

Senate No. 11

Message from His Excellency the Governor recommending legislation relative to reorganizing certain agencies of the Executive Department.

The Commonwealth of Massachusetts



EXECUTIVE DEPARTMENT
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DEVAL L. PATRICK
GOVERNOR

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LIEUTENANT GOVERNOR

January 28, 2009

To the Honorable Senate and House of Representatives:

As provided in Article LXXXVII of the Amendments to the Constitution, I submit for your consideration, "An Act Reorganizing Certain Agencies of the Executive Department" (Reorganization Plan 2009-1).

This legislation restructures certain state agencies to make them more cost effective and responsive by consolidating programs and program staff within agencies whose mission and expertise will ensure the most coordinated, efficient operation of the programs.

Towards that end, the bill combines emergency shelter programs and related services currently run by the Department of Transitional Assistance with housing programs run by the Department of Housing and Community Development. This will help consolidate within DHCD a coordinated "Housing First" strategy aimed at quickly securing stable, permanent housing for homeless individuals and families in conjunction with other services that help them move out of poverty.

The bill also transfers: (a) the underground storage tank program from the Department of Fire Services to the Department of Environmental Protection; (b) the home improvement contractor program from the Department of Public Safety to the Office of Consumer Affairs and Business Regulation; (c) the wage reporting program from the Department of Revenue to the Division of Unemployment Assistance; (d) the well driller registration program from the Department of

Conservation and Recreation to the Department of Environmental Protection; and (e) the State Racing Commission to the Division of Professional Licensure.

All of the foregoing programs are being retained. The purpose of the bill is to consolidate each of them into agencies whose existing missions and staff most closely align with the programs so that maximum efficiencies and cost effectiveness can be achieved.

I urge your prompt and favorable consideration.

Respectfully submitted,

DEVAL L. PATRICK,

Governor.

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT REORGANIZING CERTAIN AGENCIES OF THE EXECUTIVE DEPARTMENT.

Be it approved by the Senate and the House of Representatives in General Court assembled, pursuant to Article LXXXVII of the Amendments to the Constitution, and by the authority of the same, as follows:

1 SECTION 1. Section 16 of chapter 21 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby repealed.

3 SECTION 2. Section 14 of chapter 21G of the General Laws, as appearing in the 2006
4 Official Edition, is hereby amended by striking out the second sentence and inserting in place
5 thereof the following sentence:- The orders shall include, but shall not be limited to, orders
6 modifying, suspending or revoking permits, well driller certifications under section 20 of this
7 chapter, and orders requiring persons to cease any activity which is in violation of the provisions
8 of this chapter or any regulation adopted hereunder.

9 SECTION 3. Chapter 21G of the General Laws, as so appearing, is hereby amended by
10 inserting after Section 19 the following section:-

11 **Section 20. Persons engaged in business of digging or drilling wells; certification;**
12 **reports**

13 Section 20. No person shall engage in the business of digging or drilling wells within the
14 commonwealth unless he has filed a certification with the department. Each person intending to
15 engage in said business shall certify annually with said department and upon payment of a fee
16 determined annually by the department shall be issued a certificate indicating that he is so
17 certified. Said certification shall be sufficient authority for any said person to engage in the
18 business of digging or drilling wells anywhere within the commonwealth and no further
19 licensing or certifications shall be required; provided, however, that nothing contained herein shall
20 prohibit the appropriate local authority in any city or town from requiring any person engaged in
21 the digging or drilling of private wells to obtain a site permit in accordance with terms and
22 conditions which ensure health and safety and said city or town may charge said person a
23 reasonable fee for said site permit as determined by the city or town.

24 Pursuant to chapter thirty A, the department shall adopt such regulations as it deems
25 necessary to carry out the purposes of this section. Such regulations shall not be subject to
26 section 3 of this chapter. Within thirty days after completion of any well by digging or drilling,
27 the person engaged in the business of digging or drilling wells shall submit a report to the
28 department setting forth such information as may be required under said rules and regulations.

29 SECTION 4. (a) Notwithstanding any general or special law to the contrary, this section
30 shall facilitate the orderly transfer of employees, proceedings, rules and regulations, property and
31 legal obligations of the following functions of state government from the transferor agency to the
32 transferee agency, defined as follows:

33 (1) the functions of the department of conservation and recreation that relate to the
34 administration and enforcement of the well driller registration program, as the transferor agency,
35 to the department of environmental protection, as the transferee agency;

36 (b) To the extent that employees of the transferor agency, including those who were
37 appointed immediately before the effective date of this act and who hold permanent appointment
38 in positions classified under chapter 31 of the General Laws or have tenure in their positions as
39 provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold
40 confidential positions, are transferred to the respective transferee agency, such transfers shall be
41 effected without interruption of service within the meaning of said section 9A of said chapter 31,
42 without impairment of seniority, retirement or other rights of the employee, and without
43 reduction in compensation or salary grade, notwithstanding any change in title or duties resulting
44 from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and
45 benefits, and without change in union representation or certified collective bargaining unit as
46 certified by the state division of labor relations or in local union representation or affiliation. Any
47 collective bargaining agreement in effect immediately before the transfer date shall continue in
48 effect and the terms and conditions of employment therein shall continue as if the employees had
49 not been so transferred. The reorganization shall not impair the civil service status of any such
50 reassigned employee who immediately before the effective date of this act either holds a
51 permanent appointment in a position classified under chapter 31 of the General Laws or has
52 tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding
53 any other general or special law to the contrary, all such employees shall continue to retain their
54 right to collectively bargain pursuant to chapter 150E of the General Laws and shall be
55 considered employees for the purposes of said chapter 150E. Nothing in this section shall be
56 construed to confer upon any employee any right not held immediately before the date of said
57 transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension,
58 discharge, layoff, or abolition of position not prohibited before such date.

59 (c) All petitions, requests, investigations and other proceedings appropriately and duly
60 brought before the transferor agency or duly begun by the transferor agency and pending before
61 it before the effective date of this act, shall continue unabated and remain in force, but shall be
62 assumed and completed by the transferee agency.

63 (d) All orders, rules and regulations duly made and all approvals duly granted by the
64 transferor agency, which are in force immediately before the effective date of this act, shall
65 continue in force and shall thereafter be enforced, until superseded, revised, rescinded or
66 canceled, in accordance with law, by the transferee agency.

67 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and other
68 property, both personal and real, including all such property held in trust, which immediately
69 before the effective date of this act are in the custody of the transferor agency shall be transferred
70 to the transferee agency.

71 (f) All duly existing contracts, leases and obligations of the transferor agency shall
72 continue in effect but shall be assumed by the transferee agency. No existing right or remedy of
73 any character shall be lost, impaired or affected by this act.

74 **Transfer of the Underground Storage Tank Program from the Department of Fire Services**
75 **to the Department of Environmental Protection**

76 SECTION 5. Sections 38A through 38I, inclusive, of chapter 148 of the General Laws,
77 as appearing in the 2006 Official Edition, are hereby repealed.

