

Senate No. 6

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

The Commonwealth of Massachusetts



EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133
(617) 725-4000

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

1/28/2009

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.

Respectfully submitted,

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 for 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
2 40F and 40F1/2, as appearing in the 2006 Official Edition, and inserting in place thereof the
3 following section:-
4

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

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

8 “Direct public use”, use of surplus real property by a host municipality for the municipality’s
9 own operations, and does not include conveyance by such municipality of any interest in the

10 property to another party, but does include lease of the property by local housing authorities to
11 public housing tenants.

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

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

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

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

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

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

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

30 (1) previously determined to be surplus to current and foreseeable state needs under sections 40F
31 or 40F½; or
32 (2) declared to be surplus under this section.

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

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

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

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

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

64 (5) The commissioner, in consultation with the secretaries of the executive offices or the chief
65 justice of the administrative office of the trial court as the commissioner deems appropriate and
66 with the written approval of the secretary, may transfer and change the use of, and transfer
67 responsibility for maintenance of, land, buildings and other real property of the commonwealth
68 (other than the state house) within or between state agencies including, without limitation, to the
69 division, and the judiciary. Such a transfer shall be based on a determination, made by the
70 commissioner with the advice of the executive heads of affected agencies and secretaries of the
71 executive offices in which such agencies are located, that such property or any part thereof, is not
72 needed or not being put to optimum use under current conditions. The commissioner shall submit
73 a report on any such transfer to the chairs of the house and senate ways and means committees
74 and the joint committee on bonding, capital expenditures and state assets and the members of the
75 general court representing the host municipality in which such property is located not less than
76 30 days before the effective date of the proposed transfer. An agency shall not be required to
77 purchase or make payment, whether directly or indirectly to acquire property or part thereof,
78 which is made available for that agency's use. As a condition of the transfer of property to a
79 state agency, the commissioner may require that the agency be financially responsible for any

80 outstanding lease, contractual or debt obligations previously incurred by the commonwealth to
81 acquire or improve the property and for any future maintenance, security and improvement costs
82 for the property.

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

87 (c) There shall be a surplus land coordination committee. The committee shall consist of 1
88 representative appointed by each of the following: the secretary, the commissioner, the secretary
89 of energy and environmental affairs, the secretary of housing and economic development, the
90 director of housing and community development, the executive director of the Massachusetts
91 Association of Regional Planning Agencies, the president of the Massachusetts Association of
92 Community Development Corporations, and the executive director of the Massachusetts
93 Municipal Association. The representative appointed by the secretary shall chair the committee.
94 At any committee meeting, a majority of the members of the board entitled to vote must be
95 present to constitute a quorum. The committee shall meet at such times as the committee chair
96 shall set, but no less than once every 3 months to consider the future re-uses of any surplus
97 property. The committee shall provide a written recommendation to the commissioner on the
98 appropriate future re-use of surplus property, as set forth in subsection (g).

99 No member of the committee shall be in violation of section 6 of chapter 268A for conduct
100 which involves his participation, as a member of the committee, in a particular matter before the
101 committee which may affect the financial interest of a business organization with which the
102 member is affiliated, if the member, his immediate family and partner have no personal and
103 direct financial interest in the particular matter and if the member discloses in writing his

104 affiliation and financial interest to the committee and it is recorded in the minutes of the meeting
105 of the committee.

