

# House . . . . . No. 102

Message from His Excellency the Governor recommending legislation relative to An Act providing for disposition of surplus state real property based on smart growth land use policies.

## The Commonwealth of Massachusetts



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To the Honorable Senate and House of Representatives:

I am filing for your consideration a bill entitled “An Act Providing for Disposition of Surplus State Real Property Based on Smart Growth Land Use Policies.”

This legislation, similar to a bill I recommended last year, proposes a new, expedited process for disposing of surplus state real property based on smart growth land use policies. This bill provides for properties no longer needed for state purposes to be used for municipal purposes, or for economic development, affordable housing, and other uses. It creates a coherent process that will benefit not only the communities in which the properties are located but also the Commonwealth as a whole.

This bill:

- Creates a Surplus Land Coordination Committee to provide recommendations to the Division of Capital Asset Management and Maintenance regarding the disposition of surplus state properties.
- Gives municipalities a right of first refusal to acquire surplus state properties for municipal use, and at a discounted price, early in the disposition process
- Gives municipalities that do not exercise the right of first refusal the opportunity to provide input on potential reuses of the properties early in the disposition process, before any smart growth study is undertaken.
- Requires a smart growth study be prepared by the regional planning agency for any property more than 2 acres in size.

- Allocates 15 percent of the net cash proceeds from the disposition of surplus property to the municipality where the property is located, or 25 percent if the municipality has adopted for the property either an approved smart growth zoning district under chapter 40R or an approved priority development site under chapter 43D (unless the municipality acquired the property).
- Allocates 50 percent of the remaining net cash proceeds to the Smart Growth Fund.
- Allocates the balance to a new Capital Projects Fund, and provides that the Fund shall be expended, subject to appropriation, to meet the capital improvement needs of the Commonwealth.

I urge your prompt and favorable consideration of this bill.

Sincerely,  
DEVAL L. PATRICK,  
*Governor.*

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT PROVIDING FOR DISPOSITION OF SURPLUS STATE REAL PROPERTY BASED ON SMART GROWTH LAND USE POLICIES.

*Whereas*, the deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for expedited disposition of surplus state real property based on smart growth land use policies, 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.** Chapter 7 of the General Laws is hereby amended by striking out sections 40F and  
2 40F1/2, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-  
3

4 Section 40F. (a) For the purposes of this section, in addition to terms defined in section 39A, the  
5 following terms shall have the following meanings, unless the context clearly requires otherwise:

6 “Commissioner”, the commissioner of capital asset management and maintenance.

7 “Direct public use”, use of surplus real property by a host municipality for the municipality’s own  
8 operations, and does not include conveyance by such municipality of any interest in the property to  
9 another party, but does include lease of the property by local housing authorities to public housing  
10 tenants.

11 “Division”, the division of capital asset management and maintenance.

12 “Host municipality”, the municipality or municipalities within which state-owned real property conveyed,  
13 leased or otherwise transferred pursuant to this chapter is located.

14 “Net cash proceeds”, all payments paid to the commonwealth as and when paid, less any transaction-  
15 related expenses and expenses incurred in connection with the custody of the property by the division,  
16 and the regional planning agency under clause (ii) of subsection (g) for which it is not otherwise  
17 reimbursed, including, but not limited to, costs associated with the disposal or pre-development of the  
18 property from which the funds originated including, but not limited to, appraisals, surveys, site  
19 evaluation, site preparation, plans, recordings, smart growth review and feasibility and other marketing  
20 studies and any other expenses relating to the disposal or project management services in connection with  
21 any reuse or redevelopment of the surplus real property under this chapter, and less any amounts that may  
22 be owing to the federal government as a result of the disposition.

23 “Property”, real property owned by the commonwealth.

24 “Secretary”, the secretary of administration and finance.

25 “Surplus land coordination committee” or “committee”, the committee established by subsection (c).