78 SECTION 6. The General Laws, as appearing in the 2006 Official Edition, are hereby
79 amended by inserting after Chapter 21N the following chapter:-

80 **Chapter 210 OPERATION AND REMOVAL OF UNDERGROUND STORAGE**

81 **TANKS**

82 **Section 1: Removal or relocation of underground flammable or combustible fluid**
83 **tanks; permits; abandoned underground residential tanks**

84 Section 1. No underground tank which has been used for the keeping or storage of
85 flammable or combustible fluids shall be removed or relocated unless a permit for such removal
86 or relocation has first been obtained from the state fire marshal or the official designated by it to
87 grant permits in the city, town or district where such tank is located. If the permit is issued by an
88 official of a city, the fee for such permit shall be established by action of the city council or
89 board of aldermen in the form of a duly adopted ordinance.

90 If the permit is issued by an official of a town, the fee for such permit shall be established
91 by action of the town meeting or, if the town has no town meeting, by action of the town council,
92 in either case in the form of a duly adopted bylaw. In no event shall any such ordinance or bylaw
93 establish a fee greater than two hundred dollars nor require payment of such fees by the
94 commonwealth or any of its departments, boards, commissions, authorities, or political
95 subdivisions.

96 The board of fire prevention regulations may from time to time, adopt, amend or repeal
97 regulations, in accordance with the provisions of chapter thirty A, to insure that the removal,
98 abandonment, or decommissioning of underground storage tanks which have been used for the
99 keeping or storage of flammable or combustible fluids is done in a manner which protects public
100 health, safety, welfare and the environment. Any violation of any regulation adopted by the
101 board shall be presumed to constitute irreparable harm to public health, safety, welfare and the

102 environment. Any person who violates any provisions of this section or any regulation, rule,
103 order, permit or approval issued or adopted under the provisions of this section shall be subject
104 to the penalties specified in section eight; provided, however, that such person shall have thirty
105 days upon notification of the violation to begin compliance procedures with such provisions
106 before any penalty may be imposed.

107 Upon abandonment of a tank, notice of such abandonment shall be reported to the board
108 of health for the city or town in which such tank is located.

109 **Section 2: Notification of operation of underground storage tanks; definitions**

110 Section 2. As used in sections 3 through 9, the following terms shall have the following
111 meanings:

112 "CERCLA", the Comprehensive Environmental Response Compensation and Liability Act of
113 nineteen hundred and eighty, 12 U.S.C. section 9601 et seq., as may be amended from time to
114 time.

115 "Department", the department of environmental protection.

116 "Guarantor", any person, other than a person liable pursuant to section five of chapter twenty-one
117 E, who provides evidence of financial responsibility pursuant to this chapter.

118 "Regulated Substance", (a) any substance defined in section 101(4) of the Comprehensive
119 Environmental Response Compensation and Liability Act of nineteen hundred and eighty,
120 including waste oil but not including any other substance regulated as a hazardous waste under
121 chapter twenty-one C, and (b) petroleum, including crude oil or any fraction thereof which is

122 liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and 14.7
123 pounds per square inch absolute).

124 "Operator", (1) in the case of an underground storage tank in use on November eighth, nineteen
125 hundred and eighty-four, or brought into use after that date, any person in control of, or having
126 responsibility for, the daily operation of an underground storage tank used for the storage, use, or
127 dispensing of regulated substances or (2) in the case of any underground storage tank in use
128 before November eighth, nineteen hundred and eighty-four, but not in use at any time on or after
129 that date, any person who owns the land on or in which such tank is or was located.

130 "Owner", (1) in the case of an underground storage tank in use on November eighth, nineteen
131 hundred and eighty-four, or brought into use after that date, any person who owns an
132 underground storage tank used for the storage, use, or dispensing of regulated substances or (2)
133 in the case of any underground storage tank in use before November eighth, nineteen hundred
134 and eighty-four, but not in use at any time on or after that date, any person who owned such tank
135 immediately before the discontinuance of such use.

136 "Person", any individual, trust, firm, joint stock company, corporation (including a government
137 corporation), partnership, association, the United States Government, state, municipality,
138 commission, political subdivision of a state, interstate body, consortium, joint venture,
139 commercial entity.

140 "RCRA", the Solid Waste Disposal Act, as revised by the Resource Conservation and Recovery
141 Act, as may be further amended from time to time.

142 "Release", any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an
143 underground storage tank into the ground water, surface water or subsurface soil.

144 "Head of Fire Department" the chief executive officer of the fire department in a city, town or
145 fire district having such an office otherwise the fire commissioner, board of fire commissioners
146 or fire engineers and, in towns not having a fire department the chief engineer, if any, otherwise
147 the chairman of the board of selectmen.

148 "Trade Secret", anything tangible which constitutes, represents, evidences, or records a secret
149 scientific, technical, merchandising, production or management information, design, process,
150 procedure, formula, invention, or improvement.

151 "Underground storage tank", any one or combination of tanks, including, without limitation,
152 underground pipes connected thereto, used to contain an accumulation of regulated substance
153 and the volume of which, including the volume of underground pipes connected thereto, is ten
154 percent or more beneath the surface of the ground. The term shall not include any of the
155 following or any pipes connected to any of the following: (1) any septic tank; or (2) any pipeline
156 facility, including gathering lines, which is regulated under (a) the Natural Gas Pipeline Safety
157 Act of nineteen hundred and sixty-eight; or (b) the Hazardous Liquid Pipeline Safety Act of
158 nineteen hundred and seventy-nine; or (3) any surface impoundment pit, pond, or lagoon; or (4)
159 any storm water or waste water collection system; or (5) any flow through process tank; or (6)
160 any liquid trap or associated gathering lines directly related to oil or gas production and
161 gathering operations; or (7) any storage tank situated in an underground area, including without
162 limitation, a basement, cellar, or mineworking drift, shaft or tunnel, if the storage tank is situated
163 upon or above the surface of the floor, and all sides are accessible and visible.

164

165 **Section 3: Notification of operation of underground storage tanks; requirements;**
166 **exceptions**

167 Section 3. Nothing in this chapter shall be construed to limit the authority that the
168 department, the head of a fire department, any other department or agency of the
169 Commonwealth, or a city, town, district, or other body politic has pursuant to any law.

170 (1) Each owner of an underground storage tank first put into operation on or after January
171 first, nineteen hundred and ninety-one shall, within thirty days after the tank is first put into
172 operation, notify the department of the existence of such tank, specifying the age, size, type,
173 location, and uses of such tank. The requirements of this subsection (1) shall not apply to any
174 underground storage tank that is (a) a farm or residential tank of one thousand and one hundred
175 gallons or less capacity used for storing motor fuel for noncommercial purposes, or (b) a tank
176 used for storing heating oil for consumptive purposes where stored. In prescribing the form of
177 such notice, the department shall take into account the form of the notice prescribed pursuant to
178 section 9002 of RCRA and the effect on small businesses and other owners and operators.

179 (2) The requirements of this subsection (2) shall not apply to any underground storage
180 tank that is (a) a farm or residential tank of 1,100 gallons or less capacity used for storing motor
181 fuel for noncommercial purposes, or (b) a tank used for storing heating oil for consumptive use
182 on the premises where stored. By no later than January thirty-first, nineteen hundred and ninety-
183 one, each owner of an underground storage tank that was in operation at any time after January
184 first, nineteen hundred and seventy-four and before January first, nineteen hundred and ninety-
185 one, regardless of whether or not such tank was removed from beneath the surface of the ground
186 at any time, shall notify the department of the existence of such tank, specifying, to the extent

187 known to the owner, the size, type, and location of the tank, and the quantity of substances stored
188 in such tank before the tank ceased being in operation if the tank was removed from beneath the
189 surface of the ground, prior to the submittal of such notice to the department, such notice shall
190 also specify, to the extent known to the owner, the date the tank was removed from beneath the
191 surface of the ground, prior to the submittal of such notice to the department. In prescribing the
192 form of such notice, the department shall take into account the form of the notice prescribed
193 pursuant to section 9002 of RCRA and the effect on small businesses and other owners and
194 operators.

