

# HOUSE . . . . . No. 60

By Mr. Stanley of Waltham, petition of Thomas M. Stanley and others relative to the disposition of state owned real property. Bonding, Capital Expenditures and State Assets.

## The Commonwealth of Massachusetts

### PETITION OF:

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In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE DISPOSITION OF STATE OWNED REAL PROPERTY.

1     *Whereas*, The deferred operation of this act would tend to  
2     defeat its purpose, which is to authorize forthwith the disposition  
3     of certain state owned real property, therefore it is hereby declared  
4     to be an emergency law, necessary for the immediate preservation  
5     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  
2     amended by striking out section 1, and appearing in the 2004 Offi-  
3     cial Edition, and inserting in place thereof the following  
4     section:—

5 Section 1. As used in this chapter the following words shall,  
6 unless the context clearly requires otherwise, have the following  
7 meanings:—

8 “Commissioner”, the commissioner of the division of capital  
9 asset management and maintenance.

10 “Eligibility”, written criteria established before a request for  
11 applications that are used to determine if an application for an  
12 award of grant program resources is acceptable.

13 “Finance committee”, the committee of the executive council  
14 appointed to consider matters of finance.

15 “Grant program”, financial or technical assistance provided by  
16 a state agency or state authority, as defined in section 1 of  
17 chapter 29, available to a city, town or other public or private  
18 entity otherwise eligible.

19 “Grant program fiscal statement”, shall include: (1) a descrip-  
20 tion of the substance of the application; (2) the average expected  
21 grant amount; (3) a listing of award recipients, including the  
22 award amount, if any, the fiscal year of the award and the date of  
23 award; (4) the estimated proportion of monies, in-kind match or  
24 other monies to be supplied by the award recipient and any other  
25 source from which such match will be required; (5) a description  
26 of the allocation formula and matching requirements, including  
27 whether the grant is distributed on the basis of a specified formula  
28 or at the grantor’s discretion; (6) a description of any constraints  
29 placed on the use of the grant; and (7) contact information,  
30 including the telephone number, postal address and internet email  
31 address to facilitate the application process.

32 “Grant program reference”, a description in electronic format  
33 that is retrievable and printable that shall include: (1) the grant  
34 program application; (2) the grant program eligibility criteria; (3)  
35 the application due date; and (4) the grant program fiscal state-  
36 ment. For the purposes of sections 39B to 43J, inclusive, the  
37 following words shall, unless the context clearly requires other-  
38 wise, have the following meanings:—

39 “Committee”, the state surplus land coordinating committee  
40 established pursuant to section 40F.

41 “Affordable housing”, housing that is affordable for rental or  
42 purchase by families or individuals whose income at initial occu-

43 pancy is equal to or less than 100 per cent of the median area  
44 income as determined by the United States secretary of housing  
45 and urban development for federal housing programs.

46 “Direct public use”, use of real property by a governmental or  
47 quasi-governmental entity including, but not limited to, the com-  
48 monwealth, any municipality within the commonwealth, or any  
49 authority or district within the commonwealth, or any instrumen-  
50 tality of any of the foregoing, and, with respect to any use of real  
51 property by a private non-profit organization, any use of the real  
52 property for affordable housing production, community economic  
53 development, historic preservation or for open space acquisition  
54 or preservation.

55 “Host municipality”, the municipality or municipalities within  
56 which state owned real property conveyed, leased or otherwise  
57 transferred pursuant to the provisions of this chapter is located.

58 “Net cash proceeds”, all payments paid to the commonwealth  
59 as and when paid, less any transaction-related expenses incurred  
60 by the division of capital asset management and maintenance, for  
61 which it is not otherwise reimbursed, including, but not limited  
62 to, costs associated with the disposal or pre-development of the  
63 real property wherefrom the funds originated including, but not  
64 limited to, appraisals, surveys, site evaluation, site preparation,  
65 plans, recordings, smart growth review and feasibility and other  
66 marketing studies and any other expenses relating to the disposal  
67 or project management services in connection with any reuse or  
68 redevelopment of the real property pursuant to the provisions of  
69 this chapter, and less any amounts that may be owing to the fed-  
70 eral government as a result of the disposition.

71 “Real property”, as defined in section 39A.

72 “State agency”, as defined in said section 39A.

