions of dollars of construction-related spending in the commonwealth;
- 18 (e) once constructed, the 3 resort-style entertainment complexes will create thousands of new
19 jobs for residents of the commonwealth and offer a wide array of employment opportunities for
20 individuals with diverse educational backgrounds and skills, while enhancing the
21 commonwealth's workforce development system by creating career advancement
22 opportunities for casino employees;
- 23 (f) ensuring that the resort casinos are located in distinct markets of the state expands
24 economic development and job creation broadly throughout the whole commonwealth and
25 recognizes that the needs of regional economies must be addressed;
- 26 (g) revenue generated from resort casinos can be used to fund critical needs in the
27 commonwealth, and our cities and towns;
- 28 (h) such investment in infrastructure is an economic necessity and will facilitate economic
29 development and job creation;
- 30 (i) offsetting property tax burden, hitting middle and lower income homeowners the hardest, and
31 providing local services;
- 32 (j) retooling and modernizing the racing industry and workforce in the commonwealth is
33 critical to the success of the resort-style entertainment industry and to the state's
34 economic growth overall;
- 35 (k) addressing the social costs of gaming is an important and necessary part of any
36 comprehensive gaming plan and therefore this act provides for a high level of funding for
37 these costs and an evaluation mechanism to ensure we understand fully the impacts of
38 gaming in the commonwealth;
- 39 (l) a rigorous gaming regulatory and enforcement scheme is needed to ensure fairness and
40 integrity in the gaming industry, and therefore this act contains a detailed strategy to ensure
41 proper oversight and evaluation of resort casinos in our commonwealth;
- 42 (m) the success of gaming in this commonwealth requires public confidence and trust that
43 licensed gaming will be conducted honestly and competitively, that the resort-style
44 entertainment complexes licensed in the commonwealth will not unduly impact the quality
45 of life enjoyed by residents of the surrounding communities, and that gaming will be free
46 from criminal and corruptive elements;
- 47 (n) public confidence and trust can only be maintained by strict regulation of all persons,
48 locations, practices, associations and activities related to the operation of the resort casinos
49 licensed in the commonwealth;
- 50 (o) the resort-style entertainment complexes licensed in the commonwealth must therefore be
51 controlled to protect the public health, safety, and well being of the inhabitants of the

52 commonwealth, to foster the stability and success of gaming and to preserve the competitive
53 economy of the commonwealth;

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

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

60

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

64

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

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

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

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

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

74 (d) any lottery game conducted by the state lottery commission, in accordance with section
75 24 of chapter 10.

76 "Illegal gaming" or "unlawful gaming" shall include every act punishable under any law relative to
77 lotteries and the buying and selling of pools or registering of bets, except those acts permitted under section
78 24 of chapter 10, chapter 12B, chapter 128A, chapter 128C, and chapter 271.

79

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

83

84

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

88

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

91 **CHAPTER 12B. THE MASSACHUSETTS GAMING CONTROL AUTHORITY**

92 **Section 1. Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

147 **"Holding company"**, any corporation, firm, partnership, trust, or other entity that, directly or indirectly, owns,
148 has the power or right to control, or holds the power to vote on, all or any part of the partnership interests or
149 outstanding voting securities of a corporation or any other business entity that holds or applies for a gaming
150 license. In addition, a holding company indirectly owns, has, or holds such power or right mentioned in the

151 preceding sentence if it does so through any interest in a subsidiary or affiliate or successive subsidiaries or
152 affiliates, however many of these subsidiaries or affiliates may intervene between the holding company and
153 the corporate licensees or applicant.

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

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

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

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

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

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

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

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

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

168 "**Market**", any one of the following three market areas: Bristol County, Hampden County, Suffolk County.

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

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

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

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

180 "**Substantial party in interest**", any person holding a greater than 1 percent direct or indirect pecuniary
181 interest, whether as owner, mortgagee or otherwise, in an operating entity, premises, or any other licensee

182 or applicant; but, excluding any shareholder holding less than a 5 percent interest in a public company that is
183 a substantial party in interest.

184

185 Section 2. Establishment of the Massachusetts Gaming Control Authority

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

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

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

204 Three of the members appointed by the governor shall serve a term coterminous with that of the
205 governor. The other 3 members appointed by the governor shall serve a term of 5 years. Any person
206 appointed to fill a vacancy in the office of a member of the board shall be appointed in a like manner
207 and shall serve for only the unexpired term of such member. Any member shall be eligible for
208 reappointment but no member shall serve more than 2 terms of 5 years each. Any member may be
209 removed from his appointment by the governor for cause. The governor shall from time to time
210 designate a member or members of the board as its chairperson or co-chairperson as applicable. Five
211 of the members shall constitute a quorum and the affirmative vote of a majority of members present
212 at a duly called meeting where a quorum is present shall be necessary for any action to be taken by
213 the board. Any action required or permitted to be taken at a meeting of the board may be taken
214 without a meeting if all of the members consent in writing to such action and such written consents
215 are filed with the records of the minutes of the meetings of the board. Such consents shall be treated
216 for all purposes as a vote at a meeting.

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

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

237 (c) The board shall have the power to appoint and employ an executive director, and to fix
238 the director's compensation and conditions of employment. The executive director
239 shall be the chief executive, administrative and operational officer of the authority and
240 shall direct and supervise administrative affairs and the general management of the
241 authority. The executive director may, subject to the general supervision of the board,
242 employ other employees, consultants, agents, including legal counsel, and advisors,
243 and shall attend meetings of the board.

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

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

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

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

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

285

286 Section 3. Powers and Duties of the Authority

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

290 (a) adopt an official seal;

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

295 (c) appoint officers and employees;

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

- 298 (e) enter into agreements or other transactions with any person, including without
299 limitation any public entity or other governmental instrumentality or authority in
300 connection with its powers and duties under this chapter;
- 301 (f) appear in its own behalf before boards, commissions, departments or other agencies of
302 municipal, state or federal government;
- 303 (g) obtain insurance;
- 304 (h) apply for and accept subventions, grants, loans, advances and contributions from any
305 source of money, property, labor or other things of value, to be held, used and applied
306 for its corporate purposes;
- 307 (i) provide and pay for such advisory services and technical assistance, including but not
308 limited to accountants, financial experts, architects, attorneys, engineers, planners,
309 real estate experts and other consultants as may be necessary in its judgment to carry
310 out the purposes of this chapter and fix their compensation;
- 311 (j) prepare, publish and distribute, with or without charge, as the authority may determine,
312 such studies, reports and bulletins and other material as the authority deems
313 appropriate;
- 314 (k) investigate and determine the percentage of population of minority groups in the
315 commonwealth or in areas thereof from which the work force for the casino is or may be
316 drawn;
- 317 (l) establish and adopt such percentages as guidelines in determining the adequacy of
318 affirmative-action programs submitted for approval pursuant to the provisions of this
319 chapter;
- 320 (m) determine the types of conduct performed by licensees or applicants for licenses. The
321 authority may approve or disapprove transactions and events as provided in this
322 chapter, approve or disapprove gaming contracts with casino licensees based on their
323 commercial reasonableness or the demonstrated capacity and experience of gaming
324 services providers to perform the requirements such contracts, take actions reasonably
325 designed to ensure that no unsuitable persons are associated with controlled gaming, and
326 take actions reasonably designed to ensure that gaming activities take place only in
327 suitable premises within licensed casinos;
- 328 (n) monitor the conduct of all licensees and other persons having a material involvement,
329 directly or indirectly, with a licensee for the purpose of ensuring that licenses are not
330 issued to, or held by, and there is no direct or indirect material involvement with a
331 licensee by unqualified, disqualified, or unsuitable persons, or persons whose
332 operations are conducted in unsuitable manner or in unsuitable or prohibited places, as
333 provided herein;
- 334 (o) annually determine the maximum number of electronic gaming devices and wagering
335 games and the types of wagering games permitted in the commonwealth and the

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

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

345 (q) determine which applicants shall be awarded casino licenses and other licenses in
346 accordance with the terms of this chapter;

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

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

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

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

377 applicants for employment by, the authority and any gaming establishment in a resort
378 casino, and evaluating licensees of, and applicants for, licensure;