195 (3) The requirements of this subsection (3) shall not apply to any underground storage
196 tank that is (a) a farm or residential tank of 1,100 gallons or less capacity used for storing motor
197 fuel for noncommercial purposes, or (b) a tank used for storing heating oil for consumptive use
198 on the premises where stored. By no later than December thirty-first, nineteen hundred and
199 ninety-one, each owner of an underground storage tank that was not in operation at any time
200 after January first, nineteen hundred and seventy-four and that was not removed from beneath
201 the surface of the ground on or before January first, nineteen hundred and seventy-four, or the
202 operator of any such tank that has no owner or whose owner cannot be definitely ascertained,
203 shall notify the department of the existence of such tank, specifying, to the extent known to the
204 owner, the size, type, and location of the tank, and the type and quantity of substance stored in
205 such tank before the tank ceased being in operation if the tank was removed from beneath the
206 surface of the ground. If the tank was not removed from beneath the surface of the ground prior
207 to the submittal of such notice to the department such notice shall also specify, to the extent
208 known to the owner or operator, the date the tank was removed from beneath the surface of the
209 ground and age of the tank and all methods used to stabilize the tank after the tank ceased being

210 in operation. In prescribing the form of the notice, the department shall take into account the
211 form of the notice prescribed pursuant to section 9002 of RCRA and the effect on small
212 businesses and other owners and operators.

213 **Section 4: Notification of operation of underground storage tanks; enforcement;**
214 **safety regulations**

215 Section 4. The department shall enforce the provisions of this chapter and may, subject
216 to the provisions contained herein, take all action necessary and appropriate to secure to the
217 commonwealth the benefits of subtitle I of RCRA, including without limitation, obtaining federal
218 grants. The department may, from time to time, adopt, amend, or repeal regulations as it deems
219 necessary to accomplish the following purposes: (1) provide for the safe storage, use, handling
220 and manufacturing of regulated substance(s) in or about any underground storage tank; or (2)
221 protect public health, safety, and welfare, and the environment, from any release of a regulated
222 substance from any underground storage tank; or (3) implement, administer, and enforce any
223 provisions of this chapter.

224 **Section 5: Notification of operation of underground storage tanks; regulations for**
225 **requirements and standards of tanks**

226 Section 5. The department may, from time to time, adopt, amend, or repeal regulations,
227 as it deems necessary to establish the following requirements and standards for underground
228 storage tanks:

229 (1) requirements for maintaining a leak detection system, an inventory control system
230 together with tank testing, or a comparable system or method designed to identify releases in a
231 manner consistent with protection of human health and the environment;

232 (2) requirements for maintaining records of any monitoring or leak detection system or
233 inventory control system or tank testing system;

234 (3) requirements for reporting of any releases and corrective action taken in response to a
235 release from an underground tank;

236 (4) requirements for taking corrective action in response to a release from an
237 underground storage tank; provided, that such requirements shall be consistent with and not
238 duplicative of the Massachusetts Contingency Plan pursuant to chapter twenty-one E;

239 (5) requirements for the closure of tanks to prevent future releases of regulated substance
240 into the environment;

241 (6) requirements for maintaining evidence of financial responsibility for taking corrective
242 action and compensating third parties for bodily injury and property damage caused by sudden
243 and nonsudden accidental release arising from operating an underground storage tank;

244 (7) standards of performance for new underground storage tanks; and

245 (8) requirements (a) for notifying the department and the head of the fire department
246 designated according to section 9002- (b) (1) of the existence of any operational or
247 nonoperational underground storage tank: and (b) for providing the information required on the
248 form issued pursuant to section 9002 (b) (2).

249 **Section 6: Notification of operation of underground storage tanks; furnishing**
250 **information; inspections**

251 Section 6. For any of the purposes set forth in this chapter, and for the purposes of
252 developing or assisting in the development of any regulation pursuant to this chapter, or

253 conducting any study mandated by Congress or by the General Court, any owner or operator of
254 an underground storage tank shall upon request of the department, the head of the fire
255 department, and their personnel or authorized agents, furnish information relating to such tanks,
256 their associated equipment and their contents, conduct monitoring or testing, and permit the
257 department, the head of the fire department, and their personnel or authorized agents, to have
258 access to, and to copy all records relating to, such tanks. For any of the purposes set forth in
259 section four, and for the purposes of developing or assisting in the development of any regulation
260 pursuant to this chapter, or conducting any study mandated by Congress or by the General Court,
261 the department, the head of the fire department, and their personnel or authorized agents, are
262 authorized (1) to enter at reasonable times any establishment or other place where an
263 underground storage tank is located; and (2) to inspect and obtain samples from any person of
264 any regulated substance contained in such tank; and (3) to conduct monitoring or testing of the
265 tanks, associated equipment, contents, or surrounding soils, air, surface water or ground water.
266 Each such inspection shall be commenced and completed with reasonable promptness.

267 **Section 7: Notification of operation of underground storage tanks; violation**
268 **prevention; orders**

269 Section 7. Whenever it appears that there is a violation of any provision of this chapter or
270 any regulation, rule, order, permit or approval adopted or issued pursuant to this chapter, the
271 department or head of the fire department may issue to a person causing or contributing, or likely
272 to cause or contribute, to such violation or potential violation an order requiring the production
273 or analysis of samples, or the production of records, or imposing such restraints on or requiring
274 such action by said person, as the department or the head of the fire department reasonably
275 deems necessary or desirable to abate or to prevent such violation or potential violation. Issuance

276 of an order under this section shall not preclude, and shall not be deemed an election to forego,
277 any other remedy authorized by law.

278 **Section 8: Notification of operation of underground storage tanks; violation of**
279 **statutes; penalties**

280 Section 8. No person shall violate, or allow or suffer any employee, agent, or contractor
281 to violate, any provision of this chapter, or of any regulation, rule, order, permit or approval
282 adopted or issued pursuant to this chapter. Any violation of any provision of this chapter, or of
283 any regulation, rule, order, permit or approval adopted or issued pursuant to this chapter shall be
284 presumed to constitute irreparable harm to public health, safety and welfare, and to the
285 environment. Such presumption may be rebutted by the introduction of competent evidence. Any
286 person who violates any provisions of this chapter, or any regulation, rule, order, permit or
287 approval issued or adopted under the provisions of this chapter, (a) shall be punished by a fine
288 not to exceed twenty-five thousand dollars, or by imprisonment for not more than two years, or
289 both; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each
290 such violation. Each day each such violation occurs or continues shall be deemed a separate
291 offense. This shall be in addition to any other penalty or remedy prescribed by law.

292 The superior court department of the trial court shall have jurisdiction to assess civil penalties as
293 set forth in this section, and to enjoin violations of, and grant such additional relief as it deems
294 necessary or appropriate to secure compliance with, the provisions of this chapter, or any
295 regulation, rule, order, permit or approval adopted or issued pursuant to this chapter, upon
296 petition of the attorney general, a district attorney, the department, the head of the fire
297 department, or a city or town.

