[Similar Matter Filed During Past Session — See Senate No. 3 of 1983]

SENATE . . . . . No. 4

By Mr. Bertonazzi and Thomas K. Lynch, a petition (accompanied by bill, Senate, No. 4) of Louis P. Bertonazzi and Thomas K. Lynch for legislation to establish the Massachusetts small business development bank. Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-four.

AN ACT ESTABLISHING THE MASSACHUSETTS SMALL BUSINESS DEVELOPMENT BANK.

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

SECTION 1. There is hereby created and placed under the supervision and regulation of the Massachusetts Small Business Authority the Massachusetts Small Business Development Bank, to aid the small business community by providing capital by loans, bonds, and other instrumentalities to further the interests of the small business community in the Commonwealth of Massachusetts.

SECTION 2. The Charter of the Bank shall be as follows:

CHARTER

First: The existence of the bank shall be perpetual.

Second: The principal office shall be at Boston, Massachusetts.

Third: The purposes of which the bank is formed and the business or objects to be carried on and promoted by it are as follows:

(A) To act as depository or trustee of funds for the small business community of the Commonwealth of Massachusetts.

(B) To lend money, with or without security, upon such terms as determined from time to time by the board of directors of the bank, to the various small business enterprises within the Commonwealth of Massachusetts.

(C) To lend money, with or without security, to any person, firm, corporation, or other organization where such monies are to be used to further the governmental purpose of de-

18 veloping the economy of Massachusetts with respect to its
19 small business sector and the employees within said sector,
20 such loans to be represented by the promissory notes, bonds,
21 debentures, convertible debentures, warrants, equipment trust
22 certificate, securities received through the organization of the
23 issuer thereof or other obligations or evidences of debt of such
24 borrowers; Provided that the Bank may hold, negotiate or in
25 any other manner dispose of such promissory notes, bonds,
26 debentures, convertible debentures, warrants, equipment trust
27 certificates, securities received through the organization of the
28 issuer thereof, or other obligations or evidences of debt of
29 such borrowers, or the securities obtained through the exer-
30 cise of the rights and/or privileges contained therein; and
31 Provided, further, that the aggregate indebtedness of any
32 such borrower to the Bank shall not exceed at any time 10
33 percent funds and surplus of the Bank plus an additional 15
34 percent of such capital funds and surplus if such indebtedness,
35 either in whole or in part, but in any event that part thereof
36 in excess of 10 percent of such capital funds and surplus, is
37 secured by collateral of an ascertained value of at least 25
38 percent more than the amount of such indebtedness in excess
39 of 10 percent of such capital funds and surplus.

40 (D) To invest its funds in direct obligations guaranteed as
41 to both principal and interest by the United States or obliga-
42 tions of any agency, instrumentality, commission, authority or
43 other political subdivision of the United States or obligations
44 of the Commonwealth of Massachusetts, guaranteed as to both
45 principal and interest, by Massachusetts; or obligations of any
46 agency, instrumentality, commission, authority, municipality
47 or other political subdivision of the Commonwealth of Massa-
48 chusetts; or obligations of international banking; institutions
49 recognized by the United States and to which the United States
50 may have contributed capital. The Bank also may invest its
51 funds in bank acceptances or certificates of deposit endorsed
52 or issued, as the case may be, by banks organized under the
53 laws of the Commonwealth of Massachusetts, the United
54 States, or any State of the Union.

55 (E) To discount, at a uniform rate or rates of interest to
56 be fixed from time to time by the Board of Directors of the

57 Bank, for banks or trust companies organized under or sub-
58 ject to the Banking Law, negotiable drafts, notes, bills of ex-
59 change and acceptance, bearing the endorsement of the bank
60 or trust company for which discounted; Provided, however,
61 that the aggregate amount of notes, drafts, bills of exchange
62 and acceptance upon which any person, partnership, associa-
63 tion or corporation is liable as maker, acceptor, endorser,
64 drawer or guarantor discounted for any bank or trust com-
65 pany shall at no time exceed the amount for which such per-
66 son, partnership, association or corporation may lawfully be-
67 come liable to such bank or trust company under the ap-
68 plicable provisions of the banking laws of the Commonwealth
69 of Massachusetts as from time to time amended.

70 (F) To lend money, at a uniform rate or rates of interest to
71 be fixed from time to time by the Board of Directors of the
72 Bank, to any bank as defined in section 1 of chapter 167 of
73 the Massachusetts General Laws, national banking association
74 on federal savings and loan association organized under or sub-
75 ject to applicable state or federal banking law, for a period
76 not exceeding ninety days, on the promissory note of such
77 bank or trust company, secured by notes, drafts, bills of ex-
78 change or acceptance eligible for discount by the Bank under
79 the provisions of the preceding paragraph (E) hereof, or se-
80 cured by obligations of the Commonwealth of Massachusetts
81 government or of the United States or guaranteed as to both
82 principal and interest by the Commonwealth of Massachusetts
83 government or the United States or obligations of any agency,
84 instrumentality, commission, authority, municipality or po-
85 litical subdivision of Massachusetts, or secured by other col-
86 lateral satisfactory to the Bank; Provided, however, that in
87 the case the security consists of such other collateral, the rate
88 of interest on such loan shall in no event be less than one half
89 of one percent per annum higher than the highest rate then
90 currently applicable to discounts provided for by the preceding
91 paragraph (E) hereof.

92 (G) To lend securities, on a fully secured basis, to any
93 bank or trust company organized under or subject to the bank-
94 ing laws of the Commonwealth of Massachusetts.

