

By Messrs. Lynch of Barnstable and Silva of Gloucester, petition of Richard R. Silva, Thomas K. Lynch, Robert W. Gillette, Howard C. Cahoon, Jr., and Mary Jeanette Murray for legislation to establish the Massachusetts fishing support agency. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT ESTABLISHING THE MASSACHUSETTS FISHING SUPPORT AGENCY.

1 *Whereas*, The deferred operation of this act would tend to defeat
2 its purpose, which is to encourage and support the making of loans
3 by financial institutions for the purpose of insuring the survival of
4 the fishing industry, therefore, it is hereby declared to be an
5 emergency law necessary for the immediate preservation of the
6 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 21 of the General Laws, as most recently
2 amended is hereby further amended by adding after section 5A the
3 following new sections:—

4 *Section 6.* It is hereby found that the high cost as well as the lack
5 of availability of loans for commercial fishermen makes it
6 extremely difficult for the thousands of these enterprises in
7 Massachusetts to hold their present employment levels or to
8 expand employment.

9 It is further found that as a result of the continuing increase in
10 the cost of materials or rehabilitation, municipal taxes, fuel, and
11 maintenance and repair expenses and the cost of on-shore
12 facilities, the commonwealth suffers from structural economic
13 weaknesses which contribute to a rising level of chronic
14 unemployment and underemployment.

15 It is further found that the lack of gainful employment puts
16 additional pressure on the state's welfare programs and increases
17 the cost of unemployment compensation to the existing enterprises
18 of the commonwealth.

19 Therefore, it is in the best public interest of the commonwealth
20 to promote the prosperity and general welfare of all citizens by
21 stimulating fishing growth and the survival of the fishing industry
22 in general by encouraging a larger flow of private investment funds
23 from banks, investment houses, insurance companies and other
24 financial institutions, including pension retirement funds, to help
25 satisfy the need for the survival of the fishing industry. The
26 creation of a Massachusetts fishing support agency would
27 encourage the making of loans for the public purpose of furthering
28 fishing as a viable means of livelihood in the commonwealth.

29 The advantages of this program to the general public would
30 include an increase in the gainful employment of the citizens; a
31 decrease in welfare and unemployment compensation costs; an
32 increase in the tax base of the commonwealth; an increase in the
33 availability of capital for commercial fishermen in the com-
34 monwealth; the expansion, reclamation or renovation of existing
35 buildings to house new or existing fishing related enterprises.

36 *Section 7.* As used in the section and sections thirty-one to
37 thirty-five, inclusive, the following words and terms shall have the
38 following meanings unless a contrary intent is clearly indicated: —

39 "Agency", the Massachusetts Fishing Support Agency;

40 "Board", the board of directors of the agency;

41 "Fund", the fishing support fund; MCL Chap. 130 2A;

42 "Commissioner", the commissioner of Fisheries, Wildlife &
43 Recreational Vehicles;

44 "Fishing Enterprise", any enterprise engaged in the giving of
45 new shapes, new qualities or new combinations to the
46 Massachusetts Fishing Industry;

47 "Fishing Facilities", industrial enterprises, or research and
48 development enterprises or part thereof, including any or all
49 buildings, docks, wharves, improvements, additions, extensions,
50 replacement, appurtenances, lands, rights in land, riparian rights,
51 water rights, franchises, machinery, equipment vessels, fur-
52 nishings, landscaping, utilities, approaches, roadways, pollution

53 control facilities and either facilities necessary or desirable in
54 connection therewith or incidental thereto, such as, but not limited
55 to, office, warehouse, terminal, transportation and backup power
56 generating facilities.

57 "Primary Employment", a full-time permanent job.