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

380 (w) levy and collect fees, taxes, and fines and impose penalties and sanctions for the
381 violation of the provisions of the licensing provisions of this chapter and the
382 regulations adopted hereunder. At any time within 5 years after any amount of fees,
383 interest, penalties or tax required to be collected pursuant to the provisions of this
384 chapter shall become due and payable, the commission may bring a civil action in the
385 courts of this commonwealth or any other state or of the United States, in the name of
386 the commonwealth of Massachusetts, to collect the amount delinquent, together with
387 penalties and interest. An action may be brought whether or not the person owing the
388 amount is at such time an applicant, licensee or registrant pursuant to the provisions of
389 this act. If such action is brought in this commonwealth, a writ of attachment may be
390 issued and no bond or affidavit prior to the issuance thereof shall be required. In all
391 actions in this commonwealth, the records of the authority shall be prima facie
392 evidence of the determination of the fee or tax or the amount of the delinquency. Each
393 debt that is due and payable as a result of fees, interest, penalties, or taxes required to be
394 collected pursuant to the provisions of this chapter or the regulations adopted
395 thereunder, including any compensation authorized pursuant to this chapter, and each
396 regulatory obligation imposed as a condition upon the issuance or renewal of a license
397 which requires the licensee to maintain, as a fiduciary, a fund for a specific regulatory
398 purpose, shall constitute a lien on the real property in this commonwealth owned or
399 hereafter acquired by the applicant, licensee, or registrant owing such a debt or on whom
400 such an obligation has been imposed. Except as otherwise provided in this chapter, such a
401 lien shall be a first lien paramount to all prior or subsequent liens, claims, or
402 encumbrances on that property;

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

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

414 (z) have access to and inspect, examine, photocopy, and audit all relevant and material
415 papers, books, and records of any affiliate of a licensed gaming establishment that the
416 executive director knows or reasonably suspects is involved in the financing, operation, or
417 management of any entity licensed pursuant to this chapter, either on the affiliate's

- 418 premises or elsewhere, as practicable, in the presence of the affiliate or any agent
419 thereof;
- 420 (aa) require that the books and financial or other records or statements of any licensee be
421 kept in a manner that the authority or the bureau deems proper;
- 422 (bb) audit all relevant material papers, books, and records of an applicant for or person
423 holding any license under this chapter, on such applicant or licensee's premises or
424 elsewhere, as practicable, in the presence of the applicant or licensee or his agent;
- 425 (cc) provide access to records and cooperate with the division, including answering the
426 division's requests for documents and refer to the division any evidence of a violation of
427 this chapter or the regulations adopted thereunder;
- 428 (dd) establish licensure and work permits for employees working at the casino and
429 minimum training requirements; provided further the authority may review the
430 professional requirements of employees and update them as needed. The authority shall
431 require that all casino employees be properly trained in their respective professions.
432 The authority may recognize an employee's license from out of state gaming schools
433 if they meet the minimum requirements for the authority and may establish a process
434 for reciprocal licensing of out of state licensed casino employees;
- 435 (ee) refer to the Massachusetts commission against discrimination matters and information
436 concerning possible violations of Massachusetts law;
- 437 (ff) require the designation by a licensee of an equal employment officer to enforce the
438 provisions of this section and the regulations adopted hereunder;
- 439 (gg) ensure that there is no duplication of duties and responsibilities between it and the
440 division, provided, however, that the authority may not place any restriction upon the
441 division's ability to investigate or prosecute violations of this chapter or the regulations
442 adopted hereunder;
- 443 (hh) enforce in a court of law the provisions of this section or to join in or assist any
444 enforcement proceeding initiated by any aggrieved person;
- 445 (ii) refer any suspected criminal violation of this chapter to the division; provided,
446 however, that nothing in this subsection shall be deemed to limit the investigatory and
447 prosecutorial powers of other state and local officials and agencies;
- 448 (jj) provide technical assistance to towns, cities, and districts that are taking executive or
449 legislative actions for the purposes of this chapter;
- 450 (kk) exercise any other powers of a corporation organized under chapter 156B;
- 451 (ll) make an annual report of its finance activities, including number of licenses, fines,
452 penalties and violations and other relevant information and make recommendations for

453 improved operations of the licensed casinos to the governor and the general court by
454 March 31, for the prior calendar year; and,

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

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

461 (2) the registration and licensing of gaming services suppliers and non-gaming
462 suppliers, including regulations relating to the application process, background
463 checks, license fees, bonding requirements, the commercial reasonableness of
464 gaming contracts with casino licensees, the demonstrated capacity and experience
465 of a supplier to perform the requirements a contract, and revocations and
466 suspension of licenses;

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

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

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

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

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

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

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

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

- 488 (11) the method for collecting any fines, fees, penalties and interest imposed by the
489 authority;
- 490 (12) the method and standards of operation of gaming establishments including, but not
491 limited to, games, the type and manner of gaming, wagering limitations, odds, and
492 hours of operation; provided, however, the authority shall not restrict the number of
493 hours of operation of any gaming establishment to fewer hours than any competing
494 gaming establishment in Massachusetts;
- 495 (13) the manufacturing, distribution, sale, testing, servicing, regulation and inspection
496 of gaming equipment for use in licensed casinos, including requirements for the
497 identification and licensing of same;
- 498 (14) any limitations on mortgage security interests and agreements relating to the
499 property of licensed gaming establishments;
- 500 (15) any limitations on transfers of interests in licenses;
- 501 (16) advertising by licensed gaming establishments, including the monitoring of
502 advertising, particularly to ensure that it is not directed at minors and other
503 vulnerable populations; provided, however, licensees shall have the right to conduct
504 reasonable advertising consistent with that of competing gaming facilities, and the
505 state lottery;
- 506 (17) the manner in which winnings, compensation from games, and gaming devices
507 must be compiled and reported by the authority; provided further, that electronic
508 gaming devices shall return as winnings at a minimum 85 percent of all sums
509 wagered;
- 510 (18) standards for protection of the health, safety, and security of the public at licensed
511 gaming establishments;
- 512 (19) the procedures for renewal of all licenses awarded under this chapter;
- 513 (20) the minimum procedures to be adopted by each gaming establishment to exercise
514 effective supervisory and management control over its fiscal affairs, including the
515 requirement of an annual audit undertaken in accordance with generally accepted
516 accounting principles, and the requirement that quarterly reports be provided by
517 gaming establishments to the authority no more than 30 days after the close of each
518 quarter;
- 519 (21) the persons to be excluded or ejected from gaming establishments, including the
520 type of conduct prohibited and whether and under what conditions persons under
521 age 21 may be permitted to enter casinos; and
- 522 (22) the licensing and regulation of the central computer system provider which
523 services electronic gaming devices and on and off site auditing of electronic gaming
524 devices; provided that, the authority shall ensure that the central computer system

525 shall employ a widely accepted gaming industry protocol to facilitate slot machine
526 manufacturers' ability to communicate with the statewide system; and provided
527 further, that the central computer system provider selected by the authority shall be
528 prohibited from providing electronic gaming devices, or any other form of player
529 activated terminal, for use in connection with the central computer system.

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

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

538 Notwithstanding any other general or special law to the contrary, all files, records, reports, and
539 other information in the possession of any state or local governmental agency including tax
540 filings and related information that are relevant to an investigation by the authority conducted
541 pursuant to this chapter shall be made available by such agency to the authority as requested,
542 except that investigatory materials compiled by law enforcement out of the public view
543 whose disclosure would materially prejudice the possibility of effective law enforcement shall
544 not be subject to this requirement. Any tax or financial information received from a
545 governmental agency shall be used solely for effectuating the purposes of this chapter. To the
546 extent that these files, records, reports, or information are confidential or otherwise privileged
547 from disclosure under any law, they shall not lose that confidential or privileged status for
548 having been disclosed to the authority; provided further, that the authority shall consult with
549 the division of public records regarding the handling of this information.

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

560

561 Section 4. Restrictions on prior employment and post employment by authority employees,
562 members of the board, and executive branch employees; conflicts of interest and
563 scope of employment.

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

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

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

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

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

581 (4) All board members of the authority, all advisory committee members, all
582 employees of the authority, and the spouse of each such individual, shall file a
583 statement of financial interests for the preceding calendar year with the state ethics
584 commission. The statement of financial interests filed pursuant to this section shall
585 be on a form prescribed by the state ethics commission pursuant to chapter 268B
586 and shall be signed under penalty of perjury by the reporting person. The statement of
587 financial interests shall be filed with the state ethics commission within 30 days
588 after the individual assumed his or her responsibilities with the authority, on or
589 before May first of each year thereafter that such individual is associated with the
590 authority as a board member, advisory committee member or employee, and on or
591 before May first of the year after such individual ceases to be associated with the
592 authority; provided, however, that no statement of financial interest shall be
593 required to be filed for the year in which the individual ceased to be associated
594 with the authority if he or she served less than thirty days in such year.

595 (c) Restrictions on Post Employment.

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

601 (2) No employee of the authority may acquire any direct or indirect interest in, or
602 accept employment with, any applicant or any person licensed by or registered with

603 the authority, for a period of 3 years commencing at the termination of
604 employment with the authority.

