

SENATE NO. 39

AN ACT FURTHER REGULATING THE DEVELOPMENT OF UNDERUSED STATE OWNED REAL PROPERTY AND THE DISPOSITION OF STATE OWNED SURPLUS REAL PROPERTY

*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
3 section:-

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
6 otherwise:

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

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

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

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

21 "Property", real property owned by the commonwealth.

22 "Secretary", the secretary of administration and finance.

23 "Surplus land coordination committee" or "committee", the committee established by
24 subsection (f).

25 "Surplus real property", real property of the commonwealth:

26 (1) previously determined to be surplus to current and foreseeable state needs under sections
27 40F or 40F½, but excluding real property for which there is an established local reuse plan;

28 (2) determined to be surplus to current and foreseeable state needs under section 548 of chapter
29 26 of the acts of 2003; or

30 (3) declared to be surplus under this section. This term shall not include property subject to

31 Article 97 of the Amendments to the Constitution and shall not include any parcel of real
32 property which exceeds 25 acres as existing on May 1, 2005.

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

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

47 (3) Notwithstanding any general or special law to the contrary, real property acquired for the
48 use of state 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
50 organization of all space within and around buildings and appurtenant structures used by state
51 agencies, and shall assign the use of space within and around the state house, subject to rules

52 that the committee on rules of the two branches acting concurrently may adopt, in accordance
53 with sections 10, 16A and 17 of chapter 8; the John W. McCormack State Office Building; 100
54 Cambridge Street formerly known as the Leverett Saltonstall State Office Building; the
55 Springfield Office Building; the Pittsfield Office Building; the Erich Lindemann Building; the
56 Charles F. Hurley Building; any real property acquired for the use of state agencies, the greater
57 part of which is not needed by any 1 state agency; and any other real property assigned by law
58 to the division of capital asset management and maintenance.

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

75 certifies in writing that an emergency exists; but any such transfer may be authorized for a
76 period not to exceed 6 months, and the commissioner shall submit his certification to and notify
77 the house and senate ways and means committees of such transfer at the earliest possible
78 opportunity.

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

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

97 If the commissioner recommends that property be disposed as surplus, the authority of the
98 commissioner to proceed with the disposition shall be subject to the written affirmation of the
99 governor.

100 Preference shall be given to ensuring that real property is made available for state needs and not
101 permanently disposed, where a state agency has submitted a timely written response specifying
102 a current or foreseeable need for the property. An agency shall not be required to purchase or
103 make payment, whether directly or indirectly, by a reduction in a capital or budgetary account
104 or by any other means, to acquire property or part thereof, which is made available for that
105 agency's use. As a condition of the transfer of property to a state agency, the commissioner
106 may require that the agency be financially responsible for any outstanding lease, contractual or
107 debt obligations previously incurred by the commonwealth to acquire or improve the property
108 and for any future maintenance, security and improvement costs for the property.

109 The commissioner shall specify in writing whether to retain or dispose of the property and the
110 reasons therefor and, if the commissioner recommends temporary disposal of the property, the
111 length of the temporary disposal shall be specified. Within 10 days of any determination made
112 by the commissioner to retain property under this subsection, the commissioner shall provide
113 written notice to the parties listed in clause (1) of subsection (h) specifically identifying the
114 property so retained.

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

119 (e) When notice is required under subsection (c) before declaring specified property surplus, the
120 commissioner shall provide the following written notice to all parties under clause (1) of
121 subsection (h): (1) a statement that the property is currently being considered by the
122 commissioner for disposal on a temporary or permanent basis as surplus; (2) a brief description
123 of the surplus process and the right of first refusal by a municipality to acquire the property
124 should the commonwealth seek to dispose of the property whether on a temporary or permanent
125 basis; (3) a general description of the property under consideration for disposal including as
126 applicable, a description of the land, buildings, appurtenant structures and equipment and the
127 current use and square footage of such property; and (4) a legal description of the property
128 including approximate metes and bounds and other information identifying any existing
129 easements, restrictions or other conditions.(f) There shall be a surplus land coordination
130 committee. The committee shall consist of 1 representative appointed by each of the following:
131 the commissioner, the secretary of the executive office of environmental affairs, the chairman of
132 the commonwealth development coordinating council, the director of the department of housing
133 and community development, the executive director of the Massachusetts Association of
134 Regional Planning Agencies, the president of the Massachusetts Association of Community
135 Development Corporations, and the executive director of the Massachusetts Municipal
136 Association. The secretary of transportation and or his designee shall serve as a non-voting
137 member of the committee and advise the committee. At any committee meeting, a majority of
138 the members of the board entitled to vote must be present to constitute a quorum. The
139 committee shall meet at such times as the committee chairman shall set, but no less than once
140 every 3 months to consider the future re-uses of any surplus property. The committee shall

141 provide a written recommendation to the commissioner on the appropriate future re-use of
142 surplus property.

