

HOUSE No. 4000

The Commonwealth of Massachusetts

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2235) of the House Bill making appropriations for the fiscal year 2020 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 3801), reports, in part, recommending passage of the accompanying bill (House, No. 4000) [Total Appropriation: \$43,108,677,705.00]. July 21, 2019.

Aaron Michlewitz	Michael J. Rodrigues
Denise C. Garlick	Cindy F. Friedman
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HOUSE No. 4000

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act making appropriations for the fiscal year 2020 for the maintenance of the departments, boards, commissions, institutions and certain activities of the commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 2019, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 SECTION 1. To provide for the maintenance of the several departments, boards,
2 commissions and institutions of the commonwealth and other services of the commonwealth, and
3 for certain permanent improvements and to meet certain requirements of law, the sums set forth
4 in this act, for the several purposes and subject to the conditions specified in this act, are hereby
5 appropriated from the General Fund unless specifically designated otherwise, subject to the
6 provisions of law regulating the disbursement of public funds and the approval thereof for the
7 fiscal year ending June 30, 2020. All sums appropriated under this act, including supplemental
8 and deficiency budgets, shall be expended in a manner reflecting and encouraging a policy of
9 nondiscrimination and equal opportunity for members of minority groups, women and persons

294 **SECTION 28.** Section 41 of chapter 36 of the General Laws, as so appearing, is hereby
295 amended by striking out, in lines 9 and 12, the figure:- “2020” and inserting in place thereof, in
296 each instance, the following figure:- 2025.

297 **SECTION 29.** Section 8 of chapter 44B of the General Laws, as so appearing, is hereby
298 amended by striking out, in lines 3, 8 and 23, the figure “\$20” and inserting in place thereof, in
299 each instance, the following figure:- \$50.

300 **SECTION 30.** Said section 8 of said chapter 44B, as so appearing, is hereby further
301 amended by striking out, in lines 10, 14 and 24, the figure “\$10” and inserting in place thereof, in
302 each instance, the following figure:- \$25.

303 **SECTION 31.** Chapter 64H of the General Laws, as so appearing, is hereby amended by
304 striking out section 1 and inserting in place thereof the following section:-
305

306 Section 1. As used in this chapter the following words shall have the following meanings:

307 “Business”, any activity engaged in by any person or caused to be engaged in by a person with
308 the object of gain, benefit or advantage, either direct or indirect.

309 “Commissioner”, the commissioner of revenue.

310 “Engaged in business”, commencing, conducting or continuing in business, as well as liquidating
311 a business when the liquidator thereof holds itself out to the public as conducting such a
312 business.

313 “Engaged in business in the commonwealth”, (i) having a business location within the
314 commonwealth; (ii) regularly or systematically soliciting orders for the sale of services to be
315 performed within the commonwealth or for the sale of tangible personal property for delivery to
316 destinations in the commonwealth; (iii) otherwise exploiting the retail sales market within the
317 commonwealth through any means whatsoever, including, but not limited to, (a) salespeople,
318 solicitors or representatives within the commonwealth, (b) catalogs or other solicitation materials
319 sent through the mails or otherwise, (c) billboards, advertising or solicitations in newspapers,
320 magazines, radio or television broadcasts, (d) computer networks or in any other
321 communications medium, including through the means of an Internet website, software or
322 cookies distributed or otherwise placed on customers’ computers or other communications
323 devices, or a downloaded application; (iv) regularly engaged in the delivery of property or the
324 performance of services within the commonwealth; or (v) otherwise availing oneself of the
325 substantial privilege of carrying on business within the commonwealth, including through virtual
326 or economic contacts. A person shall be considered to have a business location within the
327 commonwealth only if such person: (i) owns or leases real property within the commonwealth;
328 (ii) has 1 or more employees located within the commonwealth; (iii) regularly maintains a stock
329 of tangible personal property within the commonwealth for sale in the ordinary course of
330 business; or (iv) regularly leases out tangible personal property for use within the
331 commonwealth. For the purposes of this paragraph, property on consignment in the hands of a
332 consignee and offered for sale by the consignee on the consignee’s own account shall not be