26 “Surplus real property”, real property of the commonwealth:

27 (1) previously determined to be surplus to current and foreseeable state needs under sections 40F or  
28 40F½; or

29 (2) declared to be surplus under this section.

30 This term shall not include property subject to Article 97 of the Amendments to the Constitution or any  
31 court facilities vacated and determined to be surplus by the commissioner and the chief justice for  
32 administration and management as a result of or in anticipation of the construction of new court facilities  
33 or the consolidation of court facilities in the city of Cambridge, Lowell, Salem or Worcester.

34 (b) (1) The commissioner shall be responsible for the acquisition, control and disposition of real property  
35 in the manner and to the extent provided in this chapter. The commissioner may delegate such  
36 responsibility to an administrator within the division, who has 10 years of experience in the management  
37 of commercial, industrial, institutional or public real property. When responsibility is delegated to an  
38 administrator, the written approval of the secretary shall be required before the transaction is finalized.  
39 The commissioner shall acquire an interest in real property on behalf of the commonwealth for the use of  
40 state agencies by gift, purchase, devise, grant, eminent domain, rental, lease, rental-purchase or otherwise.

41 (2) In acquiring properties and buildings for the use of state agencies, first consideration shall be given to  
42 any structures that have been certified as historic landmarks as provided by sections 26 to 27C, inclusive,  
43 of chapter 9, that have been listed in the National Register of Historic Places as provided by 16 U.S.C.  
44 section 470a or that have been designated historic landmarks by local historic commissions, unless use of  
45 such buildings would not be feasible in terms of costs and requirements when compared with other  
46 available properties.

47 (3) Notwithstanding any general or special law to the contrary, real property acquired for the use of state  
48 agencies shall be held in the name of the commonwealth.

49 (4) The commissioner shall assist in the preparation and shall approve of plans for the organization of all  
50 space within and around buildings and appurtenant structures used by state agencies, and shall assign the  
51 use of space within and around the state house, subject to rules that the committee on rules of the two  
52 branches acting concurrently may adopt, in accordance with sections 10, 16A and 17 of chapter 8; the  
53 John W. McCormack State Office Building; 100 Cambridge Street formerly known as the Leverett  
54 Saltonstall State Office Building; the Springfield Office Building; the Pittsfield Office Building; the Erich  
55 Lindemann Building; the Charles F. Hurley Building; and any real property acquired for the use of state  
56 agencies, the greater part of which is not needed by any 1 state agency; and any other real property  
57 assigned by law to the division.

58 (5) The commissioner, in consultation with the secretaries of the executive offices or the chief justice of  
59 the administrative office of the trial court as the commissioner deems appropriate and with the written  
60 approval of the secretary, may transfer and change the use of, and transfer responsibility for maintenance  
61 of, land, buildings and other real property of the commonwealth (other than the state house) within or  
62 between state agencies including, without limitation, to the division, and the judiciary. Such a transfer  
63 shall be based on a determination, made by the commissioner with the advice of the executive heads of  
64 affected agencies and secretaries of the executive offices in which such agencies are located, that such  
65 property or any part thereof, is not needed or not being put to optimum use under current conditions. The  
66 commissioner shall submit a report on any such transfer to the chairs of the house and senate ways and  
67 means committees and the joint committee on bonding, capital expenditures and state assets and the  
68 members of the general court representing the host municipality in which such property is located not less  
69 than 30 days before the effective date of the proposed transfer. An agency shall not be required to  
70 purchase or make payment, whether directly or indirectly to acquire property or part thereof, which is  
71 made available for that agency's use. As a condition of the transfer of property to a state agency, the  
72 commissioner may require that the agency be financially responsible for any outstanding lease,  
73 contractual or debt obligations previously incurred by the commonwealth to acquire or improve the  
74 property and for any future maintenance, security and improvement costs for the property.