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

150 (g) For each specific surplus property greater than 2 acres in size or initially valued by the
151 commissioner at \$1,000,000 or more, or when the committee considers it otherwise necessary,
152 the commissioner shall, as provided in clause (3) of subsection (h), request that the regional
153 planning agency serving the community in which the surplus property is located conduct a
154 smart growth review regarding the local and regional implications of disposing of the parcel for
155 a variety of prospective uses. If the surplus property is located in more than 1 municipality
156 served by more than 1 regional planning agency, the commissioner shall select 1 regional
157 planning agency to conduct the smart growth review for the entire property. In each smart
158 growth review, the regional planning agency shall consider the need for a variety of housing
159 options, jobs, and open space; current and prospective zoning of the site; need for municipal
160 capital facilities and public uses; impacts on traffic and transit; impacts on the environment and
161 natural resources, and on agricultural lands; existence of historically significant structures;
162 availability of infrastructure, including water supply, waste water and storm water run-off; fiscal

163 impacts of development on the municipality where the parcel is located; remediation of
164 contamination; and other smart growth implications. Within 90 days after the request by the
165 commissioner for a smart growth review, the regional planning agency shall complete and
166 submit the review in writing to the commissioner, the surplus land coordination committee, and
167 the house and senate chairs of the joint committee on bonding, capital expenditures and state
168 assets, and make the review available to all parties listed under clause (1) of subsection (h).
169 Reasonable costs incurred by the regional planning agency shall be considered part of the
170 disposition expenses paid for by the division, and reimbursed from the total proceeds of the sale
171 or lease of surplus property received by the commonwealth not to exceed \$6,000 per parcel
172 reviewed. If the smart growth review is not completed within 90 days after the commissioner's
173 request for the review, the commissioner may dispose of the surplus property in accordance
174 with this section.

175 (h) If the commissioner determines that the property is surplus, the commissioner shall: (1)
176 within 10 days of such declaration, provide written notice for each city or town in which the
177 property is located to the city manager of a city under Plan E form of government, the mayor
178 and city council of all other cities, the chairman of the board of selectmen of a town, the county
179 commissioners, the regional planning agency and the members of the general court representing
180 the city or town in which the property is located as well as surrounding cities or towns that the
181 property has been declared surplus and provide a specific description of the property as
182 required in clauses (3) and (4) of subsection (e); (2) if the surplus property exceeds 2 acre or is
183 initially valued by the commissioner at \$1,000,000 or more, or the municipality in which the
184 property is located requests a hearing within 30 days of the surplus declaration, or the
185 commissioner so decides in his discretion, provide reasonable public notice and written notice

186 of the hearing to all parties listed under clause (1) of subsection (h) not less than 10 days before
187 such hearing, and conduct the public hearing in each municipality in which the surplus property
188 is located for the purpose of receiving public comment on the potential re-uses and appropriate
189 restrictions upon the use of the property. All oral testimony received at a public hearing shall
190 be recorded, and the commissioner shall provide to the committee any oral or written testimony
191 received at such hearing; (3) declare it available for disposition and identify any restrictions or
192 conditions on such property's re-use and development necessary to comply with the
193 recommendation of the surplus land coordination committee and the policies and principles
194 established by the commonwealth development coordinating council and take into consideration
195 established state, regional and local plans and policies, and any recommendations or comments
196 from a city or town in which the surplus property is located and from any member of the general
197 court representing the city or town where the property is located; and (4) ensure that any deed,
198 lease or other disposition agreement sets forth all such re-use restrictions, provides for effective
199 remedies on behalf of the commonwealth and provides, in the event of a failure to comply with
200 the re-use restrictions by the grantee, lessee or other recipient, that the title or lesser interest
201 conveyed shall revert to the commonwealth upon the recording of a notice in the appropriate
202 registry of deeds.