333 considered as stock maintained by the consignor; a person having a business location within the
334 commonwealth solely by reason of regularly leasing out tangible personal property shall be
335 considered to have a business location within the commonwealth only with respect to such leased
336 property; and an employee shall be considered to be located within the commonwealth if: (a) the
337 employee's service is performed entirely within the commonwealth, or (b) the employee's
338 service is performed both within and without the commonwealth but in the performance of the
339 employee's services the employee regularly commences the employee's activities at, and returns
340 to, a place within the commonwealth. "Within the commonwealth" means within the exterior
341 limits of the commonwealth of Massachusetts, and includes all territory within said limits owned
342 by, or leased or ceded to, the United States of America. This provision shall be construed to the
343 fullest extent of the U.S. Constitution unless otherwise limited by state law.

344 "Gross receipts", the total sales price received by a vendor as a consideration for retail sales.

345 "Home service provider", the facilities-based carrier or reseller with which the retail customer
346 contracts for the provision of mobile telecommunications service.

347 "Marketplace", a physical or electronic forum, including a shop, a store, a booth, a television or
348 radio broadcast, an Internet web site, a catalogue or a dedicated sales software application, where
349 the tangible personal property or services of a marketplace seller is offered for sale, regardless of
350 whether, in the case of tangible personal property, such property is physically located in the
351 commonwealth.

352 "Marketplace facilitator", a person that contracts with 1 or more marketplace sellers to facilitate
353 for a consideration, regardless of whether deducted as fees from the transaction, the sale of the
354 seller's tangible personal property or services through a marketplace operated by the person, and
355 engages: (a) directly or indirectly, through 1 or more related persons, in any of the following: (i)
356 transmitting or otherwise communicating the offer or acceptance between the buyer and the
357 seller; (ii) owning or operating the infrastructure, electronic or physical, or technology that
358 brings buyers and sellers together; (iii) providing a virtual currency that buyers are allowed or
359 required to use to purchase tangible personal property or services from the seller; or (iv) software
360 development or research and development activities related to any of the activities described in
361 subsection (b), if such activities are directly related to a physical or electronic marketplace
362 operated by the person or a related person; and (b) in any of the following activities with respect
363 to the seller's tangible personal property or services: (i) payment processing services; (ii)
364 fulfillment or storage services; (iii) listing tangible personal property or services for sale; (iv)
365 setting prices; (v) branding sales as those of the marketplace facilitator; (vi) order taking; (vii)
366 advertising or promotion; or (viii) providing customer service or accepting or assisting with
367 returns or exchanges; provided, however, that a marketplace facilitator may also be a
368 marketplace seller; and provided further, that a marketplace facilitator shall not include a person
369 who merely provides payment processing services. The commissioner may issue regulations or
370 other guidance to further explain the definition of a marketplace facilitator, which guidance may
371 in some circumstances limit the application of the term as it might otherwise apply.

372 “Marketplace seller”, a person that makes retail sales through a marketplace operated by a
373 marketplace facilitator; provided, however, that a marketplace seller may also be a marketplace
374 facilitator.

375 “Mobile telecommunications service”, commercial mobile radio service, as defined in section
376 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

377 “Motion picture”, a feature-length film, a video, a digital media project, a television series
378 defined as a season not to exceed 27 episodes, or a commercial made in the commonwealth, in
379 whole or in part, for theatrical or television viewing or as a television pilot. The term “motion
380 picture” shall not include a production featuring news, current events, weather and financial
381 market reports, talk show, game show, sporting events, awards show or other gala event, a
382 production whose sole purpose is fundraising, a long-form production that primarily markets a
383 product or service, or a production containing obscene material or performances.

384 “Motion picture production company”, a company including any subsidiaries engaged in the
385 business of producing motion pictures, videos, television series, or commercials intended for a
386 theatrical release or for television viewing. The term “motion picture production company” shall
387 not mean or include any company which is more than 25 per cent owned, affiliated, or
388 controlled, by any company or person which is in default on a loan made by the commonwealth
389 or a loan guaranteed by the commonwealth.