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

608 (4) No partnership, firm or corporation in which a former authority board member or
609 employee or former division employee or agent has an interest, nor any partner,
610 officer or employee of any such partnership, firm or corporation shall make any
611 appearance or representation which is prohibited to that former member, employee, or
612 agent; provided, however, that nothing herein shall prohibit such partnership, firm
613 or corporation from making such appearance or representation on behalf of a casino
614 service industry licensed under this chapter.

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

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

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

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

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

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

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

642

643 Section 5. Provisions for Applications of Casino Licenses

644 (a) Forms of Application. Any person desiring to establish a resort casino in the
645 commonwealth shall bid for one by making an application to the authority for a casino
646 license.

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

648 (i) the name of the applicant;

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

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

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

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

666 (vi) the proposed architects and designers for the resort casino, which shall include
667 the name and addresses of the architects, engineers, and designers, and timeline
668 of construction and phases of construction;

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

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

- 674 (ix) the number of hotels, rooms per hotel and other amenities located at the
675 proposed resort casino;
- 676 (x) the number of employees to be employed at the resort casino, including detailed
677 information on the pay rate and benefits for employees, including any
678 contractors;
- 679 (xi) the total amount of investment by the applicant in the resort casino, including
680 all facilities located at the casino site and all infrastructure improvements
681 related to the project;
- 682 (xii) completed studies and reports as required by the authority, which shall include,
683 but are not limited to, an economic benefit study, both for the commonwealth
684 and region; a study of the potential impact on the host community and other
685 impacted communities; an environmental, traffic and local infrastructure
686 impact study, a study on the impact of the proposed resort casino to the local and
687 regional economy, the cost to the municipality and the state for the casino to be at
688 its proposed location, and the total amounts of municipal and state tax revenue
689 to be generated by the applicant;
- 690 (xiii) whether the applicant's casino is part of a regional or local economic plan;
- 691 (xiv) whether the applicant is partnering with a federally recognized native
692 American tribe located in the commonwealth;
- 693 (xv) whether the applicant has a contract with organized labor and has the support
694 of organized labor for its application;
- 695 (xvi) whether the applicant will be using publicly owned land for the resort casino;
- 696 (xvii) a statement that the applicant will comply, in case such a license is issued,
697 with all applicable laws and with all applicable rules and regulations prescribed
698 by the authority or any other relevant entity;
- 699 (xviii) a statement that the applicant shall mitigate the potential negative public health
700 consequences associated with gambling and the operation of a destination
701 resort casino. As part of this submission, the applicant must agree to:
- 702 (A) maintain as smoke free all indoor facilities operated by the licensee or
703 anyone working for or under contract with the licensee;
- 704 (B) provide complimentary on-site space for an independent substance abuse and
705 mental health counseling service to be selected by the commonwealth;
- 706 (C) prominently display information on the signs of problem gambling and
707 how to access assistance;

- 708 (D) describe a process for individuals to exclude their names and contact
709 information from the licensee's database or any other list held by the
710 licensee for use in marketing or promotional communications;
- 711 (E) provide to the commonwealth aggregate demographic information with
712 respect to its customers in a manner and pursuant to a schedule to be defined
713 by the commonwealth;
- 714 (F) institute other public health strategies as determined by the authority;
- 715 (xix) a detailed plan showing the levels of security and safety for its employees,
716 guests, equipment and money; and
- 717 (xx) answers to such other questions as the authority may prescribe.
- 718 (2) The authority may prescribe forms and additional information to be used in
719 making such applications.
- 720 (3) An applicant's request to receive a license under this chapter shall constitute a
721 request for a determination of the applicant's general character, integrity, and ability
722 to participate or engage in, or be associated with, gaming.
- 723 (4) Such applications shall be signed and sworn to, if made by an individual, by such
724 individual; if made by 2 or more individuals or a partnership, by 1 of such
725 individuals or by a member of such partnership; if made by a trust, by a trustee of
726 such trust; and if made by an association or corporation, by the chief executive and
727 chief financial officers thereof.
- 728 (5) The authority shall investigate the qualifications of each applicant under this
729 chapter before any license is issued.
- 730 (6) With each application, there shall be delivered to the authority a certified check or
731 bank draft, payable to the authority, of a non-refundable deposit in the amount of
732 \$350,000 for the processing, analysis and review of the application.
- 733 (b) Eligibility. No person shall be eligible to bid on a resort casino license unless the person
734 meets the following initial criteria and clearly states as part of an application that the
735 person:
- 736 (1) agrees to be a state lottery reseller for the purpose of lottery and keno games, and
737 to demonstrate that state lottery and keno games are readily accessible to its guests;
- 738 (2) shall invest no less than \$1 billion into the resort casino project, with at least
739 \$300,000,000 in investment in the project and related improvements committed in an
740 initial phase and the balance being committed over the following five years, neither of
741 which amounts shall include the purchase or lease price of the land where the casino
742 will be located;

- 743 (3) meets the licensee bonding requirement as set by the authority;
- 744 (4) has a debt to equity ratio of not more than 4:1 when the application is submitted;
- 745 (5) has ownership of land located in a market where the resort casino will be
746 constructed and that all or some portion of the land is zoned to allow gaming as-of
747 right or by special permit;
- 748 (6) shall demonstrate that it is able to pay and shall commit to paying (y) the licensing
749 fee of \$225,000,000, as established in section 6, and (z) the operating licensing
750 payments of 27 percent of all gross gaming revenues;
- 751 (7) has submitted certified copies of resolutions adopted after the effective date of this act
752 by the legislative bodies of two-thirds of the municipalities in the applicable county,
753 following recommendations from the respective chief executive municipal officials,
754 which resolutions affirm that such legislative bodies approve the establishment of a
755 resort casino within such county;
- 756 (8) shall provide for a community impact fee for the local host community;
- 757 (9) shall pay for infrastructure costs of the host and surrounding communities incurred
758 in direct relation to the construction and operation of a resort casino;
- 759 (10) shall provide to the authority a signed agreement between the host community and
760 the applicant to have a resort casino located within the host community; provided
761 that the agreement shall include the community impact fee for the local host
762 community and all stipulations of responsibilities between the local host
763 community and the applicant;
- 764 (11) shall be able to comply with state and local building codes; and
- 765 (12) shall formulate for authority approval and abide by an affirmative-action program of
766 equal opportunity whereby the applicant guarantees to provide equal employment
767 opportunities to all employees qualified for licensure in all employment categories,
768 including a person with a disability, in accordance with Massachusetts law.

769 (c) Bid Procedure for Each Market

- 770 (1) The authority shall request bids for the purpose of awarding casino licenses in
771 each market.
- 772 (2) The authority shall accept bids only from applicants who have met the initial
773 eligibility requirements pursuant to subsection (b) of this section.
- 774 (3) Before applications are received, the authority shall adopt regulations setting forth
775 criteria by which each bid shall be evaluated in each region.

- 776 (4) The bids shall be evaluated to determine which proposal provides the highest and
777 best value to the market and to the commonwealth. The criteria for determining the
778 highest and best value to each market and the commonwealth shall include, but shall
779 not be limited to, the following:
- 780 (i) the overall economic benefit to the commonwealth;
- 781 (ii) the amount of the operating licensing payment projected by the application
782 based on payment of 27 percent of gross gaming revenue;
- 783 (iii) the proposed infrastructure improvements and economic development
784 opportunities to the commonwealth, the local host community and the region
785 where the resort casino is located and the timeline for commencement and
786 completion of such improvements and opportunities;
- 787 (iv) the extent to which the applicant shall contract with Massachusetts business
788 owners for the provision of services and goods at the casino;
- 789 (v) whether, in the Bristol County market, the applicant is, or partners with, a
790 federally recognized Native American tribe situated and with governmental
791 offices in Massachusetts with land held in trust by the United States of
792 America for the use and benefit of said tribe and which land is otherwise
793 gaming eligible under the Indian Gaming Regulatory Act, that seeks and
794 agrees to accept a commercial license consistent with the terms and conditions
795 of this chapter and any regulations promulgate hereunder and waives its
796 sovereign immunity and rights under the Indian Gaming Regulatory Act, in
797 which case such applicant shall be given preference for a license in the Bristol
798 market;
- 799 (vi) the extent to which the proposed project is consistent with the
800 commonwealth's sustainable development principles. For purposes of this
801 section, consistency with these principles means at a minimum the following:
- 802 (A) the resort casino has been certified or is capable of being certified as gold
803 or higher pursuant to the U.S. Green Building Council Neighborhood
804 Development Rating System. The authority may prescribe an alternative,
805 independent, third-party rating after consultation with the secretary of the
806 executive office and energy and environmental affairs, if, for example, that
807 rating system is not in effect at the time of the license application;
- 808 (B) the resort casino's proposed buildings have been certified or are capable of
809 being certified as gold or higher pursuant to the green building rating system
810 established by Leadership in Environmental and Energy Design (LEED). The
811 authority may prescribe an alternative independent, third-party rating after
812 consultation with the secretary of the executive office of energy and
813 environmental affairs, if, for example, that rating system is not in effect at the
814 time of the license application;