203 (i) Upon declaration of a parcel of property as surplus and available for disposition, and after
204 any required public hearing and smart growth review, the committee shall consider all available
205 information, and shall provide a written recommendation to the commissioner on the
206 appropriate disposition, for such parcel, including the smart growth review and information
207 derived from the public hearing when available, and recommend a variety of appropriate uses,
208 restrictions, and future obligations for the disposition of each surplus parcel including, but not

209 limited to, its suitability for housing, economic development or preservation as open space, the
210 parcel's historical significance, a community's master plan, and what restrictions, if any, should
211 be imposed on its use and development. The committee in making recommendations to the
212 commissioner on the re-uses, restrictions and development of the surplus property shall
213 consider any: (1) testimony received at a public hearing held under clause (2) of subsection (h);
214 (2) testimony, recommendations or comments, from a city or town in which the property is
215 located including any recommendation or comment from a local re-use committee established
216 by such city or town to advise on the future reuse of land, buildings or structures; (3)
217 testimony, recommendations or comments from immediate surrounding communities and from
218 any member of the general court representing the city or town where the surplus property is
219 located; (4) smart growth review conducted under subsection (g); (5) comments and
220 recommendations by the commissioner; (6) applicable policies and principles established by the
221 commonwealth development coordinating council under section 8B of chapter 6A and (7)
222 established state and local plans and policies. The committee may also consider any other
223 testimony and necessary and relevant information received with respect to the surplus property.

224 If space within a state-owned, building or structure, but not the land, has been declared surplus,
225 the commissioner may temporarily dispose of such space by lease or rental without a public
226 hearing, smart growth review or surplus land committee recommendation under clauses (2), (3)
227 and(4) of subsection (h), if: (i) the term of the lease or rental period, including any extension or
228 renewal, does not exceed a cumulative period of 5 years, except where a lease or rental is
229 entered into with a municipality that has exercised a right of first refusal under subsection (k)
230 then such cumulative period may not be greater than 10 years; and (ii) the rental or lease shall
231 not be for more than 10,000 square feet within such building or structure, and (iii),

232 notwithstanding any provision of this section to the contrary, the lease or rental agreement or
233 tenancy cannot be assigned or sublet.

234 The commissioner shall send to the house and senate chairs of the committee on bonding,
235 capital expenditures and state assets and the house and senate committees on ways and means a
236 detailed list of all property being considered for surplus by the surplus land coordination
237 committee and recommendations for disposition of each parcel of property and its potential uses
238 and restrictions; the list and recommendations shall be sent by the commissioner on a quarterly
239 basis and within 14 days after any advisory meeting with the committee. The commissioner
240 shall dispose of all surplus real property in a manner substantially consistent with the
241 recommendations of the committee. If the committee does not recommend appropriate uses for
242 the property after (1) the parcel has been declared surplus, (2) the committee has had two
243 subsequent meetings, and (3) 14 days have elapsed after the second meeting, the commissioner
244 may dispose of the property without a recommendation from the committee in a manner
245 consistent with this chapter.

246 (j) The commissioner shall establish the value of surplus real property using customarily
247 accepted appraisal methodologies, including without limitation, a written appraisal by an
248 independent professional real estate appraiser, licensed by the commonwealth, with 5 or more
249 years of experience in the appraisal of commercial or industrial real estate. The value shall be
250 calculated both: (1) for the highest and best use of the surplus real property as may be
251 encumbered, and (2) subject to uses, restrictions, encumbrances and other conditions and terms
252 for the type of disposition, whether by sale or lease, as defined previously in writing by the

253 commissioner. In no instance in which the commonwealth retains responsibility for maintaining
254 the property shall the terms provide for payment of less than the annual maintenance costs.

255 (k) Before disposing of the surplus real property, the commissioner shall provide to each city or
256 town in which the property is located a written right of first refusal to acquire the surplus real
257 property located within such municipality, on the terms and conditions as offered by the
258 commissioner whether by sale or lease, and on the restrictions established in clause (4) of
259 subsection (h) and at 80 per cent of the value established in subsection (j); but, if the surplus real
260 property is restricted for use as open space, affordable housing or both, then the municipality
261 shall have the right of first refusal to acquire such property at 75 per cent of the established
262 value except, a municipality shall have the right to acquire such property at 50 per cent of the
263 established value with an additional restriction that the municipality retain the parcel for its own
264 use for a term of not less than 25 years. Section 14 of chapter 40 shall apply to the purchase of
265 surplus real property by a city or town under this section; excepting any applicable restriction
266 based on average assessed valuation. The commissioner may accept flexible payment schedule
267 at his discretion. A host municipality exercising a right of first refusal as provided in this
268 subsection may engage the services of the Massachusetts Development Finance Agency to
269 perform planning, feasibility, marketing, and other studies or to provide project management
270 services in connection with any re-use or redevelopment of the real property. This right of first
271 refusal must be exercised, if at all, by the town or city or its assignee within 120 days after this
272 notice by giving written notification to the commissioner. Upon exercise of the right of first
273 refusal, the city or town shall have an additional 180 days to close on the purchase or lease of
274 the property on such terms, conditions and restrictions as previously offered by the
275 commissioner. The commissioner may grant a city or town additional time to close on the