390 “Person”, an individual, partnership, trust or association, with or without transferable shares,
391 joint-stock company, corporation, society, club, organization, institution, estate, receiver, trustee,
392 assignee, or referee, and any other person acting in a fiduciary or representative capacity,
393 whether appointed by a court or otherwise, and any combination of individuals acting as a unit.

394 “Place of primary use”, the street address representative of where the customer’s use of the
395 mobile telecommunications service primarily occurs, which shall be the residential street address
396 or the primary business address of the customer and which shall be within the licensed service
397 area of the home service provider. The place shall be determined in accordance with 4 U.S.C.
398 sections 121 and 122.

399 “Prepaid calling arrangement”, the right to exclusively purchase telecommunications services,
400 that shall be paid for in advance and enables the origination of the calls using an access number
401 or authorization code, whether manually or electronically dialed.

402 “Purchaser”, a person who purchases tangible personal property or services the receipts from the
403 retail sale of which are taxable under this chapter and includes a buyer, vendee, lessee, licensee,
404 or grantee.

405 “Remote marketplace facilitator”, a marketplace facilitator that is engaged in business in the
406 commonwealth only pursuant to: (i) subclause (b), (c) or (d) of clause (iii) of the first sentence of
407 the definition of engaged in business in the commonwealth; or (ii) clause (v) of the first sentence
408 of the definition of engaged in business in the commonwealth.

409 “Remote marketplace seller”, a remote retailer that is a marketplace seller.

410 “Remote retailer”, a retailer, including a marketplace seller or marketplace facilitator, that is
411 engaged in business in the commonwealth only pursuant to: (i) subclauses (b), (c), or (d) of
412 clause (iii) of the definition of engaged in business in the commonwealth; or (ii) clause (v) of the
413 first sentence of the definition of engaged in business in the commonwealth.

414 “Retailer”, includes (i) every person, including a marketplace seller, engaged in the business of
415 making sales at retail; (ii) every person engaged in the making of retail sales at auction of
416 tangible personal property whether owned by such person or others; (iii) every marketplace
417 facilitator engaged in facilitating retail sales of tangible personal property or services,
418 irrespective of whether such tangible personal property is owned by the facilitator or a
419 marketplace seller and irrespective of whether such services are performed by the facilitator or a
420 marketplace seller; (iv) every person, including a marketplace seller or marketplace facilitator,
421 engaged in the business of making sales for storage, use or other consumption, or in the business
422 of making sales at auction of tangible personal property whether owned by such person or others
423 for storage, use or other consumption; (v) every salesperson, representative, peddler or canvasser
424 who, in the opinion of the commissioner, it is necessary to regard for the efficient administration
425 of this chapter as the agent of the dealer, distributor, supervisor or employer under whom the
426 agent operates or from whom the agent obtains the tangible personal property sold by the agent,
427 in which case the commissioner may treat and regard such agent as the retailer jointly
428 responsible with the agent’s principal, employer or supervisor for the collection and payment of
429 the tax imposed by this chapter; and (vi) the commonwealth, or any political subdivision thereof,
430 or their respective agencies when such entity is engaged in making sales at retail of a kind
431 ordinarily made by private persons.

432 “Retail establishment”, any premises in which the business of selling services or tangible
433 personal property is conducted, or, in or from which any retail sales are made.

434 “Sale” and “selling”, include (i) any transfer of title or possession, or both, exchange, barter,
435 lease, rental, conditional or otherwise, of tangible personal property or the performance of
436 services for a consideration, in any manner or by any means whatsoever; (ii) the producing,
437 fabricating, processing, printing or imprinting of tangible personal property for a consideration
438 for consumers who furnish either directly or indirectly the materials used in the producing,
439 fabricating, processing, printing or imprinting; (iii) the furnishing and distributing of tangible
440 personal property or services for a consideration by social clubs and fraternal organizations to
441 their members or others; (iv) a transaction whereby the possession of property is transferred but
442 the seller retains the title as security for the payment of the price; (v) a transfer for a
443 consideration of the title or possession of tangible personal property which has been produced,
444 fabricated or printed to the special order of the customer, or of any publication; (vi) the
445 furnishing of information by printed, mimeographed or multigraphed matter, or by duplicating
446 written or printed matter in any other manner, including the services of collecting, compiling or
447 analyzing information of any kind or nature and furnishing reports thereof to other persons, but
448 excluding the furnishing of information, which is personal or individual in nature and which is
449 not or may not be substantially incorporated in reports furnished to other persons, and excluding

