

# SENATE NO. 35

## **AN ACT** CONTINUING THE EXPEDITED DISPOSITION OF SURPLUS LAND

*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 2004 Official Edition, and inserting in place thereof the following section:-

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

5 "Commissioner", the commissioner of capital asset management and maintenance

6 "Division" the division of capital asset management and maintenance

7 "Host municipality", the municipality or municipalities within which state-owned real property  
8 conveyed, leased or otherwise transferred pursuant to this chapter is located.

9 "Net cash proceeds", all payments paid to the commonwealth as and when paid, less any transaction-  
10 related expenses and expenses incurred in connection with the custody of the property by the division  
11 of capital asset management and maintenance, and the regional planning agency under subsection (f)

12 for which it is not otherwise reimbursed, including, but not limited to, costs associated with the  
13 disposal or pre-development of the property from which the funds originated including, but not limited  
14 to, appraisals, surveys, site evaluation, site preparation, plans, recordings, smart growth review and  
15 feasibility and other marketing studies and any other expenses relating to the disposal or project  
16 management services in connection with any reuse or redevelopment of the surplus real property under  
17 this chapter, and less any amounts that may be owing to the federal government as a result of the  
18 disposition.

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

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

21 "Surplus land coordination committee" or “committee”, the committee established by subsection (f).

22 "Surplus real property”, real property of the commonwealth:

23 (1) previously determined to be surplus to current and foreseeable state needs under sections 40F or  
24 40F½, but excluding real property for which there is an established local reuse plan;

25 (2) determined to be surplus to current and foreseeable state needs under section 548 of chapter 26 of  
26 the acts of 2003; or

27 (3) declared to be surplus under this section. This term shall not include property subject to Article 97  
28 of the Amendments to the Constitution and shall not include any parcel of real property which exceeds  
29 25 acres as existing on May 1, 2005.

30 (b) (1) The commissioner shall be responsible for the acquisition, control and disposition of real  
31 property in the manner and to the extent provided in this chapter. The commissioner may delegate

32 such responsibility to an administrator, who has 10 years of experience in the management of  
33 commercial, industrial, institutional or public real property. When responsibility is delegated to an  
34 administrator, the written approval of the secretary shall be required before the transaction is  
35 finalized. The commissioner shall acquire interest in real property on behalf of the commonwealth for  
36 the use of state agencies by gift, purchase, devise, grant, eminent domain, rental, lease, rental-purchase  
37 or otherwise.

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

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

46 (4) The commissioner shall assist in the preparation and shall approve of plans for the organization of  
47 all space within and around buildings and appurtenant structures used by state agencies, and shall  
48 assign the use of space within and around the state house, subject to rules that the committee on rules  
49 of the two branches acting concurrently may adopt, in accordance with sections 10, 16A and 17 of  
50 chapter 8; the John W. McCormack State Office Building; 100 Cambridge Street formerly known as  
51 the Leverett Saltonstall State Office Building; the Springfield Office Building; the Pittsfield Office  
52 Building; the Erich Lindemann Building; the Charles F. Hurley Building; any real property acquired

53 for the use of state agencies, the greater part of which is not needed by any 1 state agency; and any  
54 other real property assigned by law to the division of capital asset management and maintenance.

55 (5) The commissioner, with the written approval of the secretary, may transfer use of, and  
56 responsibility for maintenance of, real property within or between state agencies. No transfer within  
57 or between state agencies that involves: (i) a substantial change in the purposes for which such  
58 property is currently used, or (ii) a change in the purposes for which a building is currently used; or  
59 (iii) a change in use of more than 50 per cent of a building's usable floor space, shall be made without  
60 the additional prior approval of the general court, except any transfer of surplus property to the  
61 division for disposal. Subject to subsection (c), such a transfer shall be based on a determination,  
62 made by the commissioner with the advice of the executive heads of affected agencies and secretaries  
63 of the executive offices in which such agencies are located, that such property or any part thereof, is  
64 not needed or not being put to optimum use under current conditions. The commissioner shall notify  
65 the house and senate committees on ways and means and the members of the general court  
66 representing the city or town in which such property is located not less than 30 days before the final  
67 authorization of any transfer that does not require the approval of the general court. The transfer shall  
68 only be made when the general court is in session except as provided in this section. A transfer may be  
69 made when the general court is not in session, and the 30 day notification requirement may be waived,  
70 only if the commissioner certifies in writing that an emergency exists; but any such transfer may be  
71 authorized for a period not to exceed 6 months, and the commissioner shall submit his certification to  
72 and notify the house and senate ways and means committees of such transfer at the earliest possible  
73 opportunity.