298 **Section 9: Notification of operation of underground storage tanks; confidentiality of**
299 **information; exclusivity of remedy**

300 Section 9. Notwithstanding the provisions of any general or special law to the contrary,
301 any information, record, or particular part thereof, obtained by the department or by the head of
302 the fire department or by their respective personnel or contractors pursuant to the provisions of
303 this chapter, upon request, shall be confidential and not be considered to be a public record when
304 it is determined by the department or by the head of the fire department, as the case may be, that
305 such information, record, or particular part thereof, if made public, would divulge a trade secret.
306 This section shall not prevent disclosure of any information necessary for an enforcement action
307 or to comply with Federal law or regulations. The exclusive remedy for any person aggrieved by
308 a determination of the department or of the head of the fire department, as the case may be,
309 pursuant to this section shall be a civil action in the nature of certiorari pursuant to section four
310 of chapter two hundred and forty-nine; provided, that the action shall be commenced within
311 thirty days of the date of the determination. Notwithstanding the provisions of any general or
312 special law to the contrary, any information, record, or particular part thereof, obtained by the
313 department, or by the head of the fire department or by their respective personnel or contractors
314 pursuant to the provisions of this chapter shall be a public record unless it is not a public record
315 pursuant to this section or pursuant to any other law.

316 SECTION 7. (a) Notwithstanding any general or special law to the contrary, this section
317 shall facilitate the orderly transfer of the proceedings, rules and regulations, property and legal
318 obligations of the following functions of state government from the transferor agency to the
319 transferee agency, defined as follows:

320 (1) the functions of the department of fire services and the board of fire prevention
321 regulations that relate to the administration and enforcement of the underground storage tank
322 program, previously codified as sections 38A through 38I, inclusive, of chapter 148 of the
323 General Laws, as the transferor agency, to the Department of Environmental Protection, as the
324 transferee agency.

325 (b) All petitions, requests, investigations and other proceedings appropriately and duly
326 brought before the transferor agency or duly begun by the transferor agency and pending before
327 it before the effective date of this act, shall continue unabated and remain in force, but shall be
328 assumed and completed by the transferee agency.

329 (c) All orders, rules and regulations duly made and all approvals duly granted by the
330 transferor agency, which are in force immediately before the effective date of this act, shall
331 continue in force and shall thereafter be enforced, until superseded, revised, rescinded or
332 canceled, in accordance with law, by the transferee agency.

333 (d) All books, papers, records, documents, and equipment, which immediately before the
334 effective date of this act are in the custody of the transferor agency shall be transferred to the
335 transferee agency.

336

337 **Transfer of the Home Improvement Contractor Program from the Department of Public**
338 **Safety to the Office of Consumer Affairs and Business Regulation**

339

340 SECTION 8. Section 1 of chapter 142A of the General Laws, as appearing in the 2006
341 Official Edition, is hereby amended by striking out the definition of “Administrator.”

342 SECTION 9. Section 2 of chapter 142A, as so appearing, is hereby amended by striking
343 out, in lines 31, 32 and 33, the word “administrator” and inserting in place thereof the following
344 word:- director.

345 SECTION 10. Section 7 of chapter 142A, as so appearing, is hereby amended by striking
346 out, in lines 27 and 28, the word “administrator” and inserting in place thereof the following
347 word:- director.

348 SECTION 11. Section 9 of chapter 142A, as so appearing, is hereby amended by striking
349 out, in lines 3 and 4, the words “bureau of building regulations and standards” and inserting in
350 place thereof the following words:- office of consumer affairs and business regulation.

351 SECTION 12. Section 9 of chapter 142A, as so appearing, is hereby further amended by
352 striking out, in line 5, the word “administrator” and inserting in place thereof the following
353 word:- director.

354 SECTION 13. Section 10 of chapter 142A, as so appearing, is hereby amended by
355 striking out, in lines 2 and 3, the word “administrator” and inserting in place thereof the
356 following word:- director.

357 SECTION 14. Section 11 of chapter 142A, as so appearing, is hereby amended by
358 striking out, in lines 26, 31, 35, 37, 39 and twice in line 13, the word “administrator” and
359 inserting in place thereof the following word:- director.

360 SECTION 15. Section 12 of chapter 142A, as so appearing, is hereby amended by
361 striking out, in lines 3 and 20, the word “administrator” and inserting in place thereof the
362 following word:- director.

363 SECTION 16. Section 13 of chapter 142A, as so appearing, is hereby amended by
364 striking out, in lines 1, 10, 11, 13, 17, 19, and 20, the word “administrator” and inserting in place
365 thereof the following word:- director.

366 SECTION 17. Section 15 of chapter 142A, as so appearing, is hereby amended by
367 striking out, in line 2, the word “administrator” and inserting in place thereof the following
368 word:- director.

369 SECTION 18. Section 15 of chapter 142A, as so appearing, is hereby further amended
370 by striking out, in lines 2 and 3, the words “upon recommendation by the advisory board and”.

371 SECTION 19. Section 16 of chapter 142A, as so appearing, is hereby amended by
372 striking out, in lines 1 and 5, the word “administrator” and inserting in place thereof the
373 following word:- director.

374 SECTION 20. Section 17 of chapter 142A, as so appearing, is hereby amended by
375 striking out, in lines 3, 4, and 35, the word “administrator” and inserting in place thereof the
376 following word:- director.

377 SECTION 21. Section 17 of chapter 142A, as so appearing, is hereby further amended
378 by striking out, in line 45, the words “administrator or fund administrator” and inserting in place
379 thereof the following words:- director or fund administrator.

380 SECTION 22. Section 18 of chapter 142A, as so appearing, is hereby amended by
381 striking out, in lines 1, 2, 3, 4, 6, 11, and 12, the word “administrator” and inserting in place
382 thereof the following word:- director.

383 SECTION 23. Section 20 of chapter 142A, as so appearing, is hereby amended by
384 striking out, in lines 1 and 10, the word “administrator” and inserting in place thereof the
385 following word:- director.

386 SECTION 24. (a) Notwithstanding any general or special law to the contrary, this
387 section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations,
388 property and legal obligations of the following functions of state government from the transferor
389 agency to the transferee agency, defined as follows:

390 (1) the functions of the department of public safety and the board of building
391 regulations and standards that relate to the administration and enforcement of the home
392 improvement contractor program, as the transferor agency, to the office of consumer affairs and
393 business regulation, as the transferee agency;

394 (b) The employees of the transferor agency, including those who were appointed
395 immediately before the effective date of this act and who hold permanent appointment in
396 positions classified under chapter 31 of the General Laws or have tenure in their positions as
397 provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold
398 confidential positions, are hereby transferred to the transferee agency, without interruption of
399 service within the meaning of said section 9A of said chapter 31, without impairment of
400 seniority, retirement or other rights of the employee, and without reduction in compensation or
401 salary grade, notwithstanding any change in title or duties resulting from such reorganization,
402 and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without
403 change in union representation or certified collective bargaining unit as certified by the state
404 division of labor relations or in local union representation or affiliation. Any collective
405 bargaining agreement in effect immediately before the transfer date shall continue in effect and
406 the terms and conditions of employment therein shall continue as if the employees had not been
407 so transferred. The reorganization shall not impair the civil service status of any such reassigned
408 employee who immediately before the effective date of this act either holds a permanent

409 appointment in a position classified under chapter 31 of the General Laws or has tenure in a
410 position by reason of section 9A of chapter 30 of the General Laws.