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

74 (1) previously determined to be surplus to current and foresee-  
75 able state needs pursuant to this chapter, but excluding real prop-  
76 erty for which there is an established local reuse plan or  
77 legislatively created reuse committee; or (2) determined by the  
78 state surplus land coordinating committee to be surplus to current  
79 and foreseeable state needs pursuant to the provisions of this  
80 chapter.

1 SECTION 2. Said chapter 7 is hereby further amended by  
2 striking out section 40E, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 40E. Real property, record title to which is held in the  
5 name of a state agency or the board of trustees of a state agency or  
6 similar board of a state agency, shall be deemed to be the real  
7 property of the commonwealth. No deed or other instrument shall  
8 be required to effect the transfer to the commonwealth of title to  
9 such real property, but the land court department of the trial court  
10 shall, upon petition of the division of capital asset management  
11 and maintenance, issue in the name of the commonwealth a cer-  
12 tificate of title to any real property, title to which is registered  
13 under chapter 185 in the name of a state agency or the board of  
14 trustees of a state agency or similar board of a state agency.  
15 Notwithstanding any general or special law to the contrary, no  
16 person shall acquire any rights by prescription or adverse posses-  
17 sion in any lands or rights in lands held in the name of the com-  
18 monwealth.

19 The commissioner and the committee shall exercise the powers  
20 stated in this chapter, notwithstanding the delegations which the  
21 general court has made pertaining to the acquisition, control, and  
22 disposition of real property, including section 19 of chapter 16;  
23 section 1 of chapter 19; section 7 of chapter 19A; sections 9A, 13,  
24 and 30 of chapter 21; sections 2 and 9 of chapter 21A; sections 8  
25 and 26 of chapter 23A; section 7 of chapter 23B; section 3 of  
26 chapter 28A; section 41 of chapter 29; sections 4 and 5 of  
27 chapter 29A; sections 11, 12, 25, 26, and 27 of chapter 75; sec-  
28 tions 7, 7A, 7C, 7D, 7E, 7G, 7H, 7L, 7M, 11, 13A, and 13B of  
29 chapter 81; section 7 of chapter 82; section 4 of chapter 83;  
30 section 39B of chapter 90; sections 2,3,5, and 6 of chapter 91;  
31 sections 9A, 13, 33, 34, 77 to 85, inclusive, 87, and 88 of n  
32 chapter 92; sections 62R, 83, and 86 of chapter 111; section 5 of  
33 chapter 111B; section 8 of chapter 11 5A; sections 1 and 2 of  
34 chapter 120; section 5 of chapter 122; section 10 of chapter 124;  
35 section 2 of chapter 147; sections 31 and 32 of chapter 184; pro-  
36 vided, however, that the commissioner shall acquire, control and  
37 dispose of real property in accordance with the terms and pur-  
38 poses of the aforementioned provisions. The commissioner shall  
39 not make any acquisition of real property on behalf of a state

40 agency by eminent domain or make any such delegation of power  
41 to acquire real property by eminent domain to any state agency  
42 unless such state agency is otherwise authorized by law to exer-  
43 cise the power of eminent domain. The commissioner may dele-  
44 gate to state agencies responsibility for the acquisition and control  
45 of real property as provided for in this chapter. When responsi-  
46 bility is delegated to a state agency, the written approval of the  
47 commissioner shall be required before the transaction is com-  
48 pleted, and a copy of said written approval shall be sent to the  
49 joint committee on bonding, capital expenditures and state assets.

50 For the purposes of sections 40F to 40L, inclusive, the term  
51 “emergency” shall mean any situation caused by unforeseen cir-  
52 cumstances which render currently used real property unusable or  
53 unavailable for the purposes intended and which creates an imme-  
54 diate need for other real property to preserve the health or safety  
55 of persons or real property.

1 SECTION 3. Said chapter 7 is hereby further amended by  
2 striking out section 40F, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 40F. (a) There shall be established a state surplus land  
5 coordinating committee, hereinafter the committee. The com-  
6 mittee shall consist of 9 members, 1 of whom shall be the secre-  
7 tary of the executive office of administration and finance or his  
8 designee; 1 whom shall be the secretary of the executive office of  
9 transportation and construction or his designee; 1 of whom shall  
10 be the secretary of the executive office of environmental affairs or  
11 his designee; 1 of whom shall be the director of the department of  
12 housing and community development or his designee; 1 of whom  
13 shall be the commissioner of the division of capital asset manage-  
14 ment and maintenance or his designee; 1 of whom shall be the  
15 director of the Massachusetts municipal association or his  
16 designee; 1 of whom shall be chair of the commonwealth develop-  
17 ment coordinating council or his designee; 1 of whom shall be the  
18 chair of the board of directors of the Massachusetts association of  
19 regional planning agencies or his designee; and 1 of whom shall  
20 be the president of the Massachusetts association of community  
21 development corporations or his designee.