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

78 (c) In order to determine whether specified real property is surplus to the current and foreseeable needs  
79 of the commonwealth, the commissioner shall provide written notice and inquiry to the executive  
80 heads of state agencies and secretaries of the executive offices, who shall have 30 days to submit a  
81 written response stating that the property is necessary for a specific current or foreseeable need of the  
82 agency. If no agency or executive office submits such a response within 30 days of the notice, the  
83 commissioner, in consultation with the surplus land coordination committee, may declare the property  
84 as surplus and dispose of it under this section. Alternatively, if a written response is timely received  
85 specifying a current or foreseeable need for the property or any part thereof, the commissioner shall, in  
86 consultation with the secretary, the surplus land coordination committee and with those responding  
87 affirmatively and the written approval of the secretary, determine whether the real property or part  
88 thereof, shall: (1) be retained and made available on account of a current or foreseeable use by a state  
89 agency, or (2) be recommended for disposal as surplus property on a temporary or permanent basis.

90 If the commissioner recommends that property be disposed as surplus, the authority of the  
91 commissioner to proceed with the disposition shall be subject to the written affirmation of the  
92 governor.

93 Preference shall be given to ensuring that real property is made available for state needs and not  
94 permanently disposed, where a state agency has submitted a timely written response specifying a  
95 current or foreseeable need for the property. An agency shall not be required to purchase or make

96 payment, whether directly or indirectly, by a reduction in a capital or budgetary account or by any  
97 other means, to acquire property or part thereof, which is made available for that agency's use. As a  
98 condition of the transfer of property to a state agency, the commissioner may require that the agency  
99 be financially responsible for any outstanding lease, contractual or debt obligations previously  
100 incurred by the commonwealth to acquire or improve the property and for any future maintenance,  
101 security and improvement costs for the property.

102 The commissioner shall specify in writing whether to retain or dispose of the property and the reasons  
103 therefore and, if the commissioner recommends temporary disposal of the property, the length of the  
104 temporary disposal shall be specified. Within 10 days of any determination made by the commissioner  
105 to retain property under this subsection, the commissioner shall provide written notice to the parties  
106 listed in clause (1) of subsection (h) specifically identifying the property so retained.

107 (d) When real property is determined to be surplus to current state needs but not to foreseeable state  
108 needs, the commissioner shall take all necessary action to ensure that any disposition of the real  
109 property is temporary and maintains the commissioner's ability to make such real property available to  
110 a state agency as needed.

111 (e) When notice is required under subsection (c) before declaring specified property surplus, the  
112 commissioner shall provide the following written notice to all parties under clause (1) of subsection  
113 (h):

114 (1) a statement that the property is currently being considered by the commissioner for disposal on a  
115 temporary or permanent basis as surplus;  
116 (2) a brief description of the surplus process and the right of first refusal by a municipality to acquire

117 the property should the commonwealth seek to dispose of the property whether on a temporary or  
118 permanent basis;

119 (3) a general description of the property under consideration for disposal including as applicable, a  
120 description of the land, buildings, appurtenant structures and equipment and the current use and square  
121 footage of such property; and

122 (4) a legal description of the property including approximate metes and bounds and other information  
123 identifying any existing easements, restrictions or other conditions.

124 (f) There shall be a surplus land coordination committee. The committee shall consist of 1  
125 representative appointed by each of the following: the commissioner, the secretary of the executive  
126 office of environmental affairs, the chairman of the commonwealth development coordinating council,  
127 the director of the department of housing and community development, the executive director of the  
128 Massachusetts Association of Regional Planning Agencies, the president of the Massachusetts  
129 Association of Community Development Corporations, and the executive director of the  
130 Massachusetts Municipal Association. The secretary of transportation and or his designee shall serve  
131 as a non-voting member of the committee and advise the committee. At any committee meeting, a  
132 majority of the members of the board entitled to vote must be present to constitute a quorum. The  
133 committee shall meet at such times as the committee chairman shall set, but no less than once every 3  
134 months to consider the future re-uses of any surplus property. The committee shall provide a written  
135 recommendation to the commissioner on the appropriate future re-use of surplus property.