411 Notwithstanding any other general or special law to the contrary, all such employees shall
412 continue to retain their right to collectively bargain pursuant to chapter 150E of the General
413 Laws and shall be considered employees for the purposes of said chapter 150E.

414 Nothing in this section shall be construed to confer upon any employee any right not held
415 immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer,
416 reassignment, suspension, discharge, layoff, or abolition of position not prohibited before such
417 date.

418 (c) All petitions, requests, investigations and other proceedings appropriately and duly
419 brought before the transferor agency or duly begun by the transferor agency and pending before
420 it before the effective date of this act, shall continue unabated and remain in force, but shall be
421 assumed and completed by the transferee agency.

422 (d) All orders, rules and regulations duly made and all approvals duly granted by the
423 transferor agency, which are in force immediately before the effective date of this act, shall
424 continue in force and shall thereafter be enforced, until superseded, revised, rescinded or
425 canceled, in accordance with law, by the transferee agency.

426 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and other
427 property, both personal and real, including all such property held in trust, which immediately
428 before the effective date of this act are in the custody of the transferor agency shall be transferred
429 to the transferee agency.

430 (f) All duly existing contracts, leases and obligations of the transferor agency shall
431 continue in effect but shall be assumed by the transferee agency. No existing right or remedy of
432 any character shall be lost, impaired or affected by this act.

433

434 **Transfer of the State Racing Commission to the Division of Professional Licensure**

435 SECTION 25. Chapter 6 of the General Laws, as appearing in the 2006 Official Edition,
436 is hereby amended by striking out section 48 and inserting in place thereof the following
437 section:-

438 Section 48. There shall be within the division of professional licensure a commission to
439 be known as the state racing commission, in this section and in chapters 128A and 128C
440 inclusive called the commission. The commission shall be deemed a board serving in the
441 division of professional licensure, within the meaning of sections 8, 9, 9A, 9B and 9C of chapter
442 13.

443 The commission shall consist of three commissioners, a chairman and two associate
444 commissioners, all to be appointed by the governor and serve coterminous with him. Not more
445 than two of such commissioners shall be of the same political party. The day-to-day operations
446 and general administration of the commission, including all administrative functions of the
447 commission and all actions not expressly required by statute or regulation to be carried out by the
448 commission itself, shall, at the direction and under the control of the director of the division of
449 professional licensure, be under the supervision of an executive director, who shall be appointed
450 by the director of the division of professional licensure with the approval of the director of
451 consumer affairs and business regulation. The executive director shall devote his full time

452 during business hours to his duties hereunder. The director of the division of professional
453 licensure may employ, as employees of the division of professional licensure, such other persons,
454 in addition to the aforementioned executive director, as the director of the division of
455 professional licensure may determine to be necessary to carry out such day-to-day operations and
456 general administration of the commission.

457 Each commissioner shall hold office until the appointment and qualification of his
458 successor. The governor may remove any commissioner for cause and shall fill any vacancy for
459 the unexpired term. Whenever any action by the commission is required to be in writing, such
460 writing shall be sufficient when signed by the commission chairman.

461 The commission shall make an annual report in January of each year to the general
462 court. That report shall include the following information with respect to the previous calendar
463 year: statements of monies deposited in the Running Horse Capital Improvements Trust Fund
464 and the Running Horse Promotional Trust Fund, each established under section 11 of chapter
465 494 of the acts of 1978, the Harness Horse Capital Improvements Trust Fund and the Harness
466 Horse Promotional Trust Fund, each established under section 12 of said chapter 494, together
467 with a detailed account of monies disbursed from the funds, the specific capital improvements
468 and promotions for which the disbursements were intended, and a report on which of the
469 improvements and promotions have been accomplished; a statement of racing dates awarded to
470 licensees, including those awarded in connection with a state or county fair; and a statement of
471 the total amounts wagered at each race track, together with the monies paid to the
472 commonwealth and the commission, purses paid to horse owners and monies retained by each
473 licensee, together with a statement of the net profit of each licensee taken from the financial
474 statements filed under section 6 of chapter 128A. Copies of the report shall be transmitted to the

475 governor, the president of the senate, the speaker of the house of representatives, the chairmen of
476 the house and senate committees on ways and means, the joint committee on government
477 regulations and the joint committee on taxation.

478 SECTION 26. Section 17 of chapter 6 of the General Laws, as appearing in the 2006
479 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words “the state racing
480 commission,”.

481 SECTION 27. Subsection (c) of section 16G of chapter 6A of the General Laws, as
482 appearing in the 2006 Official Edition, is hereby amended by striking out, in line 18, the words
483 “the state racing commission,”.

484 SECTION 28. Section 22B½ of chapter 7 of the General Laws, as appearing in the 2006
485 Official Edition, is hereby amended by striking out, in lines 25 and 26, the words “Massachusetts
486 Racing Commission,”.

487 SECTION 29. Subsection (b) of section 9 of chapter 13 of the General Laws, as
488 appearing in the 2006 Official Edition, is hereby amended by inserting after the word “chapter”,
489 in line 9, the following words:- , as well as the state racing commission established by section 48
490 of chapter 6,.

491 SECTION 30. Subsection (e) of section 9B of chapter 13, as so appearing, is hereby
492 amended by inserting after the word “chapter”, in line 47, the following words:- , as well as the
493 state racing commission established by section 48 of chapter 6,.

494 SECTION 31. Subsection (e) of section 9B of chapter 13, as so appearing, is hereby
495 further amended by inserting after the word “chapter”, in line 49, the following words:- or
496 regulated by the state racing commission, as established by section 48 of chapter 6.

497 SECTION 32. Subsection (b) of section 1 of chapter 24A of the General Laws, as
498 appearing in the 2006 Official Edition, is hereby amended by striking out, in line 22, the words
499 “the state racing commission;”.

500 SECTION 33. Section 7 of chapter 30 of the General Laws, as appearing in the 2006
501 Official Edition, is hereby amended by striking out, in lines 8 and 9, the words “the alcoholic
502 beverages control commission and the state racing commission” and inserting in place thereof
503 the following words:- and the alcoholic beverages control commission.

504 **Consolidation of Homeless Shelter Programs Under the Department of Housing and**
505 **Community Development**

506

507 SECTION 34. Section 2 of chapter 18 of the General Laws, as appearing in the 2006
508 Official Edition, is hereby amended by inserting after the words “as needed”, in line 10, the
509 following words:- except with respect to housing needs as provided for under section 30 of
510 chapter 23B

511 SECTION 35. Section 2 of chapter 18, as so appearing, is hereby further amended by
512 striking out lines 94 through 138.

513 SECTION 36. Section 2 of chapter 18, as so appearing, is hereby further amended by
514 inserting, in line 139, at the beginning of the sentence, the following word:- (D)

515 SECTION 37. Chapter 23B of the General Laws, as appearing in the 2006 Official
516 Edition, is hereby amended by inserting after section 29 the following section:-

517 Section 30. Subject to appropriation, the department shall administer a program of
518 emergency housing assistance to needy families with children and pregnant woman with no other
519 children. The commonwealth shall accept funds from the appropriate federal authorities for said
520 program.