95 (H) To borrow money and contract debts for its corporate

96 purposes upon such terms and conditions as the Bank may
97 from time to time determine, with or without security, to dis-
98 pose of its obligations evidencing such borrowing, to make, ex-
99 ecute and deliver trust indentures and other agreements with
100 respect to any such borrowing, contracting of debt, issuance
101 of bonds, notes, debentures or other obligations, and by the
102 authority of the Massachusetts Small Business Authority
103 which is hereby granted, to issue its bonds, notes, debentures
104 or other obligations in such form, secured in such manner,
105 and subject to such terms of redemption with or without
106 premium, and to sell the same at public or private sale for
107 such price or prices, all as may be determined by its Board
108 of Directors.

109 (I) To exercise all such incidental powers as may be neces-
110 sary or convenient for the purpose of carrying on the fore-
111 going business and objects. The power granted in paragraphs
112 (B), (C), and (D) above shall include the power to lend
113 monies on short term or to invest in short-term securities
114 other than marketable securities.

115 (J) To acquire, hold, and dispose of stocks, warrants, de-
116 bentures, convertible debentures, and other securities issued
117 by any corporate entity, organized under the laws of the Com-
118 monwealth of Massachusetts or authorized to do business in
119 Massachusetts, and to exercise any and all powers or rights
120 in connection therewith, and to guarantee loans and other
121 obligations incurred by private or public entities; Provided,
122 that with the exception of the power to guarantee loans and
123 other obligations incurred by public entities, these powers will
124 be exercised only through one or more subsidiaries.

125 (K) To create subsidiary or affiliate corporations by resolu-
126 tion of its Board of Directors, whenever in the opinion of said
127 Board such creation is advisable or desirable or necessary to
128 carry out the functions or the purposes of the Bank or the
129 exercise of its powers. The Bank may sell, lease, lend, give,
130 or otherwise grant any of its properties to any such subsidiary
131 corporations. Such subsidiary corporations shall constitute in-
132 dependent governmental instrumentalities of the Common-
133 wealth of Massachusetts separate from the Bank and shall
134 have such of the powers, rights, functions, or duties as are

135 conferred on the Bank by this Act and assigned to them by
136 the Board of Directors of the Bank. The Board of Directors
137 of the Bank shall be the governing Board of each and every
138 one of such subsidiary corporations. The provisions of Article
139 5 of this Act are hereby extended and shall apply to the full-
140 est extent to all subsidiary corporations created by the Bank
141 and subject to its control.

142 Fourth: The Bank shall also have the following powers:

143 (A) To have a common seal and to alter the same from
144 time to time.

145 (B) To acquire property for its corporate purposes by grant,
146 gift, purchase, devise or bequest, and to hold and to exer-
147 cise the rights of ownership of and to dispose of the same.

148 (C) To acquire any property in settlement or reduction of
149 debts previously contracted or in exchange for investments
150 previously made in the course of its business, where such ac-
151 quisition is necessary to minimize or avoid loss in connection
152 therewith, and to hold such property for such periods as the
153 Board of Directors may deem advisable and to exercise the
154 rights of ownership of and to dispose of the same.

155 (D) To establish one or more branches, offices or agencies
156 necessary or convenient for the transaction of its business
157 within or without Massachusetts.

158 (E) To purchase, hold, lease, mortgage and convey real
159 property as follows: (1) a plot whereon there is or may be
160 erected a building suitable for the transaction of its business,
161 from portions of which not required for its own use a revenue
162 may be derived, (2) such real estate as may be conveyed to it
163 in settlement or reduction of debts previously contracted or
164 in exchange for investments previously made in the course of
165 its business, (3) such as it shall purchase or otherwise acquire
166 at sale under judgments, decrees or mortgages held by it and
167 (4) such as may be necessary for residence of its employees;
168 Provided, however, that real property purchased or acquired
169 by it shall be sold within ten years of the date of such pur-
170 chase or acquisition unless there shall be a building there-
171 on occupied by it as an office or by its employees as a resi-
172 dence or the Treasurer of Massachusetts shall have extended
173 the time within which such sale shall be made.

174 (F) To sue and be sued.
175 (G) To appoint, employ and contract for the services of of-
176 fices, agents, employees and professional assistants and to pay
177 such compensation for their services as the Bank may deter-
178 mine, and to fix and pay Directors fees.
179 (H) To exercise corporate powers, not inconsistent here-
180 with, as are conferred upon corporations by the General Laws
181 and to exercise all its powers within and without Massachu-
182 setts to the same extent as natural persons might or could do.
183 (I) To acquire, hold, and dispose of stocks, warrants, de-
184 bentures, convertible debentures, and other securities issued
185 by any corporate entity, organized under the laws of the Com-
186 monwealth of Massachusetts or authorized to do business in
187 Massachusetts, and to exercise any and all powers or rights
188 in connection therewith, and to guarantee loans and other ob-
189 ligations incurred by private or public entities; Provided, that
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191 obligations incurred by public entities, these powers will be
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194 tion of its Board of Directors, whenever in the opinion of said
195 Board such creation is advisable or desirable or necessary to
196 carry out the functions or the purposes of the Bank or the
197 exercise of its powers. The Bank may sell, lease, lend, give
198 or otherwise grant any of its properties to any such subsidiary
199 corporation. Such subsidiary corporations shall constitute in-
200 dependent governmental instrumentalities of the Common-
201 wealth of Massachusetts separate from the Bank and shall
202 have such of the powers, rights, functions or duties as are
203 conferred on the Bank by this Act and assigned to them by
204 the Board of Directors of the Bank. The Board of Directors
205 of the Bank shall be the governing Board of each.