136 No member of the committee shall be in violation of section 6 of chapter 268A for conduct which  
137 involves his participation, as a member of the committee, in a particular matter before the committee  
138 which may affect the financial interest of a business organization with which the member is affiliated,

139 if the member, his immediate family and partner have no personal and direct financial interest in the  
140 particular matter and if the member discloses in writing his affiliation and financial interest to the  
141 committee and it is recorded in the minutes of the meeting of the committee.

142 (g) For each specific surplus property greater than 2 acres in size or initially valued by the  
143 commissioner at \$1,000,000 or more, or when the committee considers it otherwise necessary, the  
144 commissioner shall, as provided in clause (3) of subsection (h), request that the regional planning  
145 agency serving the community in which the surplus property is located conduct a smart growth review  
146 regarding the local and regional implications of disposing of the parcel for a variety of prospective  
147 uses. If the surplus property is located in more than 1 municipality served by more than 1 regional  
148 planning agency, the commissioner shall select 1 regional planning agency to conduct the smart  
149 growth review for the entire property. In each smart growth review, the regional planning agency shall  
150 consider the need for a variety of housing options, jobs, and open space; current and prospective  
151 zoning of the site; need for municipal capital facilities and public uses; impacts on traffic and transit;  
152 impacts on the environment and natural resources, and on agricultural lands; existence of historically  
153 significant structures; availability of infrastructure, including water supply, waste water and storm  
154 water run-off; fiscal impacts of development on the municipality where the parcel is located;  
155 remediation of contamination; and other smart growth implications. Within 90 days after the request  
156 by the commissioner for a smart growth review, the regional planning agency shall complete and  
157 submit the review in writing to the commissioner, the surplus land coordination committee, and the  
158 house and senate chairs of the joint committee on bonding, capital expenditures and state assets, and  
159 make the review available to all parties listed under clause (1) of subsection (h). Reasonable costs  
160 incurred by the regional planning agency shall be considered part of the disposition expenses paid for  
161 by the division, and reimbursed from the total proceeds of the sale or lease of surplus property

162 received by the commonwealth not to exceed \$6,000 per parcel reviewed. If the smart growth review  
163 is not completed within 90 days after the commissioner's request for the review, the commissioner  
164 may dispose of the surplus property in accordance with this section.

165 (h) If the commissioner determines that the property is surplus, the commissioner shall:

166 (1) within 10 days of such declaration, provide written notice for each city or town in which the  
167 property is located to the city manager of a city under Plan E form of government, the mayor and city  
168 council of all other cities, the chairman of the board of selectmen of a town, the county commissioners,  
169 the regional planning agency and the members of the general court representing the city or town in  
170 which the property is located as well as surrounding cities or towns that the property has been declared  
171 surplus and provide a specific description of the property as required in clauses (3) and (4) of  
172 subsection (e);

173 (2) if the surplus property exceeds 2 acre or is initially valued by the commissioner at \$1,000,000 or  
174 more, or the municipality in which the property is located requests a hearing within 30 days of the  
175 surplus declaration, or the commissioner so decides in his discretion, provide reasonable public notice  
176 and written notice of the hearing to all parties listed under clause (1) of subsection (h) not less than 10  
177 days before such hearing, and conduct the public hearing in each municipality in which the surplus  
178 property is located for the purpose of receiving public comment on the potential re-uses and  
179 appropriate restrictions upon the use of the property. All oral testimony received at a public hearing  
180 shall be recorded, and the commissioner shall provide to the committee any oral or written testimony  
181 received at such hearing;

182 (3) declare it available for disposition and identify any restrictions or conditions on such property's re-  
183 use and development necessary to comply with the recommendation of the surplus land coordination

184 committee and the policies and principles established by the commonwealth development coordinating  
185 council and take into consideration established state, regional and local plans and policies, and any  
186 recommendations or comments from a city or town in which the surplus property is located and from  
187 any member of the general court representing the city or town where the property is located; and  
188 (4) ensure that any deed, lease or other disposition agreement sets forth all such re-use restrictions,  
189 provides for effective remedies on behalf of the commonwealth and provides, in the event of a failure  
190 to comply with the re-use restrictions by the grantee, lessee or other recipient, that the title or lesser  
191 interest conveyed shall revert to the commonwealth upon the recording of a notice in the appropriate  
192 registry of deeds.