22 The committee shall meet from time to time and shall advise  
23 and direct the commissioner on all real property being considered  
24 for surplus designation and on the appropriate disposition of such  
25 real property, including but not limited to, whether the real prop-  
26 erty should be declared surplus, the potential reuses for the real  
27 property, including, but not limited to, its suitability for housing  
28 development, economic development or preservation as open  
29 space, a community's master plan, and what restrictions, if any,  
30 should be placed on its use and development.

31 The committee shall annually submit a written report of its  
32 activities not later than December 31. Said report shall be sub-  
33 mitted to the president of the senate, the speaker of the house of  
34 representatives, the chairs of the joint committee on bonding, cap-  
35 ital expenditures and state assets, the chairs of the joint committee  
36 on economic development and emerging technologies, the clerk of  
37 the senate and the clerk of the house of representatives.

38 (b) The commissioner, upon the approval of the committee,  
39 shall be responsible for the disposition of real property in the  
40 manner and to the extent provided in this chapter. The commis-  
41 sioner may delegate such responsibility to an administrator who  
42 has 10 years of experience in the management of commercial,  
43 industrial, institutional or public real property and open space  
44 preservation. When responsibility is delegated to an administrator  
45 the written approval of the commissioner shall be required before  
46 such transaction is finalized.

47 (c) The commissioner shall, pursuant to the provisions of this  
48 chapter, convey, lease for a term not to exceed 10 years, transfer  
49 or otherwise dispose of real property to the agency or the host  
50 municipality or, upon the approval of the committee, convey, lease  
51 for a term not to exceed 10 years, transfer or otherwise dispose of  
52 surplus real property as specified in this chapter. The commis-  
53 sioner shall provide such administrative support to the committee  
54 as the committee may request.

1 SECTION 4. Said chapter 7, is hereby further amended by  
2 inserting after section 40F the following section:—

3 Section 40F½. (a) The commissioner shall recommend to the  
4 committee for surplus designation any real property owned by the  
5 commonwealth that is not required for use by any state agency or

6 executive office and which in his judgment should be declared  
7 surplus real property subject to disposition by the commonwealth  
8 in accordance with the provisions of this chapter; provided, how-  
9 ever, that prior to recommending that a parcel of real property be  
10 declared surplus, the commissioner shall determine whether any  
11 state agency or executive office has a current or foreseeable need  
12 for the real property. In order to establish whether there exists a  
13 current or foreseeable need, the commissioner shall provide  
14 written notice and inquiry to the heads of state agencies and secre-  
15 taries of the executive offices who shall have 30 days to submit a  
16 written response indicating that the real property is necessary for a  
17 specific current or foreseeable need of such agency or executive  
18 office. If no agency or executive office submits such a response  
19 within 30 days of receiving said notice, the commissioner shall  
20 recommend to the committee that the real property be declared  
21 surplus real property subject to disposal by the commonwealth in  
22 a manner consistent with the provisions of this chapter. In the  
23 event that a written response from a state agency or executive  
24 office is timely received specifying a current or foreseeable need  
25 for the real property, the commissioner shall, within 30 days and  
26 in consultation with the secretary of administration and finance  
27 and with any affirmatively responding state agency or executive  
28 office:

29 (1) determine whether the real property shall be made available  
30 for the current use of a state agency or executive office; (2) deter-  
31 mine whether the real property shall be retained on account of a  
32 foreseeable use by a state agency or executive office; provided,  
33 however, upon a determination that a parcel of real property is  
34 surplus to current state uses, but not to foreseeable state uses, the  
35 commissioner shall take such action as is necessary to ensure that  
36 any disposition of the real property is temporary and said action  
37 shall maintain the commissioner's ability to make such real prop-  
38 erty available to a state agency or executive office at such time as  
39 it may be needed; or (3) notwithstanding the current or foresee-  
40 able need of the responding state agency or executive office, rec-  
41 ommend to the committee that the real property should be  
42 declared surplus real property subject to disposal by the common-  
43 wealth in a manner consistent with the provisions of this chapter.