58 *Section 8.* There is hereby created and placed in the department
59 of Fisheries, Wildlife & Recreational Vehicles a body corporate
60 and politic, constituting a public corporation and government
61 instrumentality to be known as the Massachusetts Fishing Support
62 Agency, hereafter referred to as the agency, which shall not be
63 subject to the supervision or regulation of the department of
64 Fisheries, Wildlife & Recreational Vehicles or of any department,
65 agency or other instrumentality of the commonwealth except to
66 the extent and in the manner provided in this act. The agency shall
67 maintain a close liaison with the department of Fisheries, Wildlife
68 & Recreational Vehicles in order to facilitate a coordinated effort
69 in the area of fishing growth.

70 The agency shall be governed and its corporate powers exercised
71 by a board of directors of five members, consisting of the
72 commissioner of Fisheries, Wildlife & Recreational Vehicles,
73 Secretary of Environmental Affairs, or their designees, ex officio,
74 and 3 persons to be appointed by the governor who shall serve at
75 his pleasure. Of the 3 members appointed by the governor, at least
76 one shall have commercial fishing interests, one shall represent the
77 banking and investment interests. Three members of the board
78 shall constitute a quorum, but the approval of insurance of a loan
79 shall require the affirmative vote of at least three members of the
80 board.

81 Each appointive member shall be appointed for a term of three
82 years, except that in making his initial appointments, the governor
83 shall appoint two members to serve for three years, one to serve for
84 two years and one to serve for one year. Any person appointed to
85 fill a vacancy shall serve for the remainder of the unexpired term.
86 Any member shall be eligible for reappointment. The governor
87 shall from time to time designate one appointed member to serve as
88 chairman.

89 The board of directors may, subject to appropriation, appoint a
90 treasurer and employ counsel and such other officers, agents and

91 employees as it deems necessary or proper and may delegate to one
92 or more of its members or to one or more of the agents or
93 employees of the agency such powers and duties other than the
94 power to make the findings required by section thirty-three as it
95 deems necessary or proper to carry out any action by it. The board
96 of directors may adopt, amend, and repeal by-laws, rules and
97 regulations governing the manner in which the business of the
98 agency may be conducted and its powers exercised. The board may
99 adopt an official seal and sue and be sued in its own name. The
100 members of the board shall serve without compensation, but each
101 such member shall be reimbursed for all necessary expenses
102 incurred by him in the discharge of his official duties.

103 The commissioner shall include in his budget requests such
104 funds as may be required by the board to carry out its functions.

105 *Section 9.* There is hereby established a fishing support
106 insurance fund to which shall be credited all premiums received by
107 the agency, any other sums realized by the agency pursuant to its
108 fishing support loan insurance agreements, whether by way of
109 subrogation or otherwise, and any state appropriations or other
110 monies made available to the fund. The fund shall be held in the
111 custody of one or more banks or trust companies having a
112 principal place of business in the commonwealth. The fund shall be
113 held for the security of the holders of fishing support loans insured
114 under section 10. It shall be governed by a trust agreement entered
115 into by the agency with the trustees. The trust agreement may
116 contain provisions and limitations as to the investment and
117 disbursement of monies in the fund, the payment of expenses of the
118 fund, the appointment, resignation and discharge of trustees, the
119 delegation of enforcement and collection powers under the
120 insurance agreements to the trustee, the duties of the trustees,
121 amendments of the trust agreement and such other lawful
122 provisions and limitation as may be deemed appropriate. The trust
123 agreement may pledge premiums and other monies which are to be
124 deposited in the fund. Such pledge shall be valid and binding from
125 the time when the pledge is made. The premiums and other monies
126 so pledged and thereafter received by the fund or by the trustees in
127 its behalf shall immediately be subject to the lien of such pledge
128 without any physical delivery thereof or further act, and the lien of

129 such pledge shall be valid and binding as against all parties having
130 claims of any kind against the fund, irrespective of whether such
131 parties have notice thereof.