106 (d) In order to determine whether specified real property is surplus to the current and foreseeable
107 needs of the commonwealth, the commissioner shall, within 30 days after receipt of a completed
108 transfer request, provide written notice and inquiry to the executive heads of state agencies and
109 secretaries of the executive offices, who shall have 30 days to submit a written response stating
110 that the property is necessary for a specific current or foreseeable need of the agency. If no
111 agency or executive office submits such a response within 30 days of the notice, the
112 commissioner, in consultation with the surplus land coordination committee, may declare the
113 property as surplus and dispose of it under this section. Alternatively, if a written response is
114 timely received specifying a current or foreseeable need for the property or any part thereof, the
115 commissioner shall, in consultation with the secretary, the surplus land coordination committee
116 and with those responding affirmatively and the written approval of the secretary, determine
117 whether the real property or part thereof, shall: (1) be retained and made available on account of
118 a current or foreseeable use by a state agency, or (2) be recommended for disposal as surplus
119 property on a temporary or permanent basis. Preference shall be given to ensuring that real
120 property is made available for state needs and not permanently disposed, where a state agency
121 has submitted a timely written response specifying a current or foreseeable need for the
122 property. When the commissioner determines that real property is surplus to current state needs
123 but not to foreseeable state needs, the commissioner shall take all necessary action to ensure that
124 any disposition of the real property is temporary and maintains the commissioner's ability to
125 make such real property available to a state agency as needed.

126 (e) If the commissioner, in consultation with the committee and the secretary, determines that
127 real property is surplus to current or foreseeable state needs, the commissioner shall, within 10
128 days after such determination, provide written notice for each host municipality to the chief

129 executive officer of the city or town, the county commissioners, the regional planning agency
130 and the members of the general court representing the host municipality as well as adjoining
131 cities or towns. Such written notice shall include: (1) a statement that the property is currently
132 being considered by the commissioner for disposal on a temporary or permanent basis as surplus;
133 (2) a general description of the property under consideration for disposal including as
134 applicable, a description of the land, buildings, appurtenant structures and equipment and the
135 current use and square footage of such property; (3) a legal description of the property including
136 approximate metes and bounds and other information identifying any existing easements,
137 restrictions or other conditions, to the extent available; (4) a statement that the municipality in
138 which any portion of the property is located has a right of first refusal to acquire the property as
139 set forth in subsection (f); and (5) an invitation to make written comments about the future use of
140 the property.

141 (f) Each host municipality shall have a right of first refusal to acquire the surplus real property
142 located within such municipality for a direct public use on the terms and conditions as offered by
143 the commissioner pursuant to this subsection at 80 per cent of the value established pursuant to
144 subsection (i). Section 14 of chapter 40 shall apply to the purchase of surplus real property by a
145 host municipality under this section; excepting any applicable restriction based on average
146 assessed valuation. The commissioner may accept a flexible payment schedule at his discretion,
147 provided, that all payments shall be made within 3 fiscal years of the sale or lease of the surplus
148 real property to the host municipality. This right of first refusal must be exercised, if at all, by the
149 host municipality giving written notice of the municipality's intention to acquire the property for
150 a direct public use to the commissioner within 90 days after the written notice given by the
151 commissioner pursuant to subsection (e). If the host municipality does give such written notice,
152 the host municipality shall have until the date which is 180 days after its written notice to the
153 commissioner to close on the purchase or lease of the property on such terms, conditions and
154 restrictions as previously offered by the commissioner, provided, that the commissioner may

155 grant a host municipality additional time to close on the purchase or lease of the property. If a
156 host municipality has held a vote for debt exclusion under section 21C of chapter 59 to finance
157 the surplus real property purchase, the date by which the host municipality shall exercise its
158 option to purchase shall be extended until 7 days after the vote, but the vote shall take place at
159 the next municipal election after the host municipality voted to put the debt exclusion on the
160 ballot. If the host municipality fails to close the purchase of the property within the allowed
161 time, the sole remedy of the commonwealth against the host municipality for such failure is to
162 proceed with the disposition of the property without further right of purchase by the host
163 municipality; but, if the failure to close on the purchase of the property was in bad faith as
164 determined by the commissioner, the commonwealth shall not be required to share proceeds of
165 the sale of the real property with the host municipality as required by subsection (o). The
166 commissioner shall ensure that any deed, lease or other disposition agreement conveying surplus
167 real property to the host municipality provides that the use of the property shall be limited to the
168 direct public use specified by the host municipality and provides for effective remedies on behalf
169 of the commonwealth as deemed appropriate by the commissioner, which remedies may include,
170 without limitation, that the title or lesser interest conveyed may revert to the commonwealth
171 upon the recording of a notice in the appropriate registry of deeds, in the event of a failure to
172 comply such use restriction.