450 the services of advertising or other agents, or other persons acting in a representative capacity,
451 and information services used by newspapers, radio broadcasters and television broadcasters in
452 the collection and dissemination of news and excluding the furnishing of information by
453 photocopy or other similar means by not for profit libraries which are recognized as exempt from
454 taxation under section 501(C)(3) of the Federal Internal Revenue Code; (vii) the performance of
455 services for a consideration, excluding (a) services performed by an employee for his employer
456 whether compensated by salary, commission, or otherwise, (b) services performed by a general
457 partner for his partnership and compensated by the receipt of distributive shares of income or
458 loss from the partnership; and (c) the performance of services for which the provider is
459 compensated by means of an honorarium, or fee paid to any person or entity registered under 15
460 USC 80b-3 or 15 USC 78q-1 for services the performance of which require such registration, for
461 services related thereto or for trust, custody, and related cash management and securities services
462 of a trust company as defined in chapter 172; and (viii) a sale within the meaning of subsections
463 (i) to (vii) facilitated by a marketplace facilitator.

464 “Sale at retail” or “retail sale”, a sale of services or tangible personal property or both for any
465 purpose other than resale in the regular course of business. When tangible personal property is
466 physically delivered by an owner, a former owner thereof, a factor, or an agent or representative
467 of the owner, former owner or factor, to the ultimate purchaser residing in or doing business in
468 the commonwealth, or to any person for redelivery to the purchaser, pursuant to a retail sale
469 made by a vendor not engaged in business in the commonwealth, the person making or
470 effectuating the delivery shall be considered the vendor of that property, the transaction shall be
471 a retail sale in the commonwealth by the person and that person, if engaged in business in the
472 commonwealth, shall include the retail selling price in its gross receipts, regardless of any
473 contrary statutory or contractual terms concerning the passage of title or risk of loss which may
474 be expressly or impliedly applicable to any contract or other agreement or arrangement for the
475 sale, transportation, shipment or delivery of that property. That vendor shall include the retail
476 selling price of the property in the vendor’s gross receipts. The term “sale at retail” or “retail
477 sale” shall not include: (a) sales of tickets for admissions to places of amusement and sports; (b)
478 sales of transportation services; (c) professional, insurance, or personal service transactions
479 which involve no sale or which involve sales as inconsequential elements for which no separate
480 charges are made; or (d) any sale in which the only transaction in the commonwealth is the mere
481 execution of the contract of sale and in which the tangible personal property sold is not in the
482 commonwealth at the time of such execution; provided, however, that nothing contained in this
483 definition shall be construed to be an exemption from the tax imposed under chapter 64I. In the
484 case of interstate telecommunication services other than mobile telecommunications services, the
485 sale of such services shall be deemed a sale within the commonwealth if the telecommunication
486 is either originated or received at a location in the commonwealth and the services are either paid
487 for in the commonwealth or charged to a service address located in the commonwealth. In the
488 case of interstate and intrastate mobile telecommunications services, the sale of such services
489 shall be deemed to be provided by the customer’s home service provider and shall be considered
490 a sale within the commonwealth if the customer’s place of primary use is located in the
491 commonwealth. To prevent actual multi-state taxation of any sale of interstate
492 telecommunication service subject to taxation under this chapter, any taxpayer, upon proof that
493 the taxpayer has paid a tax in another state on such sale, shall be allowed a credit against the tax