276 purchase or lease of the property. If a city or town has held a vote for debt exclusion under
277 section 21C of chapter 59 to finance the surplus real property purchase, the date by which the
278 host municipality shall exercise its option to purchase shall be extended until 7 days after the
279 vote, but the vote shall take place at the next municipal election after the city or town voted to
280 put the debt exclusion on the ballot. If the city or town fails to close the purchase of the
281 property within the allowed time, the sole remedy of the commonwealth against the host
282 municipality for such failure is to proceed with the disposition of the property without further
283 right of purchase by the host municipality; but, if the failure to close on the purchase of the
284 property was in bad faith as determined by the commissioner, the commonwealth shall not be
285 required to share proceeds of the sale of the real property with the host municipality as required
286 by subsection (q).

287 (l) A municipality that exercises the right of first refusal set forth in subsection (k) and
288 purchases the surplus real property shall not transfer the property to a for-profit organization for
289 5 years unless the transfer is for not less than the current fair market value of the property and
290 the municipality has used an amount equal to 15 per cent of the value of the parcel established
291 in subsection (j) for smart growth purposes.

292 The municipality may assign its right of first refusal to a not-for-profit organization, which shall
293 be a community development corporation as defined in section 1 of chapter 40F, affordable
294 housing non-profit or a non-profit conservation organization. The assignee shall be entitled to
295 acquire the property for the same price and according to the same terms which would apply to a
296 sale to a municipality under this section. An assignment shall not be valid unless the
297 municipality provides the commissioner with identity of the assignee and date of assignment

298 within 10 days from the date of transfer. No further assignment of the right of first refusal shall
299 be permitted unless the assignee is a not-for-profit community development corporation as
300 defined in section 1 of chapter 40F or affordable housing non-profit or a non-profit conservation
301 organization. A lease or rental agreement that provides for periodic future payments to the
302 commonwealth may require the municipality to be a guarantor or the assignee to provide surety
303 for any such payments and, further, may restrict the assignment, sublease or other transfer of the
304 property interest without the written approval of the commissioner. If the municipality or its
305 assignee acquires any portion of the surplus real property for open space purposes, or if any
306 portion of the property is restricted for open space purposes, a conservation restriction under
307 chapter 184 shall be retained by the commonwealth on that parcel. A city or town that has
308 exercised its right of first refusal or otherwise has a right to close on the property, at its own
309 expense, may enter upon the property and any of its agents or contractors may enter upon the
310 property, to conduct inspections, surveys, or tests customarily performed in real estate
311 transactions for the type and nature of the property specified as surplus as long as the
312 commissioner is notified and consents to the inspection, survey or test, which consent shall not
313 be unreasonably withheld. A city or town shall be responsible to the commonwealth for any
314 damage to the property, and shall hold harmless the commonwealth from all losses arising out
315 of a claim of any nature from a third party, which resulted from conducting any such inspection,
316 survey or test.

317 (m) If the city or town has not exercised or assigned its right of first refusal, or has failed to
318 close in a timely manner if such right was exercised, the commissioner shall dispose of surplus
319 real property using appropriate competitive processes and procedures, subject to the notification
320 and advertising provisions of section 40H, and further, the terms restrictions, conditions and

321 type of disposition for such re-use previously established by the commissioner under clause (4)
322 of subsection (h) . These competitive processes may include, but are not limited to, auction,
323 sealed bids and requests for price and development proposals. All auctions, sealed bids or other
324 competitive process shall be with reserve, and the commissioner shall retain the right to
325 withdraw any surplus property offered for sale or lease by such competitive process before
326 accepting any bid, proposal, offer or contract. The commissioner shall not accept any offer, bid
327 or contract which is less than 75 percent of the value of the surplus real property originally
328 established in subsection (j). At least 30 days before the date of an auction or the date on which
329 bids, proposals or other offers to purchase or lease surplus real property are due, the
330 commissioner shall place a notice in the central register published by the state secretary under
331 section 20A of chapter 9 stating the availability of such property, the nature of the competitive
332 process and other information deemed relevant, including the time and location of the auction,
333 the submission of bids or proposals and the opening thereof.