- 815 (C) the electrical equipment and appliances used by the casino meet United
816 States Environmental Protection Agency efficiency standards;
- 817 (D) the casino shall procure 10 percent of its annual electricity consumption
818 from renewable sources identified by the division of energy resources
819 pursuant to section 11F of chapter 25A. This requirement may be achieved
820 through procurement of renewable energy supply, through the production
821 of on-site renewable power, and/or the purchase of renewable energy
822 certificates;
- 823 (E) should the casino develop open space land, the applicant shall purchase, or
824 impose a conservation restriction upon, open space land of equal or greater
825 size to the open space land developed by the casino. Any such conservation
826 restriction shall comply with section 32 of chapter 184; and
- 827 (F) there are alternative transportation options for patrons to access the casino
828 so that carbon emissions are minimized.
- 829 (vii) the number of permanent jobs created by the casino licensee; provided, that the
830 licensee shall create at least 5,000 new permanent jobs at the casino, or through
831 casino service providers, over a 5-year period;
- 832 (viii) whether the applicant agrees to work collaboratively with the Massachusetts
833 workforce development system, including the appropriate local workforce
834 entities, to create a workforce development plan to recruit and train residents
835 of the commonwealth for the casinos, including those who face barriers in finding
836 employment, such as people with low incomes or receiving public assistance,
837 the long-term unemployed, veterans, individuals with disabilities, and participants
838 in federal and state workforce programs;
- 839 (ix) whether the applicant shall establish, fund, and maintain internal human resource
840 hiring and training practices that promote the development of a skilled and
841 diverse workforce with access to promotion opportunities by a workforce-
842 training program designed to foster a skilled and diverse workforce by:
- 843 (A) establishing transparent career paths with measurable criteria within the
844 casinos that lead to increased responsibility and higher pay grades that are
845 designed to allow employees to pursue career advancement and
846 promotion;
- 847 (B) establishing employee access to additional resources, such as tuition
848 reimbursement or stipend policies, to enable employees to acquire the
849 education or job training needed to advance career ladders based on increased
850 responsibility and pay grades;
- 851 (C) establishing an on-site child day care program;

- 852 (D) establishing a program to train the casino workforce in the identification of
853 and intervention with customers exhibiting problem gaming behavior;
- 854 (E) where appropriate, applying for and using workforce training funds grants
855 established under section 2RR of chapter 29 to enhance employee skills; and
- 856 (F) establishing access to "career coaches" to assist employees with
857 understanding career advancement opportunities within the resort casino,
858 as well as where appropriate, establishing an employee mentoring program
859 to train and retain entry level employees.
- 860 (x) the architectural plans or site plans of all structures and facilities to be used as
861 part of the resort casino;
- 862 (xi) whether the applicant is including in its application contracts with labor
863 organizations and a provision assuring labor harmony during all phases of
864 such construction, renovation, or reconstruction of the resort casino;
- 865 (xii) whether all contracts and subcontracts to be awarded in connection therewith
866 shall contain appropriate provisions by which contractors and subcontractors
867 or their assignees agree to afford an equal employment opportunity to all
868 prospective employees and to all actual employees to be employed by the
869 contractor or subcontractor in accordance with an affirmative action program
870 approved by the authority and consonant with the provisions of Massachusetts
871 and federal law; and
- 872 (xiii) the extent to which the applicant shall mitigate public safety effects;
- 873 (xiv) the extent to which the applicant shall provide funding for the marketing of
874 Massachusetts as a tourist destination.
- 875 (5) In assessing the highest and best value to the commonwealth, the authority shall
876 take into account the commonwealth's policy determination that the commonwealth
877 shall have no more than 3 gaming establishments.
- 878 (6) It shall be the burden of the applicant to provide convincing evidence in its
879 application, to the satisfaction of the authority, that a resort casino shall provide the
880 highest and best value to the market in which it is located and to the commonwealth.
- 881 (7) As part of its determination for licensure, the authority shall investigate and
882 consider the positive and negative effects a casino facility will have to the host
883 community and communities impacted by the project, provided further, that factors
884 to consider include, but are not limited to, the regional and local economy, the
885 number and location of resort casinos, job creation or loss, road and traffic, public
886 access (including public transportation), water, drainage, sewer, fire department
887 coverage, police department coverage and other public safety coverage, emergency
888 access, housing, public education influx, state and municipal creation or reduction and
889 other infrastructure related issues.

890

891 Section 6. Awarding of and Conditions of Licenses

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

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

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

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

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

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

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

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

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

928 for, file for or undergo any impact or other review process with or by the
929 commonwealth or any political subdivision thereof or any agency, department,
930 commission or authority of any of the foregoing, for or directly or indirectly in
931 connection with the permitting, financing, construction, renovation, maintenance, use
932 and occupation of a resort casino and related site improvements and amenities on the
933 approved site of the gaming establishment and related public infrastructure
934 improvements.

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

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

941 (j) Conditions of Casino Licensure.

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

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

958 (3) The authority shall make an assessment in each fiscal year against each licensee
959 operating a casino in the commonwealth. This assessment is in addition to the
960 licensing fee and the operating licensing payment paid by each licensee. This
961 assessment shall be reasonable and made at a rate as shall be reasonably determined
962 and certified annually by the authority as sufficient to produce revenue to reimburse
963 the commonwealth for funds appropriated for the operation of the authority and
964 the division, including the dedicated state police units attached to the division, and
965 public safety costs, including amounts sufficient to cover the cost of fringe benefits
966 as established by the secretary of administration and finance under section 6B of
967 chapter 29. This assessment shall be made proportionately against each licensee based
968 on the proportionate number of gaming devices and tables operated by that licensee.

969 Each licensee against whom an assessment is made shall pay over daily to the
970 authority a pro rata share of the assessment as determined by the authority. If the
971 authority fails to expend in any fiscal year the total amount assessed under this
972 section, any amount unexpended shall be credited against the assessment to be made
973 in the following year and the assessment in such following year shall be reduced by
974 that unexpended amount.

975 (4) Each licensee shall pay the total amount of the licensing fee set forth in subsection
976 6(f)(1) in three equal annual installments, the first such installment to be paid
977 within 60 days of the grant of the resort casino license and receipt of all other licenses
978 and permits reasonably necessary (as determined by the authority) for the applicant to
979 secure commercially reasonable financing of the project, the second installment to be
980 paid on or before the first anniversary of the first payment, and the third installment to
981 be paid on or before the second anniversary of the first payment.

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

984 (6) No licensee shall operate, invest or own, in whole or in part, another licensee's license
985 or casino. If a licensee is found in violation of this section, they will be fined up to
986 \$5,000 per day for violations.

987 (7) No licensee shall be permitted to transfer its casino license or any interest such
988 licensee may have in the gaming establishment or the real property upon which it
989 is located, and no substantial party in interest shall be permitted to transfer its
990 interest in the licensee, whether through a sale, option contract, or other agreement
991 or contract providing for such transfer in the present or future, without the
992 notification of and approval by the authority. The authority shall adopt rules and
993 regulations for determination of the approval of any such transfer. In the event that
994 within the first five years following the issuance of a casino license to a licensee there
995 is either (i) a transfer by a licensee of its casino license or any interest such licensee
996 may have in the gaming establishment or the real property upon which it is
997 located, or (ii) a transfer by a substantial party in interest of a controlling interest
998 in the licensee, the authority may require either the transferor or transferee or both, as
999 determined by the authority, to pay to the commonwealth an amount representing the
1000 increased value attributable specifically to the casino license; provided, that the
1001 authority shall consider as a factor in determining the amount of the payment the
1002 difference in value of the licensee's property and the improvements thereon (which
1003 shall be excluded from the value of the license) between the time when the licensee
1004 received the license and the time of or anticipated time of the transfer through the
1005 average of 3 separate assessments made by the licensee, the authority and an
1006 independent assessor chosen by the authority, and the cost of that assessment shall be
1007 part of the payment of the transfer; provided further, that the authority shall consider
1008 as a factor in determining the amount of the payment the increased value of the
1009 property, land, establishment, management agent, entity or business value as a result
1010 of possessing a gaming operator's license; provided further, that the authority shall
1011 consider as a factor in determining the amount of the payment the prior capital

1012 investments made by the licensee, the marketing and other business development
1013 expenses incurred by the licensee, the financing costs incurred by the licensee prior to
1014 such transfer, and any additional economic value created by the licensee. In no event
1015 shall a transfer of any rights to a bona fide commercial financial institution pursuant
1016 to any commercially reasonable financing be deemed to be a transfer; provided
1017 further, that the authority may reject such transfer if it deems the transferee to be
1018 unsuitable. The authority shall adopt rules and regulations for the reasonable
1019 determination of the payment which serves the best interest of the commonwealth as a
1020 result of the transfer; provided that the authority may consider the actual increase or
1021 decrease in the pecuniary value of the license, the real property, and the shares of
1022 interest among the time it was initially purchased, the time of receiving a license and
1023 the time of the transfer; provided further, that any payments collected by the authority
1024 on behalf of the Commonwealth are deposited in the same manner as license fees are
1025 deposited with the commonwealth.