193 (i) Upon declaration of a parcel of property as surplus and available for disposition, and after any  
194 required public hearing and smart growth review, the committee shall consider all available  
195 information, and shall provide a written recommendation to the commissioner on the appropriate  
196 disposition, for such parcel, including the smart growth review and information derived from the  
197 public hearing when available, and recommend a variety of appropriate uses, restrictions, and future  
198 obligations for the disposition of each surplus parcel including, but not limited to, its suitability for  
199 housing, economic development or preservation as open space, the parcel's historical significance, a  
200 community's master plan, and what restrictions, if any, should be imposed on its use and development.  
201 The committee in making recommendations to the commissioner on the re-uses, restrictions and  
202 development of the surplus property shall consider any:

203 (1) testimony received at a public hearing held under clause (2) of subsection (h);

204 (2) testimony, recommendations or comments, from a city or town in which the property is located  
205 including any recommendation or comment from a local re-use committee established by such city

206 or town to advise on the future reuse of land, buildings or structures;

207 (3) testimony, recommendations or comments from immediate surrounding communities and from any

208 member of the general court representing the city or town where the surplus property is located;

209 (4) smart growth review conducted under subsection (g);

210 (5) comments and recommendations by the commissioner;

211 (6) applicable policies and principles established by the commonwealth development coordinating

212 council under section 8B of chapter 6A and

213 (7) established state and local plans and policies. The committee may also consider any other

214 testimony and necessary and relevant information received with respect to the surplus property.

215 If space within a state-owned, building or structure, but not the land, has been declared surplus, the

216 commissioner may temporarily dispose of such space by lease or rental without a public hearing, smart

217 growth review or surplus land committee recommendation under clauses (2), (3) and(4) of subsection

218 (h), if: (i) the term of the lease or rental period, including any extension or renewal, does not exceed a

219 cumulative period of 5 years, except where a lease or rental is entered into with a municipality that has

220 exercised a right of first refusal under subsection (k) then such cumulative period may not be greater

221 than 10 years; and (ii) the rental or lease shall not be for more than 10,000 square feet within such

222 building or structure, and (iii), notwithstanding any provision of this section to the contrary, the lease

223 or rental agreement or tenancy cannot be assigned or sublet.

224 The commissioner shall send to the house and senate chairs of the committee on bonding, capital

225 expenditures and state assets and the house and senate committees on ways and means a detailed list of

226 all property being considered for surplus by the surplus land coordination committee and

227 recommendations for disposition of each parcel of property and its potential uses and restrictions; the

228 list and recommendations shall be sent by the commissioner on a quarterly basis and within 14 days  
229 after any advisory meeting with the committee. The commissioner shall dispose of all surplus real  
230 property in a manner substantially consistent with the recommendations of the committee. If the  
231 committee does not recommend appropriate uses for the property after (1) the parcel has been declared  
232 surplus, (2) the committee has had two subsequent meetings, and (3) 14 days have elapsed after the  
233 second meeting, the commissioner may dispose of the property without a recommendation from the  
234 committee in a manner consistent with this chapter.

235 (j) The commissioner shall establish the value of surplus real property using customarily accepted  
236 appraisal methodologies, including without limitation, a written appraisal by an independent  
237 professional real estate appraiser, licensed by the commonwealth, with 5 or more years of experience  
238 in the appraisal of commercial or industrial real estate.

239 The value shall be calculated both:

240 (1) for the highest and best use of the surplus real property as may be encumbered, and  
241 (2) subject to uses, restrictions, encumbrances and other conditions and terms for the type of  
242 disposition, whether by sale or lease, as defined previously in writing by the commissioner. In no  
243 instance in which the commonwealth retains responsibility for maintaining the property shall the terms  
244 provide for payment of less than the annual maintenance costs.