75 (6) Notwithstanding any other general or special law to the contrary, the commissioner, in consultation  
76 with the surplus land coordination committee, may sell, lease for a term not to exceed 99 years, transfer or  
77 otherwise dispose of surplus real property of the commonwealth, as specified in this section.

78 (c) There shall be a surplus land coordination committee. The committee shall consist of 1 representative  
79 appointed by each of the following: the secretary, the commissioner, the secretary of energy and  
80 environmental affairs, the secretary of housing and economic development, the director of housing and  
81 community development, the executive director of the Massachusetts Association of Regional Planning  
82 Agencies, the president of the Massachusetts Association of Community Development Corporations, and

83 the executive director of the Massachusetts Municipal Association. The representative appointed by the  
84 secretary shall chair the committee. At any committee meeting, a majority of the members of the board  
85 entitled to vote must be present to constitute a quorum. The committee shall meet at such times as the  
86 committee chair shall set, but no less than once every 3 months to consider the future re-uses of any  
87 surplus property. The committee shall provide a written recommendation to the commissioner on the  
88 appropriate future re-use of surplus property, as set forth in subsection (g).

89 No member of the committee shall be in violation of section 6 of chapter 268A for conduct which  
90 involves his participation, as a member of the committee, in a particular matter before the committee  
91 which may affect the financial interest of a business organization with which the member is affiliated, if  
92 the member, his immediate family and partner have no personal and direct financial interest in the  
93 particular matter and if the member discloses in writing his affiliation and financial interest to the  
94 committee and it is recorded in the minutes of the meeting of the committee.

95 (d) In order to determine whether specified real property is surplus to the current and foreseeable needs of  
96 the commonwealth, the commissioner shall, within 30 days after receipt of a completed transfer request,  
97 provide written notice and inquiry to the executive heads of state agencies and secretaries of the executive  
98 offices, who shall have 30 days to submit a written response stating that the property is necessary for a  
99 specific current or foreseeable need of the agency. If no agency or executive office submits such a  
100 response within 30 days of the notice, the commissioner, in consultation with the surplus land  
101 coordination committee, may declare the property as surplus and dispose of it under this section.  
102 Alternatively, if a written response is timely received specifying a current or foreseeable need for the  
103 property or any part thereof, the commissioner shall, in consultation with the secretary, the surplus land  
104 coordination committee and with those responding affirmatively and the written approval of the secretary,  
105 determine whether the real property or part thereof, shall: (1) be retained and made available on account  
106 of a current or foreseeable use by a state agency, or (2) be recommended for disposal as surplus property  
107 on a temporary or permanent basis. Preference shall be given to ensuring that real property is made

108 available for state needs and not permanently disposed, where a state agency has submitted a timely  
109 written response specifying a current or foreseeable need for the property. When the commissioner  
110 determines that real property is surplus to current state needs but not to foreseeable state needs, the  
111 commissioner shall take all necessary action to ensure that any disposition of the real property is  
112 temporary and maintains the commissioner's ability to make such real property available to a state agency  
113 as needed.

114 (e) If the commissioner, in consultation with the committee and the secretary, determines that real  
115 property is surplus to current or foreseeable state needs, the commissioner shall, within 10 days after such  
116 determination, provide written notice for each host municipality to the chief executive officer of the city  
117 or town, the county commissioners, the regional planning agency and the members of the general court  
118 representing the host municipality as well as adjoining cities or towns. Such written notice shall include:  
119 (1) a statement that the property is currently being considered by the commissioner for disposal on a  
120 temporary or permanent basis as surplus; (2) a general description of the property under consideration for  
121 disposal including as applicable, a description of the land, buildings, appurtenant structures and  
122 equipment and the current use and square footage of such property; (3) a legal description of the property  
123 including approximate metes and bounds and other information identifying any existing easements,  
124 restrictions or other conditions, to the extent available; (4) a statement that the municipality in which any  
125 portion of the property is located has a right of first refusal to acquire the property as set forth in  
126 subsection (f); and (5) an invitation to make written comments about the future use of the property.