173 A host municipality that has exercised its right of first refusal or otherwise has a right to close on
174 the property, at its own expense, may enter upon the property and any of its agents or contractors
175 may enter upon the property, to conduct inspections, surveys, or tests customarily performed in
176 real estate transactions for the type and nature of the property specified as surplus as long as the
177 commissioner is notified and consents to the inspection, host municipality shall be responsible to
178 the commonwealth for any damage to the property, and shall hold harmless the commonwealth
179 from all losses arising out of a claim of any nature from a third party, which resulted from
180 conducting any such inspection, survey or test.

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

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

191 (i) If the surplus property exceeds 2 acres, the commissioner shall, within 45 days
192 after the waiver and after reasonable public notice, conduct a public hearing in each
193 municipality in which the surplus property is located for the purpose of receiving public
194 comment on the potential re-uses and appropriate restrictions upon the use of the
195 property. The commissioner shall, within 30 days after such hearing, prepare a written
196 report of all oral or written testimony received at a public hearing, and shall submit such
197 report to the committee and to the regional planning agency serving the community in
198 which the surplus property is located together with a written request that the regional
199 planning agency conduct a smart growth review regarding the local and regional
200 implications of disposing of the parcel for a variety of prospective uses. If the surplus
201 property is located in more than 1 municipality served by more than 1 regional planning
202 agency, the commissioner shall select 1 regional planning agency to conduct the smart
203 growth review for the entire property. In each smart growth review, the regional
204 planning agency shall consider any written report from any public hearing pursuant to
205 clause (i) and the need for a variety of housing options, jobs, and open space; current and

206 prospective zoning of the site; need for municipal capital facilities and public uses;
207 impacts on traffic and transit; impacts on the environment and natural resources, and on
208 agricultural lands; existence of historically significant structures; availability of
209 infrastructure, including water supply, waste water and storm water run-off; fiscal
210 impacts of development on the municipality where the parcel is located; remediation of
211 contamination; and other smart growth implications. Within 60 days after the request by
212 the commissioner for a smart growth review, the regional planning agency shall complete
213 and submit the review in writing to the commissioner and to the surplus land coordination
214 committee, and shall make the review available to all parties listed in subsection (e).
215 Reasonable costs incurred by the regional planning agency shall be considered part of the
216 disposition expenses paid for by the division, and reimbursed from the total proceeds of
217 the sale or lease of surplus property received by the commonwealth not to exceed \$6,000
218 per parcel reviewed. If the smart growth review is not completed within 60 days after the
219 commissioner's request for the review, the commissioner may dispose of the surplus
220 property in accordance with this section.

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

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

231 but not limited to, its suitability for housing, economic development or preservation as
232 open space, the parcel's historical significance, a community's master plan, and what
233 restrictions, if any, should be imposed on its use and development. The committee in
234 making recommendations to the commissioner on the re-uses, restrictions and
235 development of the surplus property shall consider any: (1) , written report from any
236 public hearing pursuant to clause (i) above; (2) testimony, recommendations or
237 comments, from a host municipality including any recommendation or comment from a
238 local re-use committee established by such host municipality to advise on the future
239 reuse of land, buildings or structures; (3) testimony, recommendations or comments
240 from immediate surrounding communities and from any member of the general court
241 representing the host municipality where the surplus property is located; (4) smart growth
242 review conducted under clause (i) above; (5) comments and recommendations by the
243 commissioner; and (6) established state and local plans and policies. The committee may
244 also consider any other testimony and necessary and relevant information received with
245 respect to the surplus property. If the committee does not recommend appropriate uses
246 for the property within that 60 days, the commissioner may dispose of the property
247 without a recommendation from the committee in a manner consistent with this section.