494 imposed by this chapter to the extent of the amount of such tax properly due and paid in such
495 other state. However, such credit shall not exceed the tax imposed by this chapter. In the case of
496 the sale or recharge of prepaid calling arrangements, the sale or recharge of such arrangements
497 shall be deemed to be within the commonwealth if the transfer for consideration physically takes
498 place at a retail establishment in the commonwealth. In the absence of such physical transfer for
499 consideration at a retail establishment, the sale or recharge shall be deemed a retail sale within
500 the commonwealth if the customer's shipping address is in the commonwealth or, if there is no
501 item shipped, if the customer's billing address or the location associated with the customer's
502 mobile telephone number, as applicable, is in the commonwealth. For purposes of collection of
503 the tax imposed by this chapter on such sales, such sale shall be deemed to occur on the date that
504 the bill is first issued by the vendor in the regular course of its business; provided, however, in
505 the case of prepaid calling arrangements, the sale shall be deemed to occur on the date of the
506 transfer for consideration. For purposes of reporting the sale or recharge of prepaid calling
507 arrangements, the sale or recharge of the arrangements shall be considered a taxable sale of
508 tangible personal property unless the vendor is otherwise required to report sales of
509 telecommunications services.

510 "Sales price", the total amount paid by a purchaser to a vendor as consideration for a retail sale,
511 valued in money or otherwise. In determining the sales price, the following shall apply: (a) no
512 deduction shall be taken on account of (i) the cost of property sold; (ii) the cost of materials used,
513 labor or service cost, interest charges, losses or other expenses; (iii) the cost of transportation of
514 the property prior to its sale at retail; (b) there shall be included (i) any amount paid for any
515 services that are a part of the sale; and (ii) any amount for which credit is given to the purchaser
516 by the vendor; and (c) there shall be excluded (i) cash discounts allowed and taken on sales; (ii)
517 the amount charged for property returned by purchasers to vendors upon rescission of contracts
518 of sale when the entire amounts charged therefor, less the vendors' established handling fees, if
519 any, for such return of property, are refunded either in cash or credit, and when the property is
520 returned within 90 days from the date of sale, and the entire sales tax paid is returned to the
521 purchaser; provided, however, that where a motor vehicle is returned pursuant to a rescission of
522 contract such motor vehicle must be returned within 180 days of the date of sale; (iii) the amount
523 charged for labor or services rendered in installing or applying the property sold; (iv) the amount
524 of reimbursement of tax paid by the purchaser to the vendor under this chapter; (v) transportation
525 charges separately stated, if the transportation occurs after the sale of the property is made; (vi)
526 the amount of the manufacturers' excise tax levied upon motor vehicles under section 4061(a) of
527 the Internal Revenue Code of 1954 of the United States, as amended; and (vii) a "service charge"
528 or "tip" that is distributed by a vendor to service employees, wait staff employees or service
529 bartenders as provided in section 152A of chapter 149.

530 "Services", a commodity consisting of activities engaged in by a person for another person for a
531 consideration; provided, however, that the term "services" shall not include activities performed
532 by a person who is not in a regular trade or business offering such person's services to the public,
533 and shall not include services rendered to a member of an affiliated group, as defined by section
534 1504 of the Internal Revenue Code, by another member of the same affiliated group that does not
535 sell to the public the type of service provided to its affiliate; and provided further, that the term
536 services shall be limited to telecommunications services; and provided further, that nothing
537 herein shall exempt from tax sales of tangible personal property subject to tax under this chapter.

538 “Tangible personal property”, personal property of any nature consisting of any produce, goods,
539 wares, merchandise and commodities whatsoever, brought into, produced, manufactured or being
540 within the commonwealth, but shall not include rights and credits, insurance policies, bills of
541 exchange, stocks and bonds and similar evidences of indebtedness or ownership. For purposes of
542 this chapter, “tangible personal property” shall include gas, electricity and steam. A transfer of
543 standardized computer software, including but not limited to electronic, telephonic or similar
544 transfer, shall also be considered a transfer of tangible personal property. The commissioner
545 may, by regulation, provide rules for apportioning tax in those instances in which software is
546 transferred for use in more than one state.

547 “Tax”, the excise tax imposed by this chapter.

548 “Taxpayer”, any person required to make returns or pay the tax imposed by this chapter.