1026 The authority may place any condition or restriction on the transfer of a license or interest
1027 held by a substantial party in interest, and in all instances it shall consider whether additional
1028 compensation is owed to the Commonwealth pursuant to the foregoing paragraph.

1029 No casino licensee shall be permitted to change its form of business governing structure on
1030 file with the secretary of state as of the date of its license application without the notification
1031 and approval of the authority.

1032 The authority shall monitor the conduct of all licensees and other persons having a material
1033 involvement, directly or indirectly, with a licensee for the purpose of ensuring that licenses
1034 are not issued to, or held by, and there is no direct or indirect material involvement with a
1035 licensee by unqualified, disqualified, or unsuitable persons.

1036 (8) Each licensee shall be required to have an office available to the authority. The
1037 authority shall establish the minimum requirements for the office.

1038 (9) Each licensee shall be required to have an office available for the division's state
1039 police personnel. The authority shall establish the minimum requirements for square
1040 footage for the state police office, office furnishings, and parking space.

1041 (10) All licensees shall make readily available all documents, materials, equipment,
1042 personnel and any other items that the attorney general may desire to conduct an
1043 investigation. A licensee may withhold material that may be considered a trade
1044 secret or detrimental to the licensee if it were made public and have it adjudicated
1045 before the authority as to its protected status, and require non-disclosure agreements
1046 between the attorney general and the authority for such material.

1047 (11) The licensee shall cooperate with the division with respect to the investigation of
1048 any criminal matter that is discovered on its property. The licensee shall, upon receipt
1049 of criminal or civil process compelling testimony or production of documents in
1050 connection with any civil or criminal investigation, immediately disclose such

1051 information to the authority. This section does not prohibit private persons or
1052 public entities from seeking any remedy or damages against a licensee.

1053 (12) All licensees shall have a duty to inform the authority of any action which they
1054 reasonably believe would constitute a violation of this chapter, and shall assist the
1055 authority and any federal or state law enforcement agency in the investigation and
1056 prosecution of such violation. No person who so informs the authority shall be
1057 discriminated against by an applicant or licensee because of the supplying of such
1058 information.

1059 (13) All licensees shall collect and annually report to the authority a statistical report on
1060 the number of candidates hired and retained in employment in connection with the
1061 workforce development plan and the affirmative action program respectively
1062 required by sections 5(b). Failure to comply with this section shall cause a licensee
1063 to forfeit any state workforce training funds or economic incentives.

1064 (14) All licensees shall agree to make a good faith effort to identify and recruit
1065 candidates from the local labor market area and other nearby labor market areas to
1066 ensure a diverse workforce. Failure to comply with this section shall cause a licensee
1067 to forfeit any state workforce training funds or economic incentives.

1068 (15) Every casino licensee shall keep conspicuously posted on his premises a notice
1069 containing the name and numbers of the council on compulsive gambling and a
1070 statement of its availability to offer assistance. The authority may require the licensee
1071 to provide this information in 1 or more languages.

1072

1073 Section 7. Storage of Documents and Non-Disclosure of Sensitive Documents and Materials

1074 The authority shall maintain a file of applications for licenses under this chapter, together with a
1075 record of all action taken by the authority on those applications. Such applications shall be open to public
1076 inspection; provided however, that the executive director shall prohibit access to information that contains
1077 law enforcement or investigatory information, is a trade secret, or puts the applicant for a license at an unfair
1078 disadvantage with other applicants; provided further, that the executive director shall consult with the
1079 division on public records on the appropriate manner of distributing or withholding of such information. The
1080 authority may maintain any other files and records as it deems appropriate.

1081

1082 Section 8. Authority Operating Account

1083 There shall be established upon the books of the commonwealth a separate fund to be known as the
1084 Massachusetts gaming control authority trust fund to be expended, without prior appropriation, by the
1085 Massachusetts gaming control authority. The fund shall consist of the application fees collected pursuant to
1086 section 5(a)(6), and all assessment payments collected from section 6. The executive director of the authority

1087 shall make necessary expenditures from this account for the shared administrative costs of the operations
1088 and programs of the authority. The executive director shall further direct that funds from the account shall be
1089 expended to provide services in an amount reasonably related to the functions of the authority and the
1090 comptroller may certify for payment amounts in anticipation of expected receipts; but no expenditure shall
1091 be made from the fund which shall cause the fund to be in deficit at the close of each fiscal year. The
1092 authority shall pay the attorney general the amount it requested under section 14(b) by July first of each
1093 year.

1094

1095 Section 9. Gaming License Fee Trust Fund

1096 (a) There shall be established and set up on the books of the commonwealth a separate
1097 fund, to be known as the gaming license fee trust fund, in this section called the
1098 license fee trust fund. The license fee trust fund shall consist of all license fees received
1099 in consideration of the award of licenses under section 6, and all other monies credited or
1100 transferred to the fund from any other fund or source pursuant to law.

1101 (b) The secretary of administration and finance shall be the trustee of the license fee trust
1102 fund, and shall transfer monies in the fund, without further appropriation, as of June
1103 30 of each fiscal year, only as follows and in the following order:

1104 (1) only if and to the extent determined by the secretary of administration and finance,
1105 initial payments to the authority and to the division for start-up expenses;

1106 (2) the remaining one-half of the balance in the fund, to the general fund; and

1107 (3) the other remaining one-half of the balance in the fund, to the local taxpayer relief
1108 aid trust fund established by section 14.

1109

1110 Section 10. Gaming Operating Licensing Payment Trust Fund

1111 (a) There shall be established and set up on the books of the commonwealth a separate
1112 fund, to be known as the gaming operating license payment trust fund, in this section
1113 called the operating licensing payment fund. The operating licensing payment fund shall
1114 consist of all operating licensing payments received in consideration of the award of
1115 licenses under section 6, and all other monies credited or transferred to the fund from any
1116 other fund or source pursuant to law.

1117 (b) The secretary of administration and finance shall be the trustee of the license proceeds
1118 fund, and shall transfer monies in the fund, without further appropriation, as of June
1119 30 of each fiscal year, only as follows and in the following order:

- 1120 (1) to the host community mitigation trust fund established by section 11, an amount that
1121 is 2 percent of all operating licensing payments made to the operating licensing
1122 payment fund under this section;
- 1123 (2) to the regional community mitigation trust fund established by section 12, an amount
1124 that is 1 percent of all operating licensing payments made to the operating
1125 licensing payment fund under this section;
- 1126 (3) to the public health trust fund established by section 13, an amount that is 2.5
1127 percent of all operating licensing payments made to the operating licensing payment
1128 fund under this section, but in no event more than \$45,000,000 in any fiscal year;
- 1129 (4) to the public safety trust fund established by section 14, an amount that is 0.5 percent
1130 of all operating licensing payments made to the operating licensing payment fund
1131 under this section;
- 1132 (5) to the tourism promotion trust fund established by section 15, an amount that is 0.5
1133 percent of all operating licensing payments made to the operating licensing payment
1134 fund under this section;
- 1135 (6) to the live racing industry preservation trust fund established by section 16, an amount
1136 that is 1 percent of all operating licensing payments made to the operating licensing
1137 payment fund under this section, but in no event more than \$20,000,000 in any
1138 fiscal year;
- 1139 (7) to fund any reduction in local aid payments made by the state lottery, an amount
1140 that is the difference between the average of the total amounts funded to local
1141 cities and towns in the three fiscal years prior to enactment of this Act, adjusted in
1142 each fiscal year after fiscal year 2009 by the average increase for the above period,
1143 and the total amount local aid payments made by the state lottery in the current
1144 fiscal year if less than that adjusted average amount;
- 1145 (8) half of the remaining balance in the fund, to the general fund;
- 1146 (9) the remaining balance in the fund, to the local taxpayer relief aid trust fund
1147 established by section 17.

1148

1149 Section 11. Host Community Mitigation Trust Fund

- 1150 (a) There shall be established and set up on the books of the commonwealth a separate
1151 fund, to be known as the host community mitigation trust fund, in this section called the
1152 mitigation fund. The mitigation fund shall consist of the monies transferred under
1153 sections 10, and all other monies credited or transferred to the fund from any other
1154 fund or source pursuant to law.