245 (k) Before disposing of the surplus real property, the commissioner shall provide to each city or town  
246 in which the property is located a written right of first refusal to acquire the surplus real property  
247 located within such municipality, on the terms and conditions as offered by the commissioner whether  
248 by sale or lease, and on the restrictions established in clause (4) of subsection (h) and at 80 per cent of  
249 the value established in subsection (j); but, if the surplus real property is restricted for use as open

250 space, affordable housing or both, then the municipality shall have the right of first refusal to acquire  
251 such property at 75 per cent of the established value.

252 Section 14 of chapter 40 shall apply to the purchase of surplus real property by a city or town under  
253 this section; excepting any applicable restriction based on average assessed valuation. The  
254 commissioner may accept flexible payment schedule at his discretion. A host municipality exercising a  
255 right of first refusal as provided in this subsection may engage the services of the Massachusetts  
256 Development Finance Agency to perform planning, feasibility, marketing, and other studies or to  
257 provide project management services in connection with any re-use or redevelopment of the real  
258 property. This right of first refusal must be exercised, if at all, by the town or city or its assignee  
259 within 120 days after this notice by giving written notification to the commissioner. Upon exercise of  
260 the right of first refusal, the city or town shall have an additional 180 days to close on the purchase or  
261 lease of the property on such terms, conditions and restrictions as previously offered by the  
262 commissioner. The commissioner may grant a city or town additional time to close on the purchase or  
263 lease of the property. If a city or town has held a vote for debt exclusion under section 21C of chapter  
264 59 to finance the surplus real property purchase, the date by which the host municipality shall exercise  
265 its option to purchase shall be extended until 7 days after the vote, but the vote shall take place at the  
266 next municipal election after the city or town voted to put the debt exclusion on the ballot. If the city  
267 or town fails to close the purchase of the property within the allowed time, the sole remedy of the  
268 commonwealth against the host municipality for such failure is to proceed with the disposition of the  
269 property without further right of purchase by the host municipality; but, if the failure to close on the  
270 purchase of the property was in bad faith as determined by the commissioner, the commonwealth shall  
271 not be required to share proceeds of the sale of the real property with the host municipality as required  
272 by subsection (q).

273 (l) A municipality that exercises the right of first refusal set forth in subsection (k) and purchases the  
274 surplus real property shall not transfer the property to a for-profit organization for 5 years unless the  
275 transfer is for not less than the current fair market value of the property and the municipality has used  
276 an amount equal to 15 per cent of the value of the parcel established in subsection (j) for smart growth  
277 purposes.

278 The municipality may assign its right of first refusal to a not-for-profit organization, which shall be a  
279 community development corporation as defined in section 1 of chapter 40F, affordable housing non-  
280 profit or a non-profit conservation organization. The assignee shall be entitled to acquire the property  
281 for the same price and according to the same terms which would apply to a sale to a municipality  
282 under this section. An assignment shall not be valid unless the municipality provides the commissioner  
283 with identity of the assignee and date of assignment within 10 days from the date of transfer. No  
284 further assignment of the right of first refusal shall be permitted unless the assignee is a not-for-profit  
285 community development corporation as defined in section 1 of chapter 40F or affordable housing non-  
286 profit or a non-profit conservation organization. A lease or rental agreement that provides for periodic  
287 future payments to the commonwealth may require the municipality to be a guarantor or the assignee  
288 to provide surety for any such payments and, further, may restrict the assignment, sublease or other  
289 transfer of the property interest without the written approval of the commissioner. If the municipality  
290 or its assignee acquires any portion of the surplus real property for open space purposes, or if any  
291 portion of the property is restricted for open space purposes, a conservation restriction under chapter  
292 184 shall be retained by the commonwealth on that parcel. A city or town that has exercised its right of  
293 first refusal or otherwise has a right to close on the property, at its own expense, may enter upon the  
294 property and any of its agents or contractors may enter upon the property, to conduct inspections,  
295 surveys, or tests customarily performed in real estate transactions for the type and nature of the

296 property specified as surplus as long as the commissioner is notified and consents to the inspection,  
297 survey or test, which consent shall not be unreasonably withheld. A city or town shall be responsible  
298 to the commonwealth for any damage to the property, and shall hold harmless the commonwealth from  
299 all losses arising out of a claim of any nature from a third party, which resulted from conducting any  
300 such inspection, survey or test.