549 “Telecommunications services”, any transmission of messages or information by electronic or
550 similar means, between or among points by wire, cable, fiberoptics, laser, microwave, radio,
551 satellite or similar facilities but not including cable television. Telecommunications services shall
552 be deemed to be services for purposes of this chapter and chapter 64I.

553 “Use of a service”, enjoyment of the benefit of a service.

554 “Vendor”, a retailer or other person selling tangible personal property or services of a kind the
555 gross receipts from the retail sale of which are required to be included in the measure of the tax
556 imposed by this chapter.

557 **SECTION 32.** Said chapter 64H, as so appearing, is hereby further amended by inserting
558 after section 33 the following section:-

559 Section 34. (a) A remote retailer shall be subject to the registration, collection and
560 remittance requirements of this chapter and chapters 62C and 64I as a vendor if its sales within
561 the commonwealth in the prior taxable year or the current taxable year exceed \$100,000.

562 (b) In the case of a remote marketplace facilitator, sales within the commonwealth shall
563 include both the remote marketplace facilitator’s direct sales and those sales facilitated on behalf
564 of marketplace sellers. A remote marketplace facilitator whose sales within the commonwealth
565 in the prior taxable year or the current taxable year exceed \$100,000 shall report all taxable sales
566 made through such marketplace and collect and remit tax on all such sales, whether such sales
567 are direct sales by the marketplace facilitator or sales facilitated for a marketplace seller.

568 (c) In the case of a marketplace facilitator that is not a remote marketplace facilitator,
569 sales within the commonwealth shall include both the marketplace facilitator’s direct sales and
570 those sales facilitated on behalf of marketplace sellers. A marketplace facilitator that is not a
571 remote marketplace facilitator and whose sales within the commonwealth in the prior taxable
572 year or the current taxable year exceed \$100,000 shall report all taxable sales made through such

573 marketplace and collect and remit tax on all such sales, whether such sales are direct sales by the
574 marketplace facilitator or sales facilitated for a marketplace seller.

575 (d) If a marketplace facilitator reports, collects and remits tax on sales made by the
576 marketplace facilitator on behalf of a remote marketplace seller, such sales shall not be counted
577 as a part of the remote marketplace seller's sales within the commonwealth and the remote
578 marketplace seller shall not be liable to report those sales.

579 (e) The commissioner shall issue regulations and other guidance to further explain the
580 sales and use tax rules that pertain to remote retailers, including remote marketplace facilitators,
581 and marketplace facilitators that are not remote marketplace facilitators. Such regulations and
582 guidance shall include rules that further explain the requirements of this chapter and said
583 chapters 62C and 64I as they pertain to marketplace sellers and marketplace facilitators,
584 including rules that explain the rights and responsibilities of such sellers and facilitators with
585 respect to each other. Such regulations and guidance may also include rules to aggregate the
586 sales of related remote retailers with respect to the \$100,000 threshold described in subsection
587 (a).

588 (f) A marketplace facilitator may request and may be granted a waiver from the
589 requirements of this section, at the discretion of the commissioner, if the following requirements
590 are met:

591 (1) the marketplace facilitator submits a waiver application to the commissioner
592 substantiating that, based on the facts and circumstances of the marketplace transaction, the
593 marketplace facilitator can presume in good faith that the applicable taxes are collected and
594 remitted by a marketplace seller required to be registered to collect tax under this section;

595 (2) the marketplace facilitator collects the applicable tax registration numbers of
596 marketplace sellers transacting on the marketplace platform; provided, that said registration
597 numbers shall be kept in the books and records of the marketplace facilitator and may be
598 examined by the commissioner upon request;

599 (3) the marketplace seller is required to register to collect sales tax; and

600

601 (4) any other requirement established by the commissioner by regulation.

602 (g) For telecommunications services that are taxable under this chapter and chapter 64I,
603 the commissioner may, at the commissioner's discretion, grant a waiver to allow a marketplace
604 seller to collect and directly remit the applicable taxes on sales of such services to the
605 department.

