

By Ms. Fox of Boston, petition of Gloria L. Fox, other members of the House and another relative to the establishment of a program to assist certain small businesses in areas affected by transportation enhancement activities of the Massachusetts Bay Transportation Authority. Transportation.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-Five.

AN ACT RELATIVE TO A PROGRAM TO ASSIST CERTAIN SMALL BUSINESSES IN AREAS AFFECTED BY TRANSPORTATION ENHANCEMENT ACTIVITIES OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY.

1     *Whereas*, The deferred operation of this act would tend to defeat  
2 its purpose, which is to immediately establish a program to assist  
3 certain small businesses, therefore it is hereby declared to be an  
4 emergency law, necessary for the immediate preservation of the  
5 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. Chapter five hundred and eighty-five of the acts of  
2 nineteen hundred and eighty-six is hereby repealed.

1     SECTION 2. It is hereby found and declared that certain activi-  
2 ties undertaken from time to time by the Massachusetts Bay Trans-  
3 portation Authority, hereinafter referred to as "the authority", in  
4 order to construct, reconstruct, renovate, repair, remove, replace, or  
5 expand transportation facilities in the public interest, may provide  
6 opportunities to stabilize, develop, and revitalize the economy of the  
7 areas in which such activities are undertaken; that the stabilization,  
8 development, or revitalization of small businesses in such areas  
9 would improve the general health, safety and welfare of such areas  
10 while also increasing the value and use of the public investment in  
11 the transportation facilities in such areas; that to achieve these bene-

12 fits it may be necessary to stimulate private investment in such  
13 areas; that the stabilization, development, or revitalization of such  
14 areas may not be dealt with effectively by the ordinary operations of  
15 private enterprise without the aids provided herein; that without  
16 such aids the construction or other activities may have a signifi-  
17 cantly harmful impact on the economic stability and growth of small  
18 businesses in such areas; and that the use of public funds to stimu-  
19 late private investment in such businesses and areas as provided  
20 herein is a valid public purpose

1 SECTION 3. (a) There is hereby established a board to oversee a  
2 pilot program to assist businesses affected by transportation  
3 enhancements, hereinafter referred to as "the board". The board  
4 shall consist of the secretary of transportation and construction, or  
5 his designee, the secretary of economic affairs, or his designee, and  
6 the commissioner of banks and banking, or his designee. All official  
7 actions of the board must be approved by a majority of its members.  
8 The board is hereby authorized and directed to promulgate rules or  
9 regulations pursuant to section two of chapter thirty A of the  
10 General Laws to establish standards or criteria for the designation of  
11 transportation activity affected areas pursuant to paragraph (b),  
12 under which business entities may be qualified small businesses  
13 pursuant to paragraph (c), and for the evaluation of proposals for  
14 and performance under agreements entered into pursuant to para-  
15 graph (d), or for any other purpose necessary to implement the pro-  
16 visions of this section.

17 (b) The board may designate a specific geographic area to be a  
18 "transportation activity affected area". An area may be so desig-  
19 nated if: (1) the authority is undertaking transportation enhancement  
20 activities including the construction, reconstruction, renovation,  
21 repair, removal, replacement, or expansion of its transportation  
22 facilities within the area; (2) such activities have had or are likely to  
23 have a significantly harmful impact upon the economic stability and  
24 growth of small businesses within such area; and (3) the area meets  
25 such other standards and criteria as the board may establish.

26 (c) a "qualifying small business" shall mean a for profit or non-  
27 profit business entity that is located, wholly or partially, within a  
28 designated transportation activity affected area; that alone or in  
29 combination with any affiliated businesses entity had average gross  
30 sales of less than two million five hundred thousand dollars per year

31 for its most recent two fiscal years and that has fewer than fifty full-  
32 time equivalent employees; that has been doing business within a  
33 transportation activity affected area for at least one year prior to the  
34 commencement of transportation enhancement activities by the  
35 authority within the designated area; that has been or is likely to be  
36 significantly harmed by the transportation enhancement activities of  
37 the authority within the transportation activity affected area; and that  
38 meets such other standards and criteria as the board may establish.  
39 For the purposes of this section, business entities shall be considered  
40 to be affiliated if they are controlled, either through ownership or  
41 management, by the same party or parties.