301 (m) If the city or town has not exercised or assigned its right of first refusal, or has failed to close in a  
302 timely manner if such right was exercised, the commissioner shall dispose of surplus real property  
303 using appropriate competitive processes and procedures, subject to the notification and advertising  
304 provisions of section 40H, and further, the terms restrictions, conditions and type of disposition for  
305 such re-use previously established by the commissioner under clause (4) of subsection (h) . These  
306 competitive processes may include, but are not limited to, auction, sealed bids and requests for price  
307 and development proposals. All auctions, sealed bids or other competitive process shall be with  
308 reserve, and the commissioner shall retain the right to withdraw any surplus property offered for sale  
309 or lease by such competitive process before accepting any bid, proposal, offer or contract. The  
310 commissioner shall not accept any offer, bid or contract which is less than 75 percent of the value of  
311 the surplus real property originally established in subsection (j). At least 30 days before the date of an  
312 auction or the date on which bids, proposals or other offers to purchase or lease surplus real property  
313 are due, the commissioner shall place a notice in the central register published by the state secretary  
314 under section 20A of chapter 9 stating the availability of such property, the nature of the competitive  
315 process and other information deemed relevant, including the time and location of the auction, the  
316 submission of bids or proposals and the opening thereof.

317 (n) The commissioner shall place a notice in the central register and notify in writing all parties listed  
318 under clause (1) of subsection (h), identifying the individual or firm selected as party to the real  
319 property transaction, along with the amount of the transaction. If the commissioner accepts an amount  
320 below the value calculated under subsection (i), he shall include the justification for doing so,  
321 specifying the difference between the calculated value and the price received.

322 No agreement for the sale, lease, transfer or other disposition of surplus real property, and no deed  
323 executed by or on behalf of the commonwealth, shall be valid unless the agreement or deed contains  
324 the following certification, signed by the commissioner:

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

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

330 (p) The grantee or lessee of any surplus real property shall be responsible for all costs including, but  
331 not limited to, appraisals, surveys, plans, recordings and any other expenses relating to the transfer, as  
332 shall be considered necessary by the commissioner.

333 (q) The division shall distribute funds from the net cash proceeds of the sale or lease of surplus real  
334 property on at least a quarterly basis in the following order of priority each year, and the division shall  
335 annually report to the house and senate committees on ways and means detailing the total amount and  
336 distribution of these funds:-

337 (i) Not more than 10 per cent of the net cash proceeds from the sale or lease of each such property  
338 shall be paid to the host municipality where the real property is located; but if the commissioner  
339 certifies that the municipality has expedited permitting, has adopted an approved smart growth zoning  
340 district under chapter 40R, or has taken other affirmative actions to further the commonwealth's  
341 objectives for the parcel consistent with the commonwealth development coordinating council's smart  
342 growth principles, and the smart growth review when available, then the host municipality shall be  
343 eligible for up to a total of 25 per cent of the net cash proceeds from the sale or lease of the particular  
344 parcel under a schedule and regulations to be promulgated by the commissioner. A municipality that  
345 exercises or assigns its right of first refusal, shall not receive a percentage of the net cash proceeds.

346 If a city or town fails to close on a surplus real property due solely to a failure to receive an affirmative  
347 vote on a debt exclusion ballot question to raise funds to acquire a particular parcel under section 21 C  
348 of chapter 59, the city or town shall remain eligible to receive its share of the net cash proceeds.

349 (ii) After distribution of net cash proceeds under clause (i), the remaining net cash proceeds shall be  
350 deposited in the Smart Growth Housing Trust Fund. 50 per cent of the monies deposited in the Smart  
351 Growth Housing Trust Fund under clause (ii), but not more than \$2,800,000 in any fiscal year, shall be  
352 used to provide grants to regional planning agencies for technical assistance to municipalities. Each  
353 regional planning district created under chapter 40B or by special act shall be granted a fixed base  
354 allocation of \$150,000 from the department of housing and community development, with the  
355 exception of the Metropolitan Area Planning Council, which shall receive a base allocation of  
356 \$200,000, the Martha's Vineyard commission which shall receive a full annual allocation of \$100,000  
357 and the Nantucket Planning and Economic Development Commission, which shall receive an annual  
358 allocation of \$50,000. One-half of the remainder of the annual disbursement of net cash sales to the