44 Within 10 days of providing written notice and inquiry to the  
45 heads of state agencies and secretaries of the executive offices as  
46 required by this section, the commissioner shall, for informational  
47 purposes, provide written notification to the host municipality that  
48 the real property may be declared surplus pursuant to the provi-  
49 sions of this chapter. Said notice shall be sent to the city manager  
50 in the case of a city under a Plan B form of government, the  
51 mayor and city council in the case of all other cities, the chairman  
52 of the board of selectmen in the case of a town, the county com-  
53 missioners, the regional planning agency, and the representatives  
54 to the general court representing said host municipality. The com-  
55 missioner shall set forth in such notice a description of the real  
56 property and a declaration that the real property is being consid-  
57 ered for surplus designation.

58 (b) The commissioner shall file a report with the joint com-  
59 mittee on bonding, capital expenditures and state assets which  
60 shall include the commissioner's recommendation as to the pro-  
61 posed designation of said real property as surplus. Within 30 days  
62 of said filing, the joint committee shall hold a public hearing on  
63 the commissioner's proposed designation. Thereafter, said joint  
64 committee shall report its findings to the general court together  
65 with legislation within 30 days of said public hearing, and shall  
66 provide a copy of said findings and legislation to the commis-  
67 sioner; provided, further, that prior to the commissioner recom-  
68 mending to the committee that the real property be declared  
69 surplus to current and foreseeable state uses, there shall be an  
70 affirmative roll call vote of the general court enacting legislation.

71 The commissioner shall establish the value of real property  
72 using customarily accepted appraisal methodologies. The value  
73 shall be calculated both for (i) the best use of the real property as  
74 currently zoned, and (ii) subject to uses, restrictions and encum-  
75 brances as may be defined by the general court and the committee.  
76 In no instance in which the commonwealth retains responsibility  
77 for maintaining the real property shall the terms provide for pay-  
78 ment of less than the annual maintenance costs.

79 (c) Prior to recommending to the committee that the real prop-  
80 erty be declared surplus to current and foreseeable state uses the  
81 commissioner shall, within 10 days of the general court's action as  
82 required by subsection (b), provide simultaneous written notifica-

83 tion to the host municipality and the regional planning agency for  
84 the region where the real property is located indicating that the  
85 real property is available. For parcels of real property larger than  
86 two acres as delineated on January 4, 2007 or valued at more than  
87 \$1,000,000 the commissioner shall commission the regional plan-  
88 ning agency for the region where the real property is located to  
89 conduct a smart growth reuse review. Said review shall consider a  
90 need for a variety of housing options including but not limited to  
91 the development of supportive and affordable housing for the  
92 physically and cognitively disabled and the mentally ill, economic  
93 development and open space; current and prospective zoning of  
94 the site; the need for municipal capital facilities and public uses;  
95 impact of traffic and transit; impact on the environment and nat-  
96 ural resources and on agricultural lands; existence of historically  
97 significant structures; availability of infrastructure, including  
98 water supply, waste water and storm water run-off; fiscal impact  
99 of the development on the host municipality; remediation of con-  
100 tamination; and other smart growth implications. The regional  
101 planning agency shall complete the review within 60 days.

102 (d) Upon receipt of the notification pursuant to subsection (c)  
103 the host municipality shall have a right of first refusal to purchase  
104 the real property pursuant to the conditions established in this  
105 section. The host municipality shall have the right of first refusal  
106 to purchase the real property for a direct public use at 50 per cent  
107 of the fair market value of the real property as established pur-  
108 suant to this chapter. The host municipality shall have the right of  
109 first refusal to purchase the real property for a purpose other than  
110 a direct public use at fair market value as established pursuant to  
111 this chapter. Such right of first refusal must be exercised, if at all,  
112 by the host municipality within 210 days of receipt of such notice  
113 by providing written notification to the commissioner of the host  
114 municipality's intent to purchase the real property. The host  
115 municipality shall then have an additional 180 days from its exer-  
116 cise of its right of first refusal to close on the purchase of the real  
117 property. In the event that a host municipality fails to close on the  
118 purchase of the real property within such time, the sole remedy of  
119 the commonwealth against the host municipality for such failure  
120 is to proceed with the disposition of the real property without fur-  
121 ther right of purchase by the host municipality; provided, how-