132 *Section 10.* The agency is empowered: —

133 1) To provide insurance of loans, or their debt service, made to
134 finance the acquisition, construction or alteration or any combina-
135 tion thereof, of fishing facilities;

136 2) To enter into agreements for such insurance;

137 3) To fix a rate or rates of premiums for such insurance; and

138 4) To exercise such other powers as are necessary or incidental to
139 the foregoing;

140 5) To accept any monies in the form of grants, payments or other
141 revenues from any source including federal or state.

142 The insurance provided by the agency shall be payable solely
143 from the fishing support insurance fund established by section 9
144 and shall not constitute a debt or pledge of the faith and credit of
145 the commonwealth or of any subdivision thereof.

146 The board shall not approve the insurance of a loan unless it
147 makes the following findings: —

148 1) That the loan is to be secured by a first mortgage of real or
149 personal property or both satisfactory to the board;

150 2) That the mortgagor and mortgagee are responsible parties;

151 3) That occupant of the project or projects is a responsible
152 occupant;

153 4) That provisions of the loan are reasonable and proper, and in
154 making such determination the board may take into account such
155 factors as it deems relevant including, without limitation, the
156 provisions for maintaining, insuring and repairing the project by
157 the mortgagee and the remedies of the board upon default of the
158 loan;

159 5) The project will provide employment having a reasonable
160 relation to the principal amount of loans to be insured therefor,
161 taking into account, among other things, the investment per
162 employee of comparable industrial facilities;

163 6) Adequate provision is being or will be made to meet any
164 increased demand upon community public facilities that might
165 result from the project;

166 7) The size and scope of the project is such that a definite benefit

167 to the economy of the commonwealth may reasonably be expected
168 to result from the construction or improvement thereof; and the
169 employment created shall be substantially primary employment;
170 8) That the principal amount of the loan does not exceed ninety
171 per cent of the cost of the fishing facility and eighty per cent of the
172 cost of the machinery and equipment;

173 9) That the duration of the loan shall not exceed thirty years on a
174 fishing support facility exclusive of machinery and equipment and
175 fifteen years on machinery and equipment; and that the
176 authorization provisions are satisfactory to the board;

177 10) That the insurance agreement provides for subrogation on
178 terms satisfactory to the board upon payment of insured debt
179 service from the fund;

180 11) That the public interest is adequately protected by the terms
181 of the loan and of the insurance agreement;

182 12) That the insurance of the loan will not cause the insured debt
183 service coming due in any one calendar year on account of an
184 insured loan or loans for any one mortgagor to exceed twenty per
185 cent of the amount in the fund when the funding is made; and

186 13) That the insurance of the loan will not cause the insured debt
187 service coming due in any one calendar year on account of all
188 insured loans to exceed one hundred per cent of the amount in the
189 mortgage insurance trust when the funding is made.

190 The board shall consult with the appropriate local and regional
191 planning agencies to ascertain the relationship of a proposed
192 project to any existing local or regional comprehensive plan; that,
193 so far as feasible, the project is to be located in an area of generally
194 high unemployment; and that employment opportunities will
195 become available to the residents of such area.

196 *Section 11.* The agency shall annually submit to the governor,
197 the chairman of the senate ways and means committee, the
198 chairman of the house ways and means committee, the com-
199 missioner of administration, and the comptroller within ninety
200 days after the end of its fiscal year, a complete and detailed report
201 setting forth its operation and accomplishments; its receipts and
202 expenditures during such fiscal year in accordance with the
203 categories and classifications established by the agency for its
204 operating and capital outlay purposes; and its assets and liabilities

205 at the end of the fiscal year, including a schedule of its loans insured
206 and commitments and the status of the funds.

207 *Section 12.* The books and records of the agency shall be
208 subject to an annual audit by the auditor of the commonwealth.

1 SECTION 2. This act, being necessary for the welfare of the
2 commonwealth and its inhabitants, shall be liberally construed to
3 effect the purposes thereof.

1 SECTION 3. The provisions of this act are severable, and if any
2 of its provisions shall be held unconstitutional by any court of
3 competent jurisdiction, the decision of such court shall not affect
4 or impair any of the remaining provisions.