359 department of housing and community development for technical assistance grants under this section  
360 shall be allocated among said entities based on the percentage of the commonwealth's population  
361 served by each entity, with the other half allocated based on the percentage of the commonwealth's  
362 communities served by each entity. Technical assistance services funded by these grants shall be  
363 provided at the request of a municipality in any subject within regional planning expertise, including  
364 but not limited to: zoning and permitting; economic development; land use planning, conservation  
365 planning, and water resources; municipal management; public safety planning and emergency  
366 response; transportation; data management, information technology, geographic information systems,  
367 statistical trends and modeling; and other land use and smart growth issues. Each regional planning  
368 agency receiving such funds shall annually file with the department of housing and community  
369 development, and with the house and senate committees on ways and means a report detailing the use  
370 of said funds.

371 (r) The commissioner, in consultation with the chairman of the commonwealth development  
372 coordinating council, shall adopt regulations governing the disposition of surplus property in  
373 accordance with this section. The commissioner shall include in these regulations criteria that allow  
374 real property to be considered for disposition under this section. These criteria shall include an  
375 automatic notice and inquiry to the executive heads of state agencies and secretaries as specified under  
376 subsection (c) regarding any parcel that is left unused or abandoned for a specified period of time and  
377 shall include any applicable regulations required under section 40L.

378 (s) Section 43I shall not apply to surplus real property disposed by the commissioner under this  
379 section. Notwithstanding any provision of this section to the contrary, the commissioner, in an  
380 emergency situation which poses a threat to the public safety or health and upon request by a

381 municipality, may permit, license, rent or otherwise allow occupancy to such municipality of any  
382 surplus real property, not disposed, on a temporary and at-will basis and on such other appropriate and  
383 consistent terms as established by the commissioner; but this occupancy shall not exceed a period of 6  
384 months, and the commissioner, within 10 days of any permitted municipal use, shall certify in writing  
385 that an emergency exists and submits the certification to the governor and the house and senate  
386 chairmen of the ways and means committees.

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

390 SECTION 3. Chapter 40B of the General Laws is hereby amended by adding the following section:-  
391 Section 30. There shall be within each regional planning district created under this chapter or by  
392 special act a technical assistance center for the delivery of coordinated, comprehensive, and continuing  
393 technical services at the request of a municipality. Technical assistance services may be provided in  
394 any subject area within the capability of each technical assistance center including but not limited to:  
395 zoning and permitting; economic development; land use planning, conservation planning, and water  
396 resources; municipal management; public safety planning and emergency response; transportation;  
397 data management, information technology, geographic information systems, statistical trends, and  
398 modeling; and other land use and smart growth issues.

399 SECTION 4. Section 3A of chapter 143 of the General Laws, as appearing in the 2004 Official  
400 Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the  
401 following paragraph:-

402 Unless otherwise provided by the state building code, the local inspector shall enforce the state  
403 building code as to any building or structure within the city or town from which he is appointed,  
404 including any building or structure owned by any authority established by the general court but not  
405 owned in whole or in part by the commonwealth, and the state building code shall be the code for all  
406 buildings and structures within the city or town. In the event of a conflict between the code and a  
407 statute, ordinance or by-law regulating any historic district, regional historic district or architecturally  
408 controlled district, any such statute, ordinance or by-law regulating exterior architectural features  
409 within that district shall prevail. The inspector shall enforce the state building code as to any building  
410 or structure within any city or town that is owned in whole or in part by the commonwealth or any  
411 departments, commissions, agencies or authorities of the commonwealth. The inspector shall have all  
412 the powers of a local inspector under this chapter and under the state building code as to such  
413 buildings or structures that are owned in whole or in part by the commonwealth or any of its  
414 departments, agencies, commissions or authorities.

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

418 SECTION 6. The commissioner of capital asset management and maintenance shall adopt the initial  
419 regulations under subsection (r) of section 40F of chapter 7 of the General Laws within 6 months after  
420 the effective date of this act.