122 ever, that if said failure to close on the purchase of the real prop-  
123 erty was in bad faith, the commonwealth shall not be required to  
124 share proceeds of the sale of said real property with the host  
125 municipality as required by section 2000 of chapter 29. The com-  
126 missioner, at his discretion, may negotiate with a host munici-  
127 pality exercising its right of first refusal flexible financing  
128 arrangements to facilitate the purchase of the real property under  
129 this section; provided, however, that no such arrangements shall  
130 provide for a period of more than 5 years for all payments due  
131 under this section. A host municipality exercising a right of first  
132 refusal as provided herein may engage the services of the agency  
133 to perform planning, feasibility, marketing, and other studies or to  
134 provide project management services in connection with any reuse  
135 or redevelopment of the real property.

136 If a city or town has held a vote for debt exclusion pursuant to  
137 section 21C of chapter 59 of the General Laws to finance the sur-  
138 plus real property purchase the date by which the host munici-  
139 pality shall exercise its option to purchase will be extended until 7  
140 days after the vote.

141 A host municipality shall be permitted to assign its right of first  
142 refusal to purchase the real property for a direct public use at 50  
143 per cent of the fair market value of the real property as established  
144 pursuant to this chapter to a non-profit organization for a direct  
145 public use of said organization. Such assignment must be made by  
146 the host municipality, if at all, within 210 days of receipt of notifi-  
147 cation pursuant to subsection (c), the assignee non-profit organi-  
148 zation must exercise said right, if at all, within 90 days of  
149 assignment of such right by the host municipality by providing  
150 written notification to the commissioner of the assignee non-profit  
151 organization's intent to purchase the real property. The assignee  
152 non-profit organization shall then have an additional 90 days from  
153 its exercise of said assignment by the host municipality to close  
154 on the purchase of the real property.

155 In the event that the assignee non-profit organization fails to  
156 close on the purchase of the real property within such time, the  
157 sole remedy of the commonwealth against the host municipality  
158 for such failure is to proceed with the disposition of the real prop-  
159 erty without further right of purchase by the host municipality;  
160 provided, however, that if said failure to close on the purchase of

161 the real property was in bad faith, the commonwealth shall not be  
162 required to share proceeds of the sale of said real property with  
163 the host municipality as required by section 2000 of chapter 29.

164 If the host municipality or its assignee acquires any portion of  
165 the real property for open space purposes, or if any of the real  
166 property is restricted for open space purposes, a conservation  
167 restriction pursuant to chapter 184 of the general laws shall be  
168 retained by the commonwealth on such parcels.

169 Notwithstanding any other general or special law to the con-  
170 trary, for any real property formerly used as a department of  
171 mental health state hospital or department of mental retardation  
172 in-patient care facility, at least 25 per cent of any housing units  
173 developed on the real property be affordable supported housing  
174 for individuals who are clients, or former clients of the respective  
175 department; provided, however, that such housing shall be made  
176 affordable and available to such individuals with incomes of 15  
177 per cent of the average median income or below; and provided,  
178 further, that said restriction shall be recorded in the registry of  
179 deeds or the registry district of the land court of the county in  
180 which the effected real property is located, as running with the  
181 land, and that said real property shall not be released from such  
182 restriction until after the expiration of 99 years from the date of  
183 initial occupancy by such eligible individuals. If there is no plan  
184 to develop housing on the real property formerly used as a depart-  
185 ment of mental health state hospital or department of mental retar-  
186 dation in-patient care facility, no more than 25% of the sale price  
187 shall support, the development of affordable and supportive  
188 housing at another location for individuals who are clients, or  
189 former clients of the department of mental health or the depart-  
190 ment of mental retardation.

191 (e) If the host municipality declines to accept title to, or another  
192 interest in, the real property within the time prescribed by this  
193 section, the commissioner shall, within 30 days of being notified  
194 of said rejection by the host municipality, formally recommend to  
195 the committee that said real property be officially declared surplus  
196 to state uses. Upon receipt of the commissioner s official recom-  
197 mendation that the real property should be declared surplus, the  
198 committee shall:

199 (i) within 10 days provide written notice, for each city or town  
200 in which the real property is located, to the city manager in the  
201 case of a city under Plan B form of government, the mayor and  
202 city council in the case of all other cities, the chairman of the  
203 board of selectmen in the case of a town, the county commis-  
204 sioners, the regional planning agency, and the representatives to  
205 the general court representing the host municipality. The com-  
206 mittee shall set forth in such notice a description of the real prop-  
207 erty and a declaration that the real property is being considered for  
208 surplus designation. The committee shall also inform the munici-  
209 pality that it may elect to adopt the provisions of chapter 43D and  
210 designate the real property a priority development site pursuant to  
211 said chapter 43D;