521 (A) The department shall promulgate rules and regulations to establish the levels of benefits
522 available under the program and to ensure simplicity of administration in the best interest of
523 needy recipients. Such benefits shall include, but not be limited to, the following:—

524 (a) for the prevention of the loss of housing, the actual liability up to three times the
525 monthly rental or mortgage liability;

526 (b) for the prevention of utility shutoffs or for the resumption of utility services, up to
527 three months of the actual service liabilities;

528 (c) for the provision of home heating assistance, up to three months of the actual fuel
529 liabilities.

530 (d) The department shall promulgate regulations which would authorize the department
531 to make payments for a fourth month of rent, utility or fuel arrearages if the director certifies in
532 writing that the family would otherwise become homeless, or be without utilities or fuel.

533 (e) for the prevention of homelessness, temporary shelter as necessary to alleviate
534 homelessness when such family has no feasible alternative housing available, storage of furniture
535 for up to thirty days; moving expenses; advance rent payments of one month's rent; and security
536 deposit not to exceed one month's rent.

537 The department shall establish procedures, consistent with federal law, to require
538 applicants for the program to also submit an application for federal energy assistance where
539 appropriate. No benefits for a particular emergency shall be provided to an applicant family
540 under the emergency assistance program when benefits are available within seven days of
541 application under the federal assistance program to meet such particular emergency.

542 (B) The department shall promulgate rules and regulations to establish the requirements and
543 standards for eligibility. Subject to appropriation, such regulations shall provide that a needy
544 family shall be eligible for assistance under the emergency assistance program if its income is
545 within the income limits for the program of aid to families with dependent children established
546 pursuant to chapter one hundred and eighteen.

547 Emergency housing assistance shall not be granted to a family who, but for the
548 assignment or transfer of real or personal property at any time within one year immediately prior
549 to the filing of an application for emergency housing assistance, would not be eligible for such
550 assistance .

551 The department shall take all reasonable actions to minimize abuse and errors. Such
552 activities shall include:—

553 (a) the collection and analysis of data regarding utilization patterns;

554 (b) the recording and tracking of use of this program by individual recipients, including,
555 but not limited to, the utilization of a year to year cross check of recipients to determine if a
556 person or persons has received similar benefits in the previous year or years;

557 (c) the utilization by the department of mechanisms, such as payment of all or part of a
558 regular assistance grant directly to vendors, to prevent the misuse of this program, provided,
559 however, that such mechanisms are authorized under federal or state law;

560 (d) the utilization of wage reporting and bank matching systems, provided, however, that
561 the provision of assistance shall not be delayed by such utilization;

562 (e) the verification of all elements of eligibility. Such verification requirements, including
563 home visits by workers assigned to recipients, shall be reasonable and in accordance with federal
564 law and regulations, where applicable. The department shall determine which verification
565 requirements can be reasonably met by third party affidavits and shall provide notification to
566 recipients and applicants of the circumstances when third party affidavits may be used. The
567 department shall establish reasonable procedures for the verification of continuing eligibility,
568 including monthly reporting and retrospective budgeting where appropriate.

569 (C) Subject to federal approval of any necessary waivers, the department shall use the warrant
570 management system established pursuant to section twenty-three A of chapter two hundred and
571 seventy-six; and, in accordance with section 11 of chapter 14 and the rules and regulations of the
572 fraudulent claims commission, the department shall forward the name of any applicant or
573 beneficiary of emergency housing assistance who, according to said warrant management
574 system, has an outstanding default or arrest warrant issued against him; and the department shall
575 comply with existing state and federal law applicable to time standards for review and
576 determination of eligibility, and all notice and hearing requirements afforded to applicants and
577 beneficiaries under its emergency housing assistance programs; and

578 The department shall not issue a check or grant any benefits of any kind to or on behalf of
579 an applicant for or recipient of emergency housing assistance benefits against whom an
580 outstanding default or arrest warrant has issued by any court of the commonwealth. Evidence of
581 the outstanding default or arrest warrant appearing in said warrant management system shall be
582 sufficient grounds for such action by the department.

583 If a hearing is requested to challenge the termination of benefits due to an outstanding
584 default or arrest warrant, the law enforcement agency responsible for the warrant shall be
585 notified of the time, place, date of hearing and the subject of the warrant. An affidavit from the
586 law enforcement agency responsible for the warrant or from the colonel of the state police may
587 be introduced as prima facie evidence of the existence of a warrant without the need for members
588 of that law enforcement agency to attend any hearings held under this section.

589 (D) Any person or institution which knowingly makes a false representation or, contrary to a
590 legal duty to do so, knowingly fails to disclose any material fact affecting eligibility or level of
591 benefits to the department or its agents, for the purpose of causing any person, including the
592 person making such representations, to be eligible for emergency housing assistance, shall be
593 punished by a fine of not less than two hundred nor more than five hundred dollars or by
594 imprisonment for not more than one year.

595 Nothing in this section shall be construed as preventing the institution of criminal
596 proceedings for the violation of any other law of the commonwealth.

597 (E) Any vendor under the emergency housing assistance program administered by the
598 department shall submit to the department, within six months of the last day of the month in
599 which such service was rendered, a bill for the same. For the purposes of this chapter a vendor
600 shall be any person or institution providing services in connection with any assistance program
601 administered by the department. All vouchers submitted by a vendor shall be signed under the
602 penalties of perjury.

603 (F) There shall be within the office of the chief counsel a division of hearings for the purpose of
604 holding the hearings referred to herein and rendering decisions. Said division shall be under the

605 supervision of a hearings manager appointed by the director and shall be independent of all other
606 divisions and personnel of the department.

607 Any person aggrieved by the failure of the department to render adequate aid or
608 assistance under the emergency housing assistance program administered by the department or to
609 approve or reject an application for aid or assistance thereunder within forty-five days after
610 receiving such application, or aggrieved by the withdrawal of such aid or assistance, or by
611 coercive or otherwise improper conduct on the part of the emergency housing assistance program
612 staff, shall have a right to a hearing, after due notice, upon appeal to the director.

613 A hearing held pursuant to this section shall be conducted by a hearing officer designated
614 by the hearings manager at a location convenient to the person appealing and shall be conducted
615 as an adjudicatory proceeding under chapter thirty A. The hearings manager shall be responsible
616 for the fair and efficient operation of the division in conformity with state and federal laws and
617 regulations and for the training of hearing officers, scheduling of hearings and the compilation of
618 decisions. No employee other than the hearings manager shall review, interfere with, change or
619 attempt to influence any hearing decision by a hearing officer. The decision of the hearing officer
620 shall be the decision of the department.

621 A hearing officer shall render and issue his decision within ninety days after the date of
622 the filing of the aggrieved person's appeal, except that when an aggrieved person appeals the
623 rejection of his application for aid or assistance, or the failure to act on said application, or the
624 failure of the department to render assistance to meet an emergency or hardship situation, the
625 hearing officer shall render and issue the decision within forty-five days after the date of filing of
626 said appeal. The decision of the department shall be subject to review in accordance with the
627 provisions of chapter thirty A.

628 When a timely request for a hearing is made because of a termination or reduction of
629 assistance that has been provided on the basis of a final determination of eligibility, involving an
630 issue of fact, or of judgment relating to an individual case, between the agency and the appellant,
631 assistance shall be continued during the period of the appeal. If the decision is adverse to the
632 appellant, assistance shall be terminated immediately. If assistance has been terminated prior to a
633 timely request for a hearing, assistance shall be reinstated.