248 (iv) Before disposing of surplus real property, the commissioner (1) shall identify any
249 restrictions or conditions on such property's re-use and development which the
250 commissioner considers appropriate to reflect the recommendation of the surplus land
251 coordination committee and take into consideration established state, regional and local
252 plans and policies, any recommendations or comments from a host municipality
253 including, without limitation, recommendations or comments submitted at a hearing held
254 pursuant to clause (i), and from any member of the general court representing the host
255 municipality; and (2) shall ensure that any deed, lease or other disposition agreement sets
256 forth all such re-use restrictions, provides for effective remedies on behalf of the

257 commonwealth and provides, in the event of a failure to comply with the re-use
258 restrictions by the grantee, lessee or other recipient, that the title or lesser interest
259 conveyed shall revert to the commonwealth upon the recording of a notice in the
260 appropriate registry of deeds.

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

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

280 (j) For any disposition of surplus real property other than to a host municipality which has
281 exercised its right of first refusal pursuant to subsection (f), the commissioner shall dispose of

282 surplus real property using appropriate competitive processes and procedures, subject to the
283 notification and advertising provisions of section 40H. These competitive processes may
284 include, but are not limited to, auction, sealed bids and requests for price and development
285 proposals. At least 30 days before the date of an auction or the date on which bids, proposals or
286 other offers to purchase or lease surplus real property are due, the commissioner shall place a
287 notice in the central register published by the state secretary under section 20A of chapter 9
288 stating the availability of such property, the nature of the competitive process and other
289 information deemed relevant, including the time and location of the auction, the submission of
290 bids or proposals and the opening thereof. A host municipality which did not exercise its right
291 of first refusal pursuant to subsection (f) to acquire surplus real property may submit a bid,
292 proposal or other offer to purchase or lease surplus real property in response to such competitive
293 process.

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

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

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

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

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

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

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

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

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

331 (p) Section 43I shall not apply to surplus real property disposed by the commissioner under this
332 section. Notwithstanding any provision of this section to the contrary, the commissioner, in an
333 emergency situation which poses a threat to the public safety or health and upon request by a
334 municipality, may permit, license, rent or otherwise allow occupancy to such municipality of any
335 surplus real property, not disposed, on a temporary and at-will basis and on such other
336 appropriate and consistent terms as established by the commissioner; but this occupancy shall
337 not exceed a period of 6 months, and the commissioner, within 10 days of any permitted
338 municipal use, shall certify in writing that an emergency exists and submits the certification to
339 the governor and the house and senate chairmen of the ways and means committees.

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

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

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

357 (t) For bills which authorize the sale, transfer, or other disposition of any state-owned real
358 property filed by persons other than the commissioner of capital asset management and
359 maintenance, the clerk of the house of representatives and the clerk of the senate shall, within 10
360 days of the filing, forward a copy of the bill to the commissioner. Within 90 days of the receipt
361 of the copy, the commissioner shall submit in writing a report to the commissioner of
362 administration, the legislative committee before which the bill is pending, and the joint
363 committee on state administration together with a recommendation for either the approval or the
364 disapproval of the bill and his reasons therefor.

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

374 The commissioner shall expeditiously review and recommend approval or disapproval of any
375 proposal to the general court for the sale, rental or other disposition of real property acquired on

376 behalf of state agencies, and shall dispose of real property as mandated by the general court. All
377 legislation submitted to the general court by the division of capital asset management and
378 maintenance requesting authorization to convey or transfer real property under its jurisdiction
379 shall be accompanied by a full report outlining the division's reasons for pursuing the
380 conveyance or transfer.

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

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

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

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

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

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

411
412 SECTION 5. Notwithstanding any general or special law to the contrary, section 1 shall
413 not apply to the disposition of real property that is the subject of a special act having an effective
414 date before the effective date of this act.