127 (f) Each host municipality shall have a right of first refusal to acquire the surplus real property located  
128 within such municipality for a direct public use on the terms and conditions as offered by the  
129 commissioner pursuant to this subsection at 80 per cent of the value established pursuant to subsection (i).  
130 Section 14 of chapter 40 shall apply to the purchase of surplus real property by a host municipality under  
131 this section; excepting any applicable restriction based on average assessed valuation. The commissioner  
132 may accept a flexible payment schedule at his discretion, provided, that all payments shall be made within



133 3 fiscal years of the sale or lease of the surplus real property to the host municipality. This right of first  
134 refusal must be exercised, if at all, by the host municipality giving written notice of the municipality's  
135 intention to acquire the property for a direct public use to the commissioner within 90 days after the  
136 written notice given by the commissioner pursuant to subsection (e). If the host municipality does give  
137 such written notice, the host municipality shall have until the date which is 180 days after its written  
138 notice to the commissioner to close on the purchase or lease of the property on such terms, conditions and  
139 restrictions as previously offered by the commissioner, provided, that the commissioner may grant a host  
140 municipality additional time to close on the purchase or lease of the property. If a host municipality has  
141 held a vote for debt exclusion under section 21C of chapter 59 to finance the surplus real property  
142 purchase, the date by which the host municipality shall exercise its option to purchase shall be extended  
143 until 7 days after the vote, but the vote shall take place at the next municipal election after the host  
144 municipality voted to put the debt exclusion on the ballot. If the host municipality fails to close the  
145 purchase of the property within the allowed time, the sole remedy of the commonwealth against the host  
146 municipality for such failure is to proceed with the disposition of the property without further right of  
147 purchase by the host municipality; but, if the failure to close on the purchase of the property was in bad  
148 faith as determined by the commissioner, the commonwealth shall not be required to share proceeds of  
149 the sale of the real property with the host municipality as required by subsection (o). The commissioner  
150 shall ensure that any deed, lease or other disposition agreement conveying surplus real property to the  
151 host municipality provides that the use of the property shall be limited to the direct public use specified by  
152 the host municipality and provides for effective remedies on behalf of the commonwealth as deemed  
153 appropriate by the commissioner, which remedies may include, without limitation, that the title or lesser  
154 interest conveyed may revert to the commonwealth upon the recording of a notice in the appropriate  
155 registry of deeds, in the event of a failure to comply such use restriction.

156 A host municipality that has exercised its right of first refusal or otherwise has a right to close on the  
157 property, at its own expense, may enter upon the property and any of its agents or contractors may enter  
158 upon the property, to conduct inspections, surveys, or tests customarily performed in real estate

159 transactions for the type and nature of the property specified as surplus as long as the commissioner is  
160 notified and consents to the inspection, host municipality shall be responsible to the commonwealth for  
161 any damage to the property, and shall hold harmless the commonwealth from all losses arising out of a  
162 claim of any nature from a third party, which resulted from conducting any such inspection, survey or  
163 test.

164 A host municipality exercising a right of first refusal as provided in this subsection may engage the  
165 services of the Massachusetts Development Finance Agency to perform planning, feasibility, marketing,  
166 and other studies or to provide project management services in connection with any re-use or  
167 redevelopment of the real property.