212 (ii) within 45 days conduct a public hearing in the host munici-  
213 pality to allow for local input as to whether the real property  
214 should be officially declared surplus, the potential reuses for the  
215 real property if it is officially declared surplus, including, but not  
216 limited to, its suitability for housing development, economic  
217 development, job creation, or preservation as open space, and  
218 what reuse restrictions, if any, should be imposed on its use and  
219 development; provided, however, that in the case of real property  
220 formerly used as a department of mental health state hospital or  
221 department of mental retardation in-patient care facility, the com-  
222 mittee shall place a reuse restriction on the land ensuring that at  
223 least 25 per cent of any housing units developed on the real prop-  
224 erty be affordable supported housing for individuals who are  
225 clients, or former clients, of the respective department; provided,  
226 further, that such housing shall be made affordable and available  
227 to such individuals with incomes of 15 per cent of average median  
228 income or below; and provided, further that said restriction shall  
229 be recorded in the registry of deeds or the registry district of the  
230 land court of the county in which the affected real property is  
231 located, as running with the land, and that said real property shall  
232 not be released from such restriction until after the expiration of  
233 99 years from the date of initial occupancy by such eligible indi-  
234 viduals. The committee shall publish notice of the hearing in the  
235 central register published by the state secretary pursuant to section  
236 20A of chapter 9 within 30 days of the date of the hearing. A

237 notice of the public hearing shall also be placed, at least once each  
238 week for the 4 consecutive weeks preceding the hearing, in news-  
239 papers with sufficient circulation to inform the people of the  
240 effected locality. The hearing shall be held in the host municipi-  
241 pality no sooner than 30 days and no later than 35 days after the  
242 notice is published in the central register.

243 (iii) within 120 days report in writing to the commissioner on  
244 the real property being considered for surplus designation on the  
245 appropriate disposition for such real property. Said report shall  
246 include a determination of whether the real property should be  
247 declared surplus, the potential reuses for the real property if it is  
248 declared by the committee to be surplus, including its suitability  
249 for housing development, economic development or preservation  
250 as open space, and what restrictions, if any, should be imposed on  
251 its use and development. The report shall also include the recom-  
252 mendation of the host municipality, if any, and the smart growth  
253 report of the regional planning council, if applicable.

254 The determination of the committee shall be binding upon the  
255 commissioner.

1 SECTION 5. Said chapter 7 is hereby further amended by  
2 striking out section 40F<sup>1</sup>/<sub>2</sub>, as appearing in the 2004 Official Edi-  
3 tion, and inserting in place thereof the following section:—

4 Section 40F<sup>1</sup>/<sub>2</sub> (a) If, pursuant to section 40F<sup>1</sup>/<sub>4</sub>, the committee  
5 determines that a parcel of real property is surplus to both current  
6 and foreseeable state uses the commissioner shall proceed with  
7 the disposition of the real property in accordance with this section.  
8 Notwithstanding any other general or special law to the contrary,  
9 any real property officially declared surplus by the committee  
10 shall be designated by the economic assistance coordinating  
11 council as an economic target area, an economic opportunity area,  
12 and a certified project, as those terms are defined in section 3A of  
13 chapter 23A, and such real property shall be eligible for all the  
14 incentives and benefits provided by the economic development  
15 incentive program; provided, further, that any real property offi-  
16 cially declared surplus by the committee shall, upon local  
17 approval, automatically qualify as a priority development site for  
18 the purposes of chapter 43D.

19 The commissioner shall establish the value of surplus real prop-  
20 erty using customarily accepted appraisal methodologies. The  
21 value shall be calculated both for (i) the highest and best use of  
22 the real property as currently zoned, and (ii) subject to uses,  
23 restrictions and encumbrances as may be defined by the general  
24 court and the committee. In no instance in which the common-  
25 wealth retains responsibility for maintaining the real property  
26 shall the terms provide for payment of less than the annual main-  
27 tenance costs.

28 (b) The commissioner, within 60 days of receipt of notice from  
29 the committee, shall:—

30 (i) publicly declare the real property available for disposition  
31 and identify any restrictions on