1155 (b) The secretary of administration and finance shall be the trustee of the mitigation fund
1156 and shall expend monies in the fund, without further appropriation, to assist the local host
1157 communities in which any resort casino facilities are located, to address any increases
1158 in police, fire, transportation, water, sewer, enforcement and prosecution costs, or other
1159 services directly related to the construction and operation of the facilities. The secretary
1160 of administration and finance may adopt regulations, after a public hearing, governing
1161 these expenditures.

1162

1163 Section 12. Regional Community Mitigation Trust Fund

1164 (a) There shall be established and set up on the books of the commonwealth a separate
1165 fund, to be known as the regional community mitigation trust fund, in this section called
1166 the mitigation fund. The mitigation fund shall consist of the monies transferred under
1167 section 10, and all other monies credited or transferred to the fund from any other
1168 fund or source pursuant to law.

1169 (b) The secretary of administration and finance shall be the trustee of the mitigation fund
1170 and shall expend monies in the fund, without further appropriation, to assist the local host
1171 community, cities, towns (other than the specific municipalities in which any resort
1172 casino facilities are located, which shall be eligible for funds from the host
1173 community mitigation fund under section 11) and district attorneys in the vicinity of
1174 resort casino facilities, to address any increases in police, fire, transportation, water,
1175 sewer, enforcement and prosecution costs, or other services directly related to the
1176 construction and operation of the facilities; provided, however, that the authority shall
1177 determine which towns and cities will be affected by construction and operation of
1178 the facilities. The secretary of administration and finance may adopt regulations, after a
1179 public hearing, governing these expenditures.

1180

1181 Section 13. Public Health Trust Fund

1182 (a) There shall be established and set up on the books of the commonwealth a separate
1183 fund, to be known as the public health trust fund, in this section called the public
1184 health fund. The public health fund shall consist of the monies transferred under section
1185 10, and all other monies credited or transferred to the public health fund from any other
1186 fund or source pursuant to law.

1187 (b) The secretary of health and human services shall be the trustee of the public health
1188 fund and shall expend monies in the fund, without further appropriation but subject to
1189 approval of an annual spending plan by the secretary of administration and finance, to
1190 meet increased demand for social service and public health programs resulting from
1191 gaming, including but not limited to gambling prevention and new substance abuse and
1192 addiction services, services to address other problems such as domestic violence and child
1193 welfare services, an educational campaign to mitigate the potential addictive nature of
1194 gambling, and on an annual basis, a comprehensive study and evaluation system to

1195 ensure proper and most effective mitigation of any negative public health costs. The
1196 secretary of health and human services may adopt regulations, after a public hearing,
1197 governing these expenditures.

1198

1199 Section 14. Public Safety Trust Fund

1200 (a) There shall be established and set up on the books of the commonwealth a separate
1201 fund, to be known as the public safety trust fund, in this section called the public safety
1202 fund. The public safety fund shall consist of the monies transferred under section 10,
1203 and all other monies credited or transferred to the fund from any other fund or source
1204 pursuant to law.

1205 (b) The commissioner of public safety shall be the trustee of the public safety fund and
1206 shall expend monies in the fund, without further appropriation, to address any
1207 increases in police, fire, enforcement and prosecution costs, or other services directly
1208 related to the operation of the facilities. The commissioner of public safety may adopt
1209 regulations, after a public hearing, governing these expenditures.

1210

1211 Section 15. Tourism Promotion Trust Fund

1212 (a) There shall be established and set up on the books of the commonwealth a separate
1213 fund, to be known as the tourism promotion trust fund, in this section called the tourism
1214 fund. The tourism fund shall consist of the monies transferred under section 10, and
1215 all other monies credited or transferred to the fund from any other fund or source
1216 pursuant to law.

1217 (b) The secretary of housing and economic development shall be the trustee of the
1218 tourism fund and shall expend monies in the fund, without further appropriation, to assist
1219 with the promotion of tourism in the commonwealth. The secretary of housing and
1220 economic development may adopt regulations, after a public hearing, governing these
1221 expenditures.

1222

1223 Section 16. Live Racing Industry Preservation Trust Fund

1224 (a) There shall be established and set up on the books of the commonwealth a separate
1225 fund, to be known as the live racing industry preservation trust fund, in this section called
1226 the live racing fund. The live racing fund shall consist of the monies transferred under
1227 section 10, and all other monies credited or transferred to the fund from any other
1228 fund or source pursuant to law.

1229 (b) The secretary of housing and economic development shall be the trustee of the live
1230 racing fund and shall expend monies in the fund, without further appropriation, to assist

1231 with the promotion and preservation of the live racing industry in the commonwealth,
1232 including by making payments to the purse accounts of racing facilities licensed
1233 pursuant to Chapter 128A and to Massachusetts based breeders associations. The
1234 secretary of housing and economic development may adopt regulations, after a public
1235 hearing, governing these expenditures.

1236

1237 Section 17. Local Taxpayer Relief Aid Trust Fund

1238 (a) There shall be established and set up on the books of the commonwealth a separate
1239 fund, to be known as the local taxpayer relief aid trust fund, in this section called the
1240 local taxpayer relief aid fund. The local taxpayer relief aid fund shall consist of the
1241 monies transferred under sections 9 and sections 10 of this act, and all other monies
1242 credited or transferred to the local taxpayer relief aid fund from any other fund or
1243 source pursuant to law.

1244 (b) The secretary of administration and finance shall be the trustee of the local taxpayer
1245 relief aid fund and shall allocate monies in the fund to municipalities, without further
1246 appropriation, to supplement local aid payments otherwise made by the
1247 commonwealth pursuant to section 18C of chapter 58.

1248

1249 Section 18. Division of Gaming Investigation and Enforcement

1250 (a) There is hereby established in the department of the attorney general a division of
1251 gaming investigation and enforcement. The attorney general shall designate an
1252 assistant attorney general as director of the division. The director of the division may
1253 appoint and remove, subject to the approval of the attorney general, such expert, clerical
1254 or other assistants as the work of the division may require. The attorney general may
1255 purchase any necessary equipment for the purpose of conducting an investigation.
1256 Subject to the approval of the secretary of public safety and security, the colonel of
1257 the state police shall assign such supervisory and investigative personnel and other
1258 resources to the division as may be necessary to fulfill its obligations under this chapter.
1259 The powers and duties of the division shall be as follows:

1260 (1) investigate allegations of crimes committed on the premises, crimes involving or
1261 impacting the operation of the casino or games, and violations of this chapter;

1262 (2) be on the premises at any time that it deems appropriate and inspect and examine
1263 all operations, books, records, and any other documents;

1264 (3) inspect all gaming devices and equipment used or to be used in a resort casino at
1265 any time it deems appropriate;

1266 (4) have access to all records of the authority;

- 1267 (5) investigate all applications, certificates and permits issued pursuant to the
1268 provisions of this chapter;
- 1269 (6) conduct all background checks on applicants for employment by the authority and
1270 any gaming establishment in a resort casino and applicants for licensure, including
1271 obtaining criminal record information, and share such information as necessary
1272 with the authority; provided that such background checks shall be conducted by the
1273 state police unit assigned to the division;
- 1274 (7) conduct audits of casino operations at such times, under such circumstances, and to
1275 such extent as the director shall determine, including reviews of accounting,
1276 administrative and financial records, and management control systems, procedures
1277 and records utilized by a casino licensee;
- 1278 (8) receive and take appropriate action on any referral from the authority relating to any
1279 evidence of a violation of this chapter or the regulations adopted thereunder;
- 1280 (9) initiate, prosecute, intervene and defend proceedings before the authority, or
1281 appeals therefrom, as the division may deem appropriate;
- 1282 (10) investigate and enforce the provisions of this chapter and any regulations adopted
1283 hereunder or any gaming related statutes, rules or regulations adopted by any
1284 agency, department, board, commission, division or authority of the commonwealth
1285 or any political subdivision thereof that is involved in controlled gaming pursuant to
1286 this chapter, and prosecute all proceedings for violations of this chapter or any
1287 regulations adopted hereunder;
- 1288 (11) be entitled to request and receive information, materials and any other data from
1289 any licensee or registrant, or applicant for a license or registration under this chapter;
- 1290 (12) ensure that there is no duplication of duties and responsibilities between it and the
1291 authority; and
- 1292 (13) report to the attorney general recommendations that promote more efficient
1293 operations of the division.
- 1294 (b) The division shall be compensated for its duties through the assessment pursuant to
1295 section 6. The attorney general shall submit a budget to the authority by January first
1296 for an annual appropriation, and the authority shall make such appropriation to the
1297 division by July first of each year.