634 SECTION 38: To the extent that employees of the department of transitional assistance
635 are transferred to the department of housing and community development in connection with
636 sections 34 through 37 of this Act, any collective bargaining agreement in effect immediately
637 before the transfer of any such employees pursuant to the foregoing shall continue in effect and
638 the terms and conditions of employment therein shall continue as if the employees had not been
639 so transferred. The transfer shall not impair the civil service status of any such reassigned
640 employee who, immediately before the effective date of this act, either holds a permanent
641 appointment in a position classified under chapter 31 of the General Laws or has tenure in a
642 position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any general
643 or special law to the contrary, all such employees shall continue to retain their right to
644 collectively bargain pursuant to chapter 150E of the General Laws and shall be considered
645 employees for the purposes of said chapter 150E. Nothing in this section shall be construed to
646 confer upon any employee any right not held immediately before the date of said transfer.

647 **Transfer of Wage Reporting from the Department of Revenue to the Division of**
648 **Unemployment Assistance**

649

650 SECTION 39. Section 1 of chapter 62E of the General Laws, as appearing in the 2006
651 Official Edition, is hereby amended by striking out, in line 4, the words “section 9 of chapter 14”
652 and inserting in place thereof the following words:- section 16 of chapter 11.

653 SECTION 40. Section 1 of chapter 62E, as so appearing, is hereby further amended by
654 striking out, in the sixth paragraph, the definition of “Employer” and inserting in place thereof
655 the following definition:-

656 “Employer”, an employing unit subject either to chapter 151A, section 14P, or to chapter
657 62B.

658 SECTION 41. Section 1 of chapter 62E, as so appearing, is hereby further amended by
659 striking out, in the seventh paragraph, the definition of “Employee” and inserting in place thereof
660 the following definition:-

661 "Employee", an individual employed by an employer subject either to chapter 151A or to
662 chapter 62B.

663 SECTION 42. Section 1 of chapter 62E, as so appearing, is hereby further amended by
664 striking out, in the last paragraph, the definition of “Reporting system” and inserting in place
665 thereof the following three definitions:-

666 “Reporting systems”, the wage reporting system, new hire and other reporting systems
667 established in section 2, and financial institution match system established in section 4.

668 “Wage records”, reports submitted by employers to the Director of the Division of
669 Unemployment Assistance pursuant to chapter 151A, section 14P.

670 “Wage reporting system”, a system of wage records that are provided by the Director of
671 the Division of Unemployment Assistance to the Commissioner pursuant to an interagency
672 agreement.

673 SECTION 43. Section 2 of chapter 62E, as so appearing, is hereby amended by striking
674 out the first two sentences.

675 SECTION 44. Section 2 of chapter 62E, as so appearing, is hereby further amended by
676 striking out, in line 10, the words “, in addition,”.

677 SECTION 45. Section 2 of chapter 62E, as so appearing, is hereby further amended by
678 striking out the last three sentences and inserting in place thereof the following:- The
679 commissioner shall, by regulation, prescribe the timing, the form, and the manner of such reports
680 and the information to be provided in the reports, which may include disclosure of the existence
681 of an outstanding child support order. All such reports shall be part of the reporting systems.

682 SECTION 46. Chapter 62E, as so appearing, is hereby further amended by inserting after
683 section 2 the following section:-

684 Section 2A. Notwithstanding any other provision of this chapter, the new hire reporting
685 requirements of this chapter and the penalties associated with the failure to comply with those
686 requirements shall apply to any entity electing to report new hire information to the
687 Commonwealth pursuant to the multi-state employer provisions of 42 U.S.C. § 653a(b)(1)(B).

688 SECTION 47. Section 3 of chapter 62E, as so appearing, is hereby amended by striking
689 out, in lines 1 and 2, the words “The commissioner shall design, develop, implement and operate
690 a wage reporting and financial institution match system:” and inserting in place thereof the

691 following:- The commissioner shall design, develop and implement a financial institution match
692 system and shall operate the reporting systems:

693 SECTION 48. Section 3 of chapter 62E, as so appearing, is hereby further amended by
694 striking out, in lines 3 and 4, the words “an entitlement” and inserting in place thereof the
695 following words:- a public benefit.

696 SECTION 49. Section 3 of chapter 62E, as so appearing, is hereby further amended by
697 striking out, in lines 8 and 9, the words “for free care services made from the uncompensated
698 care pool pursuant to section 18 of chapter 118G” and inserting in place thereof the following
699 words:- made from the health safety net trust fund.

700 SECTION 50. Section 3 of chapter 62E, as so appearing, is hereby further amended by
701 striking out, in line 16, the word “system” and inserting in place thereof the following word:-
702 systems.

703 SECTION 51. Section 3 of chapter 62E, as so appearing, is hereby further amended by
704 striking out, in line 23, the word “system” and inserting in place thereof the following word:-
705 systems.

706 SECTION 52. Section 3 of chapter 62E, as so appearing, is hereby further amended by
707 striking out the second to last sentence and inserting in place thereof the following sentence:-
708 Such information shall be utilized in the reporting systems as a post audit mechanism for the
709 purpose of verifying eligibility and detecting and preventing fraud, error and abuse in public
710 benefits provided by agencies of the commonwealth.

711 SECTION 53. Section 3 of chapter 62E, as so appearing, is hereby further amended by
712 striking out, in the last sentence, the words “this reporting system” and inserting in place thereof
713 the following words:- the reporting systems.

714 SECTION 54. Section 3 of chapter 62E, as so appearing, is hereby further amended by
715 adding after the existing text the following new paragraph:-

716 The provisions of this chapter do not apply to the utilization and dissemination of wage
717 records by the Division of Unemployment Assistance.

718 SECTION 55. Section 4 of chapter 62E, as so appearing, is hereby amended by striking
719 out paragraph (f) and inserting in place thereof the following paragraph:-

720 (f) All reports under this section shall be part of the reporting systems.

721 SECTION 56. Section 5 of chapter 62E, as so appearing, is hereby amended by striking
722 out, in the first sentence, the words “to him under the reporting system” and inserting in place
723 thereof the following words:- under the reporting systems.

724 SECTION 57. Section 5 of chapter 62E, as so appearing, is hereby further amended by
725 striking out, in line 3, the words “system” and inserting in place thereof the following word:-
726 systems.

727 SECTION 58. Section 5 of chapter 62E, as so appearing, is hereby further amended by
728 inserting, at the end of the second sentence, the following words:- , or other information as
729 determined by the commissioner.

730 SECTION 59. Section 5 of chapter 62E, as so appearing, is hereby further amended by
731 striking out, in the third sentence, the words “presented in accordance” through the end of the

732 sentence and inserting in place thereof the following words:- , including consultation with the
733 recipient whose status is in question.

734 SECTION 60. Section 5 of chapter 62E, as so appearing, is hereby further amended by
735 striking out, in the last sentence, the word “system” and inserting in place thereof the following
736 word:- systems.

737 SECTION 61. Section 6 of chapter 62E, as so appearing, is hereby amended by striking
738 out, in lines 4 through 13, the words “in accordance with regulations” and all that follows
739 through the end of the section.

740 SECTION 62. Section 6B of chapter 62E, as so appearing, is hereby amended by striking
741 out, in line 3, the words “, pursuant to procedures established by said commission,”.

