

By Mr. King of Danvers, petition of John G. King and James G. Collins for legislation to make certain changes in the health and educational facility laws to include long-term care facilities, hospitals and other similar facilities. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT AMENDING THE HEALTH AND EDUCATIONAL FACILITIES ACT.

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

1 SECTION 1. Section 1 of Chapter 614 of the Acts of 1968, as
2 appearing in section 1 of Chapter 454 of the Acts of 1969, is
3 hereby amended by striking out said section and inserting in place
4 thereof the following: —

5 *Section 1.* It is hereby declared that for the benefit of the
6 people of the commonwealth, the increase of their commerce,
7 welfare and prosperity and the improvement of their health and
8 living conditions it is essential that this and future generations of
9 youth be given the fullest opportunity to learn and to develop
10 their intellectual and mental capacities; that it is essential that
11 institutions for higher education within the commonwealth be
12 provided with appropriate additional means to assist such youth
13 in achieving the required levels of learning and development of
14 their intellectual and mental capacities; that it is essential that
15 hospitals within the commonwealth be provided with appropriate
16 additional means to expand, enlarge and establish health care,
17 hospital and other related facilities, that it is essential that long-
18 term care facilities within the commonwealth be provided with
19 appropriate additional means to expand, renovate, replace or
20 otherwise improve and upgrade the physical structure, quality
21 and supportive equipment of such facilities; and that it is the
22 purpose of this act to provide a measure of assistance and an
23 alternative method to enable such institutions, hospitals and
24 facilities in the commonwealth to provide the facilities and

25 structures which are sorely needed to accomplish the purposes of
26 this act, all to the public benefit and good, to the extent and
27 manner provided herein.

1 SECTION 2. Paragraph (b) of section 3 of said Chapter 614,
2 as appearing in section 2 of chapter 454 of the Acts of 1969, is
3 hereby amended by inserting, in line 35, after word "charge" the
4 following clause: — and in the case of a participating long-term
5 care facility, a structure or structures suitable for use as a long-
6 term care facility as specified in regulations adopted pursuant to
7 section seventy-one of chapter one hundred and eleven of the
8 General Laws, and other structures or facilities required for the
9 operation of the long-term care facility, including parking, and
10 shall also include landscaping, site preparation, furniture,
11 equipment and machinery and other similar items necessary for
12 the operation of a particular facility, but shall not include such
13 items as fuel, supplies or other items the cost of which are
14 customarily deemed to result in a current operating charge;

1 SECTION 3. Said paragraph (b) of section 3 of said chapter
2 614 is hereby further amended by inserting, in lines 38 and 39,
3 after the word "hospital" the words: — or participating long-term
4 care facility.

1 SECTION 4. Section 3 of said chapter 614, as amended by
2 section 2 of chapter 454 of the acts of 1969, is hereby further
3 amended by adding at the end thereof the following new
4 paragraphs: — (i) "Long-term care facility", a non-profit
5 convalescent or nursing home, infirmary maintained in a town,
6 rest home or charitable home for the aged, licensed by or subject
7 to licensure by the department of public health.

8 (j) "Participating long-term care facility", a non-profit long-
9 term care facility which, pursuant to the provisions of this act,
10 undertakes the financing and construction or acquisition of a
11 project or undertakes the refunding or refinancing of obligations
12 or of a mortgage or of advances as provided in this act.

13 (k) "Participating Institution", any participating institution for
14 higher education, participating hospital, participating long-term
15 care facility, or combination thereof.

1 SECTION 5. Section 4 of said chapter 614 is hereby amended
2 by striking out the last paragraph of said section, as amended by
3 section 8 of chapter 454 of the acts of 1969, and inserting in place
4 thereof the following paragraph: — Notwithstanding the
5 foregoing provisions of paragraph (g) of this section or the
6 provisions of any other law to the contrary, it shall not be or
7 constitute a conflict of interest or violation of the provisions of
8 said paragraph (g) or the provisions of any other law for a trustee,
9 director, officer or employee of a participating institution, or for
10 a person having the required favorable reputation for skill,
11 knowledge and experience in state and municipal finance or for a
12 person having the required favorable reputation for skill,
13 knowledge and experience in the building construction field to
14 serve as a member of the authority; provided, in each case to
15 which the provisions hereof are applicable, such trustee, director,
16 officer or employee of such participating institution abstains from
17 discussion, deliberation, action and vote by the authority in
18 respect to any undertaking pursuant to this act in which such
19 participating institution has an interest or such person having the
20 required favorable reputation for skill, knowledge and experience
21 in state and municipal finance abstains from discussion,
22 deliberation, action and vote by the authority in specific request
23 to any sale, purchase or ownership of bonds of the authority in
24 which the investment banking firm or insurance company or
25 bank of which such person is a partner, officer or employee has a
26 past, current or future interest, or such person having the
27 required favorable reputation for skill, knowledge and experience
28 in the building construction field abstains from discussion,
29 deliberation, action and vote by the authority in specific request
30 to construction or acquisition of any project of the authority in
31 which any partnership, firm, joint venture, sole proprietorship or
32 corporation of which such person is an owner, venturer,
33 participant, partner, officer or employee who has a past, current
34 or future interest.