168 (g) If the host municipality does not elect to exercise its right of first refusal by giving written notice of  
169 its intention to acquire the surplus real property within 90 days in accordance with subsection (f), or if the  
170 host municipality timely makes such election but fails to close the purchase, lease or other disposition of  
171 the property within the allowed time, the host municipality shall be deemed to have waived its right of  
172 first refusal and the commissioner may dispose of the surplus property in accordance with this section, as  
173 follows:

174 (i) If the surplus property exceeds 2 acres, the commissioner shall, within 45 days after the  
175 waiver and after reasonable public notice, conduct a public hearing in each municipality in which  
176 the surplus property is located for the purpose of receiving public comment on the potential re-  
177 uses and appropriate restrictions upon the use of the property. The commissioner shall, within 30  
178 days after such hearing, prepare a written report of all oral or written testimony received at a  
179 public hearing, and shall submit such report to the committee and to the regional planning agency  
180 serving the community in which the surplus property is located together with a written request  
181 that the regional planning agency conduct a smart growth review regarding the local and regional  
182 implications of disposing of the parcel for a variety of prospective uses. If the surplus property is  
183 located in more than 1 municipality served by more than 1 regional planning agency, the

184 commissioner shall select 1 regional planning agency to conduct the smart growth review for the  
185 entire property. In each smart growth review, the regional planning agency shall consider any  
186 written report from any public hearing pursuant to clause (i) and the need for a variety of housing  
187 options, jobs, and open space; current and prospective zoning of the site; need for municipal  
188 capital facilities and public uses; impacts on traffic and transit; impacts on the environment and  
189 natural resources, and on agricultural lands; existence of historically significant structures;  
190 availability of infrastructure, including water supply, waste water and storm water run-off; fiscal  
191 impacts of development on the municipality where the parcel is located; remediation of  
192 contamination; and other smart growth implications. Within 60 days after the request by the  
193 commissioner for a smart growth review, the regional planning agency shall complete and submit  
194 the review in writing to the commissioner and to the surplus land coordination committee, and  
195 shall make the review available to all parties listed in subsection (e). Reasonable costs incurred by  
196 the regional planning agency shall be considered part of the disposition expenses paid for by the  
197 division, and reimbursed from the total proceeds of the sale or lease of surplus property received  
198 by the commonwealth not to exceed \$6,000 per parcel reviewed. If the smart growth review is not  
199 completed within 60 days after the commissioner's request for the review, the commissioner may  
200 dispose of the surplus property in accordance with this section.

201 (ii) If the surplus property is less than 2 acres but the commissioner, in consultation with the  
202 committee, makes a determination within 60 days after the waiver that a hearing or smart growth  
203 study is, or both are, necessary, the public hearing or smart growth study, or both, shall be  
204 conducted and the smart growth study undertaken in accordance with clause (i).

205 (iii) Within 60 days after its receipt of the commissioner's report of any public hearing held and  
206 any smart growth study undertaken pursuant to clauses (i) or (ii) above, the committee shall  
207 provide a written recommendation to the commissioner on the appropriate disposition for  
208 any parcel, and recommend a variety of appropriate uses, restrictions, and future obligations for

209 the disposition of each surplus parcel including, but not limited to, its suitability for housing,  
210 economic development or preservation as open space, the parcel's historical significance, a  
211 community's master plan, and what restrictions, if any, should be imposed on its use and  
212 development. The committee in making recommendations to the commissioner on the re-uses,  
213 restrictions and development of the surplus property shall consider any: (1) , written report from  
214 any public hearing pursuant to clause (i) above; (2) testimony, recommendations or comments,  
215 from a host municipality including any recommendation or comment from a local re-use  
216 committee established by such host municipality to advise on the future reuse of land, buildings  
217 or structures; (3) testimony, recommendations or comments from immediate surrounding  
218 communities and from any member of the general court representing the host municipality where  
219 the surplus property is located; (4) smart growth review conducted under clause (i) above; (5)  
220 comments and recommendations by the commissioner; and (6) established state and local plans  
221 and policies. The committee may also consider any other testimony and necessary and relevant  
222 information received with respect to the surplus property. If the committee does not recommend  
223 appropriate uses for the property within that 60 days, the commissioner may dispose of the  
224 property without a recommendation from the committee in a manner consistent with this section.