1298

1299 Section 19. Penalties for Licensing and Gaming Violations

- 1300 (a) Willful evasion of license fees; other acts and omissions.

1301 (1) any person who willfully fails to report, pay, or truthfully account for and pay over
1302 any license fee or tax imposed by the provisions of this chapter or by the
1303 regulations adopted by the authority, or willfully attempts in any manner to evade or
1304 defeat any such license fee, tax, or payment thereof shall be punished by
1305 imprisonment in state prison for not more than 5 years or in a house of correction
1306 for not more than 2 and one-half years, or a fine of not more than \$100,000, or both,
1307 and in the case of a person other than a natural person, the amount of a fine may be
1308 up to \$5,000,000.

1309 (2) any person who willfully resists, prevents, impedes, interferes with, or makes any
1310 false, fictitious, or fraudulent statement or representation to the authority or to the
1311 division or to their agents or employees in the performance of duties pursuant to this
1312 chapter shall be punished by imprisonment in state prison for not more than 5 years or
1313 in a house of correction for not more than 2 years and one-half years, or a fine of not
1314 more than \$25,000, or both.

1315 (b) Unlicensed gaming unlawful.

1316 (1) any person who conducts or operates, or permits to be conducted or operated, any
1317 game, electronic gaming device, or gaming equipment in violation of the licensing
1318 provisions of this chapter or the regulations adopted by the authority shall be
1319 punished by imprisonment in state prison for not more than 5 years or imprisonment in
1320 a house of correction for not more than 2 and one-half years, or a fine of not more than
1321 \$25,000, or both such fine and imprisonment, and in the case of a person other than
1322 a natural person, the amount of a fine may be up to \$100,000.

1323 (2) any licensee who, without the permission of the authority, (1) places controlled
1324 games, electronic gaming devices, or gaming equipment into play or displays such
1325 controlled games, electronic gaming devices, or gaming equipment in a casino or
1326 gaming establishment or (2) receives, directly or indirectly, any compensation or
1327 reward or any percentage or share of the revenue, for keeping, running, or carrying
1328 on any controlled game, or owning the real property or location in which any
1329 controlled game occurs, shall be punished by imprisonment in a house of correction
1330 for not more than 2 and one-half years, or a fine of not more than \$25,000, or both,
1331 and in the case of a person other than a natural person, the amount of a fine may be
1332 up to \$100,000.

1333 (3) any person who conducts or operates any controlled game, electronic gaming device,
1334 or gaming equipment after his license has expired and prior to the actual renewal
1335 thereof shall be punished by imprisonment in a house of correction for not more
1336 than 1 and one-half years, or a fine of not more than \$25,000, or both, and in the
1337 case of a person other than a natural person, the amount of a fine may be up to
1338 \$100,000.

1339 (c) Swindling and cheating.

1340 (1) In addition to the provisions of section 75 of chapter 266, a person is guilty of
1341 swindling and cheating if the person purposely or knowingly by any trick or sleight
1342 of hand performance or by a fraud or fraudulent scheme, cards, dice, or other gaming
1343 equipment, for himself or for another, wins or attempts to win money or property,
1344 or a representative of either, or reduces a losing wager or attempts to reduce a losing
1345 wager in connection to controlled gaming.

1346 The penalties for swindling and cheating offenses shall be as follows:

1347 (i) any person who swindles or cheats where the amount involved is \$75,000 or
1348 more shall be punished by imprisonment in state prison for not more than 10
1349 years, or a fine of not more than \$1,000,000, or both.

1350 (ii) any person who swindles or cheats where the amount involved is \$10,000 or
1351 more and less than \$75,000 shall be punished by imprisonment in state prison for
1352 not more than 5 years, or a fine of not more than \$500,000, or both.

1353 (iii) any person who swindles or cheats where the amount involved is \$1,000 or
1354 more and less than \$10,000 shall be punished by imprisonment in state prison
1355 for not more than 3 years or imprisonment in a house of correction for not
1356 more than 2 and one-half years, or a fine of not more than \$100,000, or both
1357 such fine and imprisonment.

1358 (iv) any person who swindles or cheats where the amount involved is less than
1359 \$1,000 shall be punished by imprisonment in a house of correction for not
1360 more than 2 and one-half years, or by a fine of not more than \$10,000, or both.

1361 (d) Each episode or transaction of swindling or cheating may be the subject of a separate
1362 prosecution and conviction. In the discretion of the prosecutor, multiple episodes or
1363 transactions of swindling and cheating committed as part of a single scheme or course
1364 of conduct may be treated as a single offense, and the amounts involved in acts of
1365 swindling and cheating committed pursuant to a scheme or course of conduct, whether
1366 by the same person or several persons, may be aggregated in determining the amount
1367 involved in the offense.

1368 (e) Unlawful use or possession of devices to obtain an advantage.

1369 (1) Any person who in playing, conducting or operating a game in a licensed casino or
1370 gaming establishment, uses or assists another in the use of (1) a computerized,
1371 electronic, electrical, or mechanical device, which is designed, constructed, or
1372 programmed specifically for use in obtaining an advantage in any game in a licensed
1373 casino or gaming establishment or (2) any other cheating or thieving device, including,
1374 but not limited to, bogus or counterfeit chips, coins or dice; coins or tokens attached
1375 to strings or wires; marked cards; electronic or magnetic devices; or tools, drills,
1376 wires, keys, or devices designed for the purpose of and suitable for opening,
1377 entering, or affecting the operation of any gaming equipment, or for removing
1378 money or other contents therefrom, shall be punished by imprisonment in state

1379 prison for not more than 5 years or imprisonment in a house of correction for not
1380 more than 2 and one-half years, or a fine of not more than \$25,000, or both such
1381 fine and imprisonment.

1382 (2) Any person who possesses any computerized, electronic, electrical, or mechanical
1383 device or other cheating or thieving device described in subsection (1) with the
1384 intent to defraud, cheat, or swindle shall be punished by imprisonment in a house
1385 of correction for not more than 2 and one-half years, or a fine of not more than
1386 \$10,000, or both. Possession of any computerized, electronic, electrical, or
1387 mechanical device or other cheating or thieving device described in subsection (1)
1388 within a casino or gaming establishment shall constitute prima facie evidence of
1389 an intent to defraud, cheat or swindle, except that possession by any licensee, or
1390 employee of a licensee, acting in furtherance of his employment within a licensed
1391 casino or gaming establishment shall not constitute such prima facie evidence.

1392 (3) Any cheating or thieving device used or possessed in violation of this section shall
1393 be subject to seizure and forfeiture by the division.

1394 (f) Unlawful operation of cheating games and devices by a licensee or employee;
1395 penalties.

1396 (1) It shall be unlawful for any licensee or employee to:

1397 (i) knowingly conduct or operate, or allow to be conducted or operated, any
1398 cheating or thieving game or device; or

1399 (ii) knowingly conduct or operate or expose for play any game or games played with
1400 cards, dice, or any electronic or mechanical device, or any combination of
1401 games or devices, which have in any manner been marked or tampered with, or
1402 placed in a condition, or operated in a manner, the result of which tends to
1403 deceive the public or tends to alter the normal random selection of
1404 characteristics or the normal chance of the game or to alter the result of the
1405 game.

1406 (2) Any person who violates this section shall be punished by imprisonment in state
1407 prison for not more than 5 years or imprisonment in a house of correction for not
1408 more than 2 and one-half years, or a fine of not more than \$25,000, or both such fine
1409 and imprisonment, and in the case of a person other than a natural person, the amount
1410 of a fine may be up to \$100,000.

1411 (3) Any cheating or thieving game or device used in violation of this section shall be
1412 subject to seizure and forfeiture by the division.

1413 (g) Unlawful manufacture, distribution, sale, or service of gaming equipment; penalties.

1414 (1) Any person who manufactures, distributes, sells, or services any gaming
1415 equipment in violation of the provisions of this chapter or the regulations adopted by
1416 the authority for the purposes of defrauding, cheating, or swindling any person

1417 playing, operating, or conducting a controlled game at a casino or gaming
1418 establishment shall be punished by imprisonment in state prison for not more than 5
1419 years or imprisonment in a house of correction for not more than 2 and one-half
1420 years, or a fine of not more than \$25,000, or both such fine and imprisonment.

1421 (2) Any such unlawfully manufactured, distributed, sold, or serviced gaming
1422 equipment shall be subject to seizure and forfeiture by the division.

1423 (h) Employment without license or registration; penalties.

1424 (1) Any person who, without obtaining the requisite license or registration as provided
1425 in this chapter, works or is employed in a position whose duties would require
1426 licensing or registration under the provisions of this chapter shall be punished by
1427 imprisonment in a house of correction for not more than 6 months, or a fine of not
1428 more than \$10,000, or both.