1 SECTION 6. Said chapter 614 is hereby further amended by
2 striking out section 5, as appearing in section 9 of chapter 454 of
3 the acts of 1969, and inserting in place thereof the following
4 section: —

5 *Section 5.* The purpose of the authority shall be to assist
6 institutions for higher education, hospitals and long-term care

7 facilities in the acquisition, construction, financing and refinanc-
8 ing of projects and for this purpose the authority is authorized
9 and empowered: —

10 (a) to adopt by-laws for the regulation of its affairs and the
11 conduct of its business;

12 (b) to adopt an official seal and alter the same at pleasure;

13 (c) to maintain an office at such place or places as it may
14 designate;

15 (d) to sue and be sued in its own name, plead and be
16 impleaded;

17 (e) to determine the location and character of any project to be
18 financed under the provisions of this act, and to construct,
19 reconstruct, remodel, maintain, manage, enlarge, alter, add to,
20 repair, operate, lease, as lessee or lessor, and regulate the same, to
21 enter into contracts for any or all of such purposes, to enter into
22 contracts for the management and operation of a project, and to
23 designate a participating institution as its agent to determine the
24 location and character of a project undertaken by such
25 participating institution under the provisions of this act, and as
26 the agent of the authority to construct, reconstruct, remodel,
27 maintain, manage, enlarge, alter, add to, repair, operate, lease, as
28 lessee or lessor, and regulate the same, and, as the agent of the
29 authority, to enter into contracts for any or all of such purposes,
30 including contracts for the management and operation of such
31 project;

32 (f) to issue bonds, bond anticipation notes and other
33 obligations of the authority for any of its corporate purposes, and
34 to fund or refund the same all as provided in this act;

35 (g) generally, to fix and revise from time to time and charge
36 and collect rates, rents, fees and charges for the use of and for the
37 services furnished or to be furnished by a project or any portion
38 thereof and to contract with any person, partnership, association
39 or corporation or other body public or private in respect thereof
40 and to designate a participating institution as its agent to fix,
41 revise, charge and collect such rates, rents, fees and charges and
42 to make such contracts;

43 (h) to establish rules and regulations for the use of a project or
44 any portion thereof and to designate a participating institution as
45 its agent to establish rules and regulations for the use of a project
46 in which such participating institution is participating;

47 (i) to employ consulting engineers, architects, attorneys,
48 accountants, construction and financial experts, superintendents,
49 managers, and such other employees and agents as may be
50 necessary in its judgment, and to fix their compensation;

51 (j) to receive and accept from any public agency loans or
52 grants for or in aid of the construction of a project or any portion
53 thereof, and to receive and accept loans, grants, aid or
54 contributions from any source of either money, property, labor or
55 other things of value to be held, used and applied only for the
56 purposes for which such loans, grants, aid and contributions are
57 made;

58 (k) to mortgage any project and the site thereof for the benefit
59 of the holders of revenue bonds issued to finance such project;

60 (l) to make loans to any participating institution for the cost of
61 a project in accordance with an agreement between the authority
62 and one or more participating institutions; provided that no such
63 loan shall exceed the total cost of the project as determined by
64 such participating institution or institutions and approved by the
65 authority;

66 (m) to make loans to participating institutions to refund
67 outstanding obligations, mortgages, or advances issued, made or
68 given by such participating institution for the cost of a project;

69 (n) to charge to and equitably apportion among participating
70 institutions its administrative costs and expenses incurred in the
71 exercise of the powers and duties conferred by this act;

72 (o) to do all things necessary or convenient to carry out the
73 purposes of this act.