225 (iv) Before disposing of surplus real property, the commissioner (1) shall identify any  
226 restrictions or conditions on such property's re-use and development which the commissioner  
227 considers appropriate to reflect the recommendation of the surplus land coordination committee  
228 and take into consideration established state, regional and local plans and policies, any  
229 recommendations or comments from a host municipality including, without limitation,  
230 recommendations or comments submitted at a hearing held pursuant to clause (i), and from any  
231 member of the general court representing the host municipality; and (2) shall ensure that any  
232 deed, lease or other disposition agreement sets forth all such re-use restrictions, provides for  
233 effective remedies on behalf of the commonwealth and provides, in the event of a failure to  
234 comply with the re-use restrictions by the grantee, lessee or other recipient, that the title or lesser

235 interest conveyed shall revert to the commonwealth upon the recording of a notice in the  
236 appropriate registry of deeds.

237 (h) The commissioner shall on a quarterly basis send to the house and senate chairs of the committee on  
238 bonding, capital expenditures and state assets and the house and senate committees on ways and means a  
239 detailed list of all property which has been determined to be surplus to current and foreseeable state needs  
240 pursuant to subsection (d) and is being considered for disposition by the commissioner and the surplus  
241 land coordination committee, together with recommendations for disposition of each parcel of property  
242 and its potential uses and restrictions to the extent they have been developed and approved pursuant to  
243 this section.

244 (i) The commissioner shall establish the value of surplus real property using customarily accepted  
245 appraisal methodologies, including without limitation, a written appraisal by an independent professional  
246 real estate appraiser, licensed by the commonwealth, with 5 or more years of experience in the appraisal  
247 of commercial or industrial real estate. The value shall be calculated both: (1) for the highest and best use  
248 of the surplus real property; and (2) subject to uses, restrictions, encumbrances and other conditions and  
249 terms for the type of disposition, whether by sale or lease, as defined in writing by the commissioner.  
250 Notwithstanding the foregoing, the value of any property to be sold or leased to a host municipality for a  
251 direct public use shall be calculated subject to the restriction to direct public use and to such other uses,  
252 restrictions, encumbrances and other conditions and terms as defined in writing by the commissioner. In  
253 no instance in which the commonwealth retains responsibility for maintaining the property shall the terms  
254 provide for payment of less than the annual maintenance costs.

255 (j) For any disposition of surplus real property other than to a host municipality which has exercised its  
256 right of first refusal pursuant to subsection (f), the commissioner shall dispose of surplus real property  
257 using appropriate competitive processes and procedures, subject to the notification and advertising  
258 provisions of section 40H. These competitive processes may include, but are not limited to, auction,  
259 sealed bids and requests for price and development proposals. At least 30 days before the date of an

260 auction or the date on which bids, proposals or other offers to purchase or lease surplus real property are  
261 due, the commissioner shall place a notice in the central register published by the state secretary under  
262 section 20A of chapter 9 stating the availability of such property, the nature of the competitive process  
263 and other information deemed relevant, including the time and location of the auction, the submission of  
264 bids or proposals and the opening thereof. A host municipality which did not exercise its right of first  
265 refusal pursuant to subsection (f) to acquire surplus real property may submit a bid, proposal or other  
266 offer to purchase or lease surplus real property in response to such competitive process.

267 (k) The commissioner shall place a notice in the central register and notify in writing all parties listed in  
268 subsection (e), identifying the individual or firm selected as party to the real property transaction, along  
269 with the amount of the transaction. If the commissioner accepts an amount below the value calculated  
270 under subsection (i), he shall include the justification for doing so, specifying the difference between the  
271 calculated value and the price received.

272 (l) No agreement for the sale, lease, transfer or other disposition of surplus real property, and no deed  
273 executed by or on behalf of the commonwealth, shall be valid unless the agreement or deed contains the  
274 following certification, signed by the commissioner:

275 "I certify under penalties of perjury that I have fully complied with section 40F of chapter 7 of the  
276 General Laws in connection with the property described in this document."