742 SECTION 63. Section 7 of chapter 62E, as appearing, is hereby amended by striking out,
743 in lines 1 and 8, the words “administering departments” and inserting in place thereof the
744 following words:- commissioner and the administering department.

745 SECTION 64. Section 7A of chapter 62E, as so appearing, is hereby amended by
746 striking out, in lines 1 through 3, the words “wage reporting data compiled by the department
747 from the quarterly reports filed by employers” and inserting in place thereof the following
748 words:- reporting systems.

749 SECTION 65. Section 8 of chapter 62E, as so appearing, is hereby amended by striking
750 out, in line 8, the word “system” and inserting in place thereof the following word:- systems.

751 SECTION 66. Section 9 of chapter 62E, as so appearing, is hereby amended by striking
752 out, in line 15, the word “treasurer” and inserting in place thereof the following word:- person.

753 SECTION 67. Section 10 of chapter 62E is hereby repealed.

754 SECTION 68. Section 11 of chapter 62E, as appearing in the 2006 Official Edition, is
755 hereby amended by striking out, in the first sentence, the words “establish a program of wage
756 and financial institution information sharing” and inserting in place thereof the following words:-
757 share reporting system information.

758 SECTION 69. Section 11 of chapter 62E, as so appearing, is hereby further amended by
759 striking out, in the third sentence, the words “wage reporting system” and inserting in place
760 thereof the following words:- reporting systems.

761 SECTION 70. Section 11 of chapter 62E, as so appearing, is hereby further amended by
762 striking out, in the fourth sentence, the words “wage and financial institution information” and
763 inserting in place thereof the following words:- reporting system information.

764 SECTION 71. Section 12 of chapter 62E, as so appearing, is hereby amended by striking
765 out, in the first sentence, the words “wage and financial institution information data” and
766 inserting in place thereof the following words:- reporting system information.

767 SECTION 72. Section 12 of chapter 62E, as so appearing, is hereby further amended by
768 striking out, in the first sentence of the second paragraph, the words “wage reporting system”
769 and inserting in place thereof the following words:- reporting systems.

770 SECTION 73. Section 12 of chapter 62E, as so appearing, is hereby further amended by
771 striking out, in the second sentence of the second paragraph, the words “wage reporting and
772 financial institution match system” and inserting in place thereof the following words:- reporting
773 systems.

774 SECTION 74. Section 12 of chapter 62E, as so appearing, is hereby further amended by
775 striking out, in the second sentence of the second paragraph, the words “relating to
776 administration of the tax laws, public assistance programs of the commonwealth or any political
777 subdivision thereof or their respective agencies, workers’ compensation laws or the child support
778 enforcement program of the commonwealth;”.

779 SECTION 75. Section 12 of chapter 62E, as so appearing, is hereby further amended by
780 striking out, in the last sentence of the second paragraph, the words “wage reporting data” and
781 inserting in place thereof the following words:- reporting system information.

782 SECTION 76. Section 13 of chapter 62E, as so appearing, is hereby repealed.

783 SECTION 77. Section 14G of chapter 151A of the General Laws, as appearing in the
784 2006 Official Edition, is hereby amended by striking out subsection (g).

785 SECTION 78. Chapter 151A, as so appearing, is hereby further amended by adding after
786 section 14 O the following new section: -

787 Section 14P. (a) As used in this section the following words shall, unless the context
788 clearly requires otherwise, have the following meanings:

789 (1) “Director”, the director of the division of unemployment assistance.

790 (2) “Division”, the division of unemployment assistance.

791 (3) “Employee”, any individual employed by an employer subject either to this
792 chapter or to chapter sixty-two B.

793 (4) "Employer", any employing unit subject either to this chapter or to chapter sixty-
794 two B.

795 (b) All employers who are or become either subject to the provisions of this chapter or
796 subject to the provisions of chapter sixty-two B shall register with the division in the time, form
797 and manner as may be prescribed by the director.

798 (c) Beginning with the calendar quarter ending December 31, 2009, every employer as
799 defined in this section shall, for each calendar quarter, submit in the time, form and manner as
800 may be prescribed by the director a report containing, but not limited to, the following
801 information for each employee: name, social security number, wages paid as defined in section
802 1(s) of this chapter, hours worked, total amount of taxes withheld under the provision of chapter
803 sixty-two B and the amount of wages as defined in section 1 of chapter sixty-two B upon which
804 the withholding was based, the identification number assigned the employer by the division, the
805 corresponding federal employer identification number and the identification number such
806 employer is required to include on a withholding tax return filed pursuant to chapter sixty-two B.
807 The report also shall include the count of all employees as defined in section 1(h) of this chapter
808 who worked during or received wages as defined in section 1(s) of this chapter for the pay period
809 which includes the twelfth day of each month of the applicable quarter. The report shall be
810 submitted quarterly according to a schedule prescribed by the director. The report shall be
811 deemed submitted when received by the division.

812 (d) The director may require by regulation an employer to submit the report specified in
813 subsection (c) using a form and means of electronic transmittal as prescribed by the director.
814 The regulation may include penalties for failure to comply with the filing requirements.

815 (e) If an employer fails to file any report or form required by this section or section 14G
816 of this chapter within fifteen days from the date on which the director has mailed to such
817 employer a demand for such report or form, the director may assess upon such employer a
818 penalty as follows:

<u>WORKFORCE SIZE</u>	<u>PENALTY AMOUNT</u>
0-4	\$25.00
5-9	\$100.00
10-49	\$250.00
50-99	\$500.00
100-499	\$1,000.00
500 and up	\$2,500.00

819 The director shall determine the applicable workforce size by taking an average of the
820 monthly employment count reported by the employer as required by subsection (c) for the most
821 recent quarter; provided that, if the employer has not filed any reports required by subsection (c),
822 the director may determine the applicable workforce size from any available information. Each
823 such failure to file shall constitute a separate and distinct offense.

824 (f) The director shall provide information secured under this section to the commissioner
825 of the department of revenue pursuant to an interagency agreement between the division and the
826 department of revenue. The commissioner of the department of revenue may provide such
827 information pursuant to an interagency agreement with other governmental entities as specified

828 in chapter sixty-two E or as otherwise provided by statute. The director is authorized to provide
829 information secured under this section to other entities pursuant to an agreement which is
830 consistent with the provision of 20 CFR Pt 603.

831 (g) Information secured pursuant to this section may be used as part of the Wage Record
832 Interchange System established and implemented to carry out the provisions of the Workforce
833 Investment Act of 1998.

834 (h) Except where inconsistent with the provisions of this section, the provisions of this
835 chapter, including the rules and regulations adopted under this chapter, shall apply to the
836 requirements of this section.

837 (i) The director shall promulgate regulations necessary to implement this section.

838 SECTION 79. Subsection (a) of section 15 of chapter 151A, as so appearing, is hereby
839 amended by striking out the second paragraph.

840 SECTION 80. Sections 1 through 4 of this Act shall take effect October 1, 2009.

841 SECTION 81. Sections 5 through 24 of this Act shall take effect July 1, 2009.

842 SECTION 82. Sections 25 through 33 of this Act shall take effect January 1, 2010.

843 SECTION 83. Sections 34 through 38 of this Act shall take effect July 1, 2009.

844 SECTION 84. Sections 39 through 77 and section 79 of this Act shall take effect
845 October 1, 2009. Section 78 of this Act shall take effect July 1, 2009.