1429 (2) Any person who employs or continues to employ an individual not duly licensed
1430 or registered under the provisions of this chapter in a position whose duties require
1431 a license or registration under the provisions of this chapter shall be punished by
1432 imprisonment in a house of correction for not more than 6 months, or a fine of not
1433 more than \$10,000, or both, and in the case of a person other than a natural person,
1434 the amount of a fine may be up to \$100,000.

1435 (i) Gaming by certain persons prohibited; penalties.

1436 (1) Any person under the age of 21 who plays, places wagers at, or collects winnings
1437 from, whether personally or through an agent, any controlled game shall be
1438 punished by imprisonment in a house of correction for not more than 6 months, or a
1439 fine of not more than \$1,000, or both.

1440 (2) Any licensee or employee who knowingly allows a person under the age of 21 to
1441 play, place wagers at, or collect winnings, whether personally or through an agent,
1442 shall be punished by imprisonment in a house of correction for not more than 1 year,
1443 or a fine of not more than \$10,000, or both, and in the case of a person other than a
1444 natural person, the amount of a fine may be up to \$500,000. A subsequent
1445 violation of this section shall subject the licensee or employee to imprisonment in
1446 a house of correction for not more than 2 years, or a fine of not more than \$50,000, or
1447 both, and in the case of a person other than a natural person, the amount of a fine
1448 may be up to \$1,000,000.

1449 (j) Placing, sending, transmitting, relaying wagers to another person prohibited under
1450 certain circumstances; penalties.

1451 Any person who, except in accordance with section 5C of chapter 128A, knowingly transmits or
1452 receives a wager of any type by any telecommunication device, including telephone, cellular phone, Internet,
1453 local area network, including wireless local networks, or any other similar device or equipment or other
1454 medium of communication, or knowingly installs or maintains said device or equipment for the transmission

1455 or receipt of wagering information shall be punished by imprisonment in a house of correction for not more
1456 than 2 years, or a fine of not more than \$25,000, or both.

1457 This section shall apply to any person who, from within this commonwealth, transmits a wager to, or
1458 receives a wager from, another person or gaming establishment within or outside of this commonwealth and
1459 any person who, from outside this commonwealth, transmits a wager to, or receives a wager from, another
1460 person or gaming establishment within this commonwealth.

1461 This section shall not apply to the use of a local area network as a means to place authorized wagers in
1462 a licensed gaming establishment, or use of said devices or equipment by the authority in its duties in
1463 regulating, enforcing, or auditing a licensed gaming operator.

1464 (k) Post employment restrictions; penalties.

1465 Any person who knowingly violates any of the provisions contained in subsection (a) or subsection (c)
1466 of section 4 shall be punished by imprisonment in state prison for not more than 5 years or in a house of
1467 correction for not more than 2 and one-half years, or a fine of not more than \$100,000, or both.

1468

1469 Section 20. Withholdings from Winnings for Child Support and Tax Payments

1470 Prior to disbursement of gambling winnings in excess of \$600, all licensed casinos shall
1471 review information furnished by the IV-D agency, as set forth in chapter 119A, and the
1472 department of revenue to ascertain whether the individual collecting such winnings owes past-
1473 due child support to the commonwealth or to an individual to whom the IV-D agency is
1474 providing services, and to ascertain whether the individual owes any past-due tax liability to the
1475 commonwealth. If the individual owes past-due child support or a past-due tax liability, after
1476 withholding state and federal taxes pursuant to this section, the casino shall first disburse to the IV-D
1477 agency the full amount of the winnings or such portion of the winnings that satisfies the
1478 individual's past-due child support obligation and, if funds remain available after that
1479 disbursement, the casino shall disburse to the department of revenue the full amount of the
1480 winnings or such portion of the winnings that satisfies the individual's past-due tax liability, and
1481 the casino shall notify the IV-D agency or the department of revenue, respectively, of the
1482 individual's name, address, and social security number. The casino shall disburse to the individual
1483 only that portion of the winnings, if any, remaining after the individual's past-due child support
1484 obligation and the individual's past-due tax liability have been satisfied.

1485

1486 Section 21. Other Tax Benefits Unavailable to Resort Casinos

1487 A casino or business located on casino property cannot be a certified project within the
1488 meaning of section 3F of chapter 23 A. Resort casinos may not be designated an economic
1489 opportunity area within the meaning of section 3E of chapter 23 A. Resort casinos are not eligible
1490 for tax increment financing as set forth in section 59 of chapter 40 or special tax assessments set forth
1491 in section 3E of chapter 23 A. Resort casinos may not be classified and taxed as recreational land

1492 under the provisions of chapter 61B. Resort casinos may not be designated as a development district
1493 within the meaning of chapter 40Q. Unless otherwise provided, a resort casino or any business
1494 located or to be located within a resort casino is not eligible for the following credits or deductions
1495 listed in chapter 62 or chapter 63: the investment tax credit under section 31A of chapter 63, the
1496 employment credit under section 31C of chapter 63, the van pool credit under section 31E of chapter
1497 63, the deduction for expenditures for industrial waste treatment or air pollution control under section
1498 38D of chapter 63, the deduction for compensation paid to an eligible business facility's employees
1499 domiciled in a section of substantial poverty under section 38F of chapter 63, the alternative energy
1500 sources deduction under section 38H of chapter 63, the research expense credit under section 38M of
1501 chapter 63, the economic opportunity area credit under section 6(g) of chapter 62, and section 38N of
1502 chapter 63, the abandoned building deduction under section 3B(a)(10) of chapter 62, and section 38O
1503 of chapter 63, the harbor maintenance tax credit under section 38P of chapter 63, the brownfields
1504 credit under section 6(j) of chapter 62, and section 38Q of chapter 63, the historic rehabilitation tax
1505 credit under section 6J of chapter 62 and section 38R of chapter 63, the automatic sprinkler system
1506 depreciation deduction under section 38S of chapter 63, and the credit for a solar water heating
1507 system under section 38T of chapter 63.

1508
1509 Section 22. Economic Assistance to Racing Licensees Not Obtaining Licenses

1510 Notwithstanding any general or special law to the contrary, any race track licensed in accordance
1511 with section 3 of chapter 128A that is not selected for a casino license under this Act and that is no
1512 longer conducting racing meetings in accordance with chapter 128A or accepting paramutuel wagers in
1513 accordance with chapter 128C, shall automatically be:

1514 (a) designated as an economic opportunity area within the meaning of section 3E of chapter 23A,

1515 (b) eligible for infrastructure financing for the purpose of stimulating economic development
1516 pursuant to:

1517 (i) the Public Works Economic Development (PWED) Program, as regulated by 7.01 CMR
1518 5.00 et seq.;

1519 (ii) the Infrastructure Investment Incentive (I-Cubed) program, as established by St.
1520 2006, c. 293 §§ 5 - 12, as amended by St. 2008, c. 129; and

1521 (c) granted a property tax exemption of up to 100% of the tax increment, as authorized by
1522 section 59 of chapter 40, for any added value of new construction, rehabilitation or new
1523 equipment or machinery.

1524 Employees displaced by the termination of racing meetings at any such race track will receive
1525 reasonable priority job placement opportunities at any resort casino licensed under this Act during the
1526 two years immediately following said termination, and shall automatically be eligible for all state job
1527 training and education programs.

1528 The host municipality of said site, and if two or more municipalities host said site, then all such
1529 host municipalities, shall automatically:

1530 (a) qualify for a grant of not less than \$1,000,000, pursuant to the Community Development
1531 Action Grant (CDAG) program, to support activities including but not limited to workforce
1532 housing development, streetscape upgrades, publicly-owned infrastructure rehabilitation and
1533 construction, and local utility improvements; and

1534 (b) receive certification from the State Economic Assistance Coordinating Council to utilize tax
1535 increment District Improvement Financing (DIF), as authorized by chapter 40Q, for activities
1536 including but not limited to acquiring land, reconstructing improvements, and incurring
1537 indebtedness to finance development projects.

1538

1539 **SECTION 7.** Subsection (d)(1) of section 2 of chapter 62, as appearing in the 2006 Official
1540 Edition, is hereby amended by inserting after paragraph (P) the following paragraph:-

1541 (Q) Any deduction for losses from wagering transactions allowed by section 165 of the Code.

1542

1543 **SECTION 8.** Subsection (k) of section 6 of chapter 62, as appearing in the 2006 Official Edition, is
1544 hereby amended by inserting after subsection (9) the following subsection :-

1545 (10) A person who is otherwise eligible to claim the credit under subsection (m) of this
1546 section may elect the credit available under this subsection or under subsection (m), but not both.

1547

1548