606 (h) If a waiver is granted pursuant to subsection (f) or (g):

607 (1) the tax levied under this section shall be (i) collected directly by the marketplace
608 seller or by the marketplace facilitator on behalf of the marketplace seller and (ii) remitted by the
609 marketplace seller(s);

610 (2) except as otherwise provided in paragraph (1), the marketplace facilitator shall not be
611 required to collect and remit any applicable taxes or fees;

612 (3) the marketplace facilitator is relieved of liability for remittance of tax on the
613 applicable sales made through the marketplace platform on behalf of those marketplace sellers;
614 and

615 (4) a marketplace seller shall be subject to audit by the commissioner with respect to all
616 retail sales for which it is required to remit tax.

617 (i) A marketplace facilitator shall be relieved from liability, including penalties and
618 interest, for the incorrect collection or remittance of sales and use tax on transactions it facilitates
619 or for which it is the seller if the error is due to reasonable reliance on (i) an invalid exemption
620 certificate provided by the marketplace seller or the purchaser; (ii) incorrect information
621 provided by the commonwealth; or (iii) incorrect information provided by the marketplace seller
622 or purchaser regarding the tax classification or proper sourcing of an item or transaction,
623 provided that the marketplace facilitator can demonstrate it made a reasonable effort to obtain
624 accurate information from the marketplace seller or purchaser.

625 **SECTION 33.** Section 1 of chapter 64I of the General Laws, as so appearing, is hereby
626 amended by striking out, in line 4, the word “person” and inserting in place thereof the following
627 words:- , “marketplace”, “marketplace facilitator”, “marketplace seller”, “person”, “remote
628 marketplace facilitator”, “remote marketplace seller”, “remote retailer”.

629 **SECTION 34.** Section 4 of said chapter 64I, as so appearing, is hereby amended by
630 inserting after the word “vendor”, in line 1, the following words:- , including a remote retailer,.

631 **SECTION 35.** Section 9 of said chapter 64I, as so appearing, is hereby amended by
632 inserting after the word “vendor”, in line 1, following words:- including a remote retailer.

633 **SECTION 36.** Subsection (ff) of section 89 of chapter 71 of the General Laws, as so
634 appearing, is hereby amended by inserting after the word “district”, in line 667, the following
635 words:- , and a per pupil facilities component.

636 **SECTION 37.** Said subsection (ff) of said section 89 of said chapter 71, as so appearing,
637 is hereby further amended by striking out, in line 738, the word “capital” and inserting in place
638 thereof the following word:- facilities.

639 **SECTION 38.** Subsection (gg) of said section 89 of said chapter 71, as so appearing, is
640 hereby amended by striking out the second sentence and inserting in place thereof the following
641 sentence:- The district’s reimbursement shall be 100 per cent of the increase in the year in which
642 the increase occurs, 60 per cent of the increase in the year following the increase and 40 per cent
643 of the increase in the second year following the increase.

1739 of the senate and house of representatives and the joint committee on public health not later than
1740 July 1, 2021.

1741 **SECTION 103.** Section 69 shall apply to contracts subject to review by the department
1742 of public utilities as of July 1, 2019.

1743 **SECTION 104.** Section 69 is hereby repealed.

1744 **SECTION 105.** The commissioner of revenue shall notify the registers of deeds, the
1745 assistant recorders and the joint committee on revenue of the new surcharge amounts established
1746 in sections 29 and 30. All documents or instruments received by the registers of deeds and
1747 assistant recorders that are postmarked prior to the effective date of said sections 29 and 30 shall
1748 be subject to the fee surcharge applicable under section 8 of chapter 44B of the General Laws
1749 that was in effect before that date.

1750 **SECTION 106.** Nothing in sections 31 to 35, inclusive, shall override pre-existing law or
1751 affect tax liability that accrued prior to the effective date of the act.

1752 **SECTION 107.** Sections 29 and 30 shall take effect on December 31, 2019.

1753 **SECTION 108.** Section 104 shall take effect on July 1, 2020.

1754 **SECTION 109.** Sections 31 to 35 shall take effect on October 1, 2019.

1755 **SECTION 110.** Section 84 shall take effect on June 1, 2020.

1756 **SECTION 111.** Except as otherwise specified, this act shall take effect on July 1, 2019.