42 (d) The authority is hereby authorized to enter into agreements  
43 with banks to stimulate loans to qualifying small businesses. For the  
44 purposes of this section, banks shall be deemed to include any bank  
45 subject to taxation under section two of chapter sixty-three of the  
46 General Laws. Banks shall be selected by the authority for participa-  
47 tion in this pilot program after a competitive bidding process which  
48 shall include public advertisement and the receipt of written bids.  
49 The actual selections shall be based upon standards and criteria that  
50 shall include the interest rate the bank will pay the authority for its  
51 deposits, the interest rate the bank will charge to participating  
52 qualifying small businesses, and such other standards and criteria as  
53 the board may establish. Such agreements shall provide that: (1) the  
54 authority shall deposit in such bank pursuant to paragraph (f), funds  
55 which may earn no interest, below market rate interest, or market  
56 rate interest during periods when such funds are used to stimulate  
57 loans to qualifying small businesses as provided herein; (2) in con-  
58 sideration of such deposits such bank shall make loans to qualifying  
59 small business pursuant to paragraph (e) at interest rates below the  
60 rates such bank would otherwise charge on such loans; (3) such  
61 deposits and loans as a whole shall be structured in such a way that  
62 the total value of any reduction in interest earnings to the authority  
63 resulting from the deposit of funds at no interest or at below market  
64 rate interest, minus any extraordinary administrative costs incurred  
65 by such bank beyond the costs that would normally be incurred in  
66 making such a loan other than pursuant to this section, shall not be  
67 greater than the total value of any reduction in interest costs to  
68 qualifying small businesses resulting from the receipt of any such  
69 loan at below market rate interest; (4) if the total value of any  
70 such reduction in interest earnings, minus any such extraordinary

71 administrative costs, exceeds the total value of any such reduction in  
72 interest costs, such excess shall be rebated to the authority; (5) such  
73 bank may secure the payment of principal and interest on any loan  
74 granted pursuant to this section by mortgage, security interest, or  
75 any other method; (6) upon the finding by the board that such bank  
76 has substantially failed to meet the conditions of the agreement the  
77 board may rescind such agreement and shall require the rebate of  
78 any excess owed the authority at that time under clause (4) and the  
79 return of any deposits made under clause (1).

80 (e) Banks entering into an agreement under paragraph (d) shall  
81 make loans to qualifying small businesses pursuant to such agree-  
82 ment. Such businesses may use the proceeds of any such loan for  
83 the costs of renovation, modernization, expansion, maintenance,  
84 inventory purchases or related capital improvements but may not  
85 use such proceeds for any operating costs. The factors to be consid-  
86 ered by a bank in granting a loan pursuant to this section shall  
87 include, but need not be limited to: (i) the degree and severity of the  
88 impact of the transportation construction activity of the authority on  
89 the economic stability and growth of the applicant qualifying small  
90 business and the resulting effect on the use of mass transportation  
91 facilities in such area, (ii) the degree to which the loan shall assure  
92 the economic stability and growth of the applicant qualifying small  
93 business and of the designated area and will increase the value and  
94 use of mass transportation facilities in such area, (iii) the ability of  
95 the applicant qualifying small business otherwise to obtain financing  
96 at reasonable rates and upon reasonable terms, and (iv) the period of  
97 time the business has operated in the area and the period of time it  
98 has been owned by the applicant.

99 (f) Notwithstanding any general or special law to the contrary, the  
100 authority is hereby authorized to deposit any of its funds with banks  
101 at no interest or below market rate interest for the purposes and in  
102 the manner set forth in this section; provided, however, that no  
103 funds that were in any way made available because of a pledge of  
104 the credit of the commonwealth may be so deposited for said pur-  
105 poses, provided, further that in no event shall funds of the authority  
106 be used as security for loans granted pursuant to this section and no  
107 such loan shall be guaranteed by the authority. At no time shall the  
108 authority have on deposit with such banks in excess of seven million  
109 five hundred thousand dollars for said purposes.

110 (g) Within sixty days from the end of each calendar year after  
111 nineteen hundred and eighty-six, the authority shall submit a report  
112 relative to said pilot program that has been approved by the board to  
113 the clerks of the senate and of the house of representatives, to the  
114 house and senate committees on ways and means, to the commis-  
115 sioner of administration, and to the inspector general, who is hereby  
116 authorized thereafter similarly to submit his comments on such  
117 report. The report shall include, but need not be limited to: (1) a  
118 listing of any designated transportation activity affected area; (2) an  
119 accounting of any funds deposited by the authority pursuant to this  
120 section and of the value of any reduced interest earnings to the  
121 authority resulting from each deposit of authority funds at no  
122 interest or at below market rate interest; (3) an accounting of the  
123 value of any reduced interest costs to qualifying small businesses  
124 resulting from receiving loans stimulated by each such deposit at  
125 below market rate interest; (4) an accounting of any extraordinary  
126 administrative costs allowed to a bank for each deposit; and (5) an  
127 accounting of an excess related for each deposit to the authority pur-  
128 suant to clause (4) of paragraph (d) of section two.

1 SECTION 4. The provisions of sections two and three shall cease  
2 to be in effect as of December thirty-first, nineteen hundred and  
3 ninety-nine. No loans shall be made pursuant to paragraph (e) of  
4 section two after December thirty-first, nineteen hundred and  
5 ninety-nine. Nothing in this section shall be construed to prevent the  
6 collection of any outstanding principal or interest on loans made  
7 pursuant to said paragraph (3) on or before December thirty-first,  
8 nineteen hundred and ninety-nine or of any outstanding excess owed  
9 to the authority under clause (4) of paragraph (d) of section two.