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

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

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

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

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

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

355 (i) Not more than 10 per cent of the net cash proceeds from the sale or lease of each such
356 property shall be paid to the host municipality where the real property is located; but if the
357 commissioner certifies that the municipality has expedited permitting, has adopted an approved
358 smart growth zoning district under chapter 40R, or has taken other affirmative actions to further
359 the commonwealth's objectives for the parcel consistent with the commonwealth development
360 coordinating council's smart growth principles, and the smart growth review when available,
361 then the host municipality shall be eligible for up to a total of 25 per cent of the net cash
362 proceeds from the sale or lease of the particular parcel under a schedule and regulations to be

363 promulgated by the commissioner. A municipality that exercises or assigns its right of first
364 refusal, shall not receive a percentage of the net cash proceeds.

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

369 (ii) After distribution of net cash proceeds under clause (i), the remaining net cash proceeds
370 shall be deposited in the Smart Growth Housing Trust Fund.

371 50 per cent of the monies deposited in the Smart Growth Housing Trust Fund under clause (ii),
372 but not more than \$2,800,000 in any fiscal year, shall be used by the department of housing and
373 community development to provide grants to regional planning agencies for technical assistance
374 to municipalities. The department shall grant each regional planning district created under
375 chapter 40B or by special act a fixed base allocation of \$150,000, except that the Metropolitan
376 Area Planning Council shall receive a base allocation of \$200,000, the Martha's Vineyard
377 commission shall receive a full annual allocation of \$100,000, and the Nantucket Planning and
378 Economic Development Commission shall receive an annual allocation of \$50,000. One-half of
379 the remainder of the annual disbursement of net cash proceeds to the department of housing and
380 community development for technical assistance grants under this section shall be allocated
381 among said entities based on the percentage of the commonwealth's population served by each
382 entity, with the other half allocated based on the percentage of the commonwealth's
383 communities served by each entity. Technical assistance services funded by these grants shall
384 be provided at the request of a municipality in any subject within regional planning expertise,

385 including but not limited to: zoning and permitting; economic development; land use planning,
386 conservation planning, and water resources; municipal management; public safety planning and
387 emergency response; transportation; data management, information technology, geographic
388 information systems, statistical trends and modeling; and other land use and smart growth
389 issues. Each regional planning agency receiving such funds shall annually file with the
390 department of housing and community development, and with the house and senate committees
391 on ways and means a report detailing the use of said funds.

392 The remaining 50 per cent, plus any funds in excess of \$2,800,000, shall be used by the Smart
393 Growth Housing Trust Fund to pay for financial incentives and other payments to communities
394 under chapter 40R.

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

402 (s) Section 43I shall not apply to surplus real property disposed by the commissioner under this
403 section. Notwithstanding any provision of this section to the contrary, the commissioner, in an
404 emergency situation which poses a threat to the public safety or health and upon request by a
405 municipality, may permit, license, rent or otherwise allow occupancy to such municipality of
406 any surplus real property, not disposed, on a temporary and at-will basis and on such other

407 appropriate and consistent terms as established by the commissioner; but this occupancy shall
408 not exceed a period of 6 months, and the commissioner, within 10 days of any permitted
409 municipal use, shall certify in writing that an emergency exists and submits the certification to
410 the governor and the house and senate chairmen of the ways and means committees.

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

414 SECTION 3. Chapter 40B of the General Laws is hereby amended by adding the following
415 section:-

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

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

428 Unless otherwise provided by the state building code, the local inspector shall enforce the state
429 building code as to any building or structure within the city or town from which he is appointed,
430 including any building or structure owned by any authority established by the general court but
431 not owned in whole or in part by the commonwealth, and the state building code shall be the
432 code for all buildings and structures within the city or town. In the event of a conflict between
433 the code and a statute, ordinance or by-law regulating any historic district, regional historic
434 district or architecturally controlled district, any such statute, ordinance or by-law regulating
435 exterior architectural features within that district shall prevail. The inspector shall enforce the
436 state building code as to any building or structure within any city or town that is owned in
437 whole or in part by the commonwealth or any departments, commissions, agencies or authorities
438 of the commonwealth. The inspector shall have all the powers of a local inspector under this
439 chapter and under the state building code as to such buildings or structures that are owned in
440 whole or in part by the commonwealth or any of its departments, agencies, commissions or
441 authorities.

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

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