

# Senate . . . . . No. 6

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

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## The Commonwealth of Massachusetts



EXECUTIVE DEPARTMENT  
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GOVERNOR

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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.