74 In carrying out the purposes of this act, the authority may
75 undertake a joint project or projects for two or more participating
76 institutions and, thereupon, all other provisions of this act shall
77 apply to and for the benefit of the authority and the participants
78 in such joint project or projects.

1 SECTION 7. Said chapter 614 is hereby further amended by
2 striking out sections 7 and 8, as appearing in section 10 of chapter
3 454 of the acts of 1968, and inserting in place thereof the
4 following sections: —

5 Section 7. The authority is authorized and empowered,
6 directly or by and through a participating institution, as its agent,
7 to acquire by purchase solely from funds provided under the

8 authority of this act, or by gift or devise, such lands, structures,
9 property, real or personal, rights, rights-of-way, air rights, fran-
10 chises, easements and other interests in lands, including lands
11 lying under water and riparian rights, which are located within
12 the commonwealth as it may deem necessary or convenient for
13 the acquisition, construction or operation of a project, upon such
14 terms and at such prices as may be considered by it to be
15 reasonable and can be agreed upon between it and the owner
16 thereof, and to take title thereto in the name of the authority or in
17 the name of one or more participating institutions as its agent.

18 *Section 8.* When the principal of and interest on revenue
19 bonds of the authority issued to finance the cost of a particular
20 project or projects for one or more participating institutions,
21 including any revenue refunding bonds issued to refund and
22 refinance such revenue bonds, have been fully paid and retired or
23 when adequate provision has been made to fully pay and retire
24 the same, and all other conditions of the resolution or trust
25 agreement authorizing and securing the same have been satisfied
26 and the lien of such resolution or trust agreement has been
27 released in accordance with the provisions thereof, the authority
28 shall promptly do such things and execute such deeds and
29 conveyances as are necessary and required to convey title to such
30 project or projects to such participating institution, all to the
31 extent that title to such project or projects is not, at the time,
32 vested in such participating institution or institutions.

1 SECTION 8. The first sentence of paragraph (b) of section 10
2 of said chapter 614, as appearing in section 11 of chapter 454 of
3 the acts of 1969, is hereby amended by striking out in said
4 sentence the words "for higher education or any participating
5 hospital".

1 SECTION 9. Section 13 of said chapter 614 is hereby
2 amended by striking out the last sentence, as appearing in section
3 13 of chapter 454 of the acts of 1969, and inserting in place
4 thereof the following sentence: — Except as may otherwise be
5 provided in such resolution or such trust agreement, such sinking
6 or other similar fund shall be a fund for all such revenue bonds
7 issued to finance a project or projects at one or more participating

8 institutions without distinction or priority of one over another;
9 provided the authority in any such resolution or trust agreement
10 may provide that such sinking or other similar fund shall be the
11 fund for a particular project and for the revenue bonds issued to
12 finance a particular project and may, additionally, permit and
13 provide for the issuance of revenue bonds having a subordinate
14 lien in respect to the security herein authorized to other revenue
15 bonds of the authority and, in such case, the authority may create
16 separate or other similar funds in respect to such subordinate lien
17 bonds.

1 SECTION 10. Section 20 of said chapter 614 is hereby
2 amended by striking out the last two paragraphs, as appearing in
3 section 6 of chapter 1036 of the acts of 1971, and inserting in place
4 thereof the following paragraphs: — Notwithstanding any
5 provisions of chapter one hundred and six of the General Laws or
6 of any other provision of law, the authority by the filing of
7 financing statements as provided in said chapter one hundred and
8 six, may perfect security interest in revenues and receipts of
9 participating institutions, whether in the form of proceeds of
10 accounts receivable or contract rights or otherwise, and in any
11 rights to receive such revenues and receipts, and such perfected
12 security interests shall take priority over any subsequently
13 perfected security interests in such revenues, receipts or rights or
14 in the accounts receivable, goods, contract rights, or other rights
15 or personal property giving rise to such revenues, receipts or
16 rights provided that the financing statements filed by the
17 authority contain a reference to this section.

18 In calculating the value of real and personal property for the
19 purpose of any general or special law limiting the amount of real
20 and personal property which may be owned or held by an
21 institution for higher education, a hospital, or a long-term care
22 facility, there shall be excluded from such calculation any real or
23 personal property which forms or has formed any part of the cost
24 of a project financed or refinanced in whole or in part by the
25 authority.