277 (m) No agreement for the sale, lease, transfer or other disposition of surplus real property shall be valid  
278 unless the purchaser or lessee has executed and filed with the commissioner the statement required by  
279 section 40J.

280 (n) The grantee or lessee, including any host municipality, of any surplus real property shall be  
281 responsible for all costs including, but not limited to, appraisals, surveys, plans, recordings and any other  
282 expenses relating to the transfer, as shall be considered necessary by the commissioner.

283 (o) The division shall transfer the net cash proceeds of each sale or lease of surplus real property to the  
284 secretary within 45 days after the closing of such sale or lease. The secretary shall distribute such funds  
285 on at least a quarterly basis in the following order of priority each year, and the secretary shall annually  
286 report to the house and senate committees on ways and means detailing the total amount and distribution  
287 of these funds:-

288 (i) 15 per cent of the net cash proceeds from the sale or lease of each such property shall be paid  
289 to the host municipality; but if the host municipality has adopted for such property either an  
290 approved smart growth zoning district under chapter 40R or an approved priority development  
291 site under chapter 43D, 25 per cent of the net cash proceeds from the sale or lease of the  
292 particular parcel shall be paid to the host municipality. A municipality that acquires a property  
293 either by exercise of its right of first refusal pursuant to subsection (f) or through a competitive  
294 process pursuant to subsection (j) shall not receive a percentage of the net cash proceeds.

295 If a host municipality fails to close on a surplus real property due solely to a failure to receive an  
296 affirmative vote on a debt exclusion ballot question to raise funds to acquire a particular parcel  
297 under section 21C of chapter 59, the host municipality shall remain eligible to receive its share of  
298 the net cash proceeds.

299 (ii) After distribution of net cash proceeds under clause (i), 50 per cent of the remaining net cash  
300 proceeds shall be deposited in the Smart Growth Housing Trust Fund and 50 per cent shall be  
301 deposited in the Capital Projects Fund established by section 2YYY of chapter 29.

302 (p) Section 43I shall not apply to surplus real property disposed by the commissioner under this section.  
303 Notwithstanding any provision of this section to the contrary, the commissioner, in an emergency  
304 situation which poses a threat to the public safety or health and upon request by a municipality, may  
305 permit, license, rent or otherwise allow occupancy to such municipality of any surplus real property, not  
306 disposed, on a temporary and at-will basis and on such other appropriate and consistent terms as

307 established by the commissioner; but this occupancy shall not exceed a period of 6 months, and the  
308 commissioner, within 10 days of any permitted municipal use, shall certify in writing that an emergency  
309 exists and submits the certification to the governor and the house and senate chairmen of the ways and  
310 means committees.

311 (q) The disposition of any real property subject to section 7E of chapter 81 shall not be subject to  
312 subsections (c), (d), (e), (f), (g), (h) or (o) of this section. The division shall distribute funds from the net  
313 cash proceeds of any sale of such property to the department of highways.

314 (r) The commissioner may enter into agreements for the direct public use of surplus real property by  
315 public agencies other than state agencies, for a term not to exceed 5 years. Such agreement shall prohibit  
316 subsequent conveyance of interest in the property by the public agency to another party. The  
317 commissioner shall notify the house and senate committees on ways and means and the joint committee  
318 on state administration 30 days prior to the final authorization of any such agreement. The notification  
319 shall include the commissioner's report on recommended reuse restrictions. In no event shall any such  
320 agreement be made when the general court is not in session.

321 (s) Notwithstanding this section, leases for agricultural purposes on land owned by the commonwealth  
322 shall be made for a term of not more than 5 years, and the renewal date for such leases shall not be less  
323 than 1 year prior to the end of the lease period. Holders of such leases shall be given the opportunity to  
324 renew such leases for a consideration equal to the current lease amount plus an escalation amount to be  
325 established annually by the commissioner for application to all such leases.

326 (t) For bills which authorize the sale, transfer, or other disposition of any state-owned real property filed  
327 by persons other than the commissioner of capital asset management and maintenance, the clerk of the  
328 house of representatives and the clerk of the senate shall, within 10 days of the filing, forward a copy of  
329 the bill to the commissioner. Within 90 days of the receipt of the copy, the commissioner shall submit in  
330 writing a report to the commissioner of administration, the legislative committee before which the bill is



331 pending, and the joint committee on state administration together with a recommendation for either the  
332 approval or the disapproval of the bill and his reasons therefor.

333 If the commissioner is recommending the approval of a bill proposing the disposition of a parcel  
334 exceeding 2 acres, the report shall include: (1) a description of the property including its current use,  
335 structures, and approximate metes and bounds; (2) the value of the property, determined through  
336 procedures customarily accepted by the appraising profession as valid for such purposes, calculated both  
337 for (a) the highest and best use of the property as currently encumbered and (b) uses and encumbrances  
338 that would be imposed by the bill if enacted; (3) all current and foreseeable direct public uses identified  
339 by following the division's procedures for such purposes as they apply to the property to be disposed (4)  
340 other potential public and private uses of the property; and (5) any other information the general court  
341 may require.

342 The commissioner shall expeditiously review and recommend approval or disapproval of any proposal to  
343 the general court for the sale, rental or other disposition of real property acquired on behalf of state  
344 agencies, and shall dispose of real property as mandated by the general court. All legislation submitted to  
345 the general court by the division of capital asset management and maintenance requesting authorization to  
346 convey or transfer real property under its jurisdiction shall be accompanied by a full report outlining the  
347 division's reasons for pursuing the conveyance or transfer.

348 (u) The commissioner shall maintain, for a period of at least 6 years next following disposition of real  
349 property pursuant to this section, a file containing a copy of each document necessary to establish  
350 fulfillment of the requirements this section, provided, however, that any documents reflecting the value  
351 of the real property established by the commissioner and any independent appraisals used to establish that  
352 value, shall be exempted from the definition of "public records" appearing in section 7 of chapter 4 of the  
353 general laws until the disposition of the real property has been completed.

354 SECTION 2. Section 35AA of chapter 10 of the General Laws, as so appearing, is hereby amended by  
355 inserting after the word “section”, in line 11, the following words:- and in subsection (n) of section 40F of  
356 chapter 7.

357 SECTION 3. Chapter 29 of the General Laws is hereby amended by inserting after section 2XXX the  
358 following section:-

359           Section 2YYY. There is hereby established and set up on the books of the commonwealth a  
360 separate fund, to be known as the Capital Projects Fund, in this section called the fund. The fund shall  
361 consist of the portion of net cash proceeds of the commonwealth’s disposition of surplus real property  
362 deposited under clause (ii) of subsection (o) of section 40F of chapter 7, and all other monies credited or  
363 transferred to the fund from any other fund or source pursuant to law. The fund shall be expended,  
364 subject to appropriation, to meet the capital improvement needs of the commonwealth.

365 SECTION 4. Chapter 40B of the General Laws is hereby amended by adding the following section:-

366 Section 30. There shall be within each regional planning district created under this chapter or by special  
367 act a technical assistance center for the delivery of coordinated, comprehensive, and continuing technical  
368 services at the request of a municipality. Technical assistance services may be provided in any subject  
369 area within the capability of each technical assistance center including but not limited to: zoning and  
370 permitting; economic development; land use planning, conservation planning, and water resources;  
371 municipal management; public safety planning and emergency response; transportation; data  
372 management, information technology, geographic information systems, statistical trends, and modeling;  
373 and other land use and smart growth issues.

374 SECTION 5. Notwithstanding any general or special law to the contrary, section 1 shall not apply to the  
375 disposition of real property that is the subject of a special act having an effective date before the effective  
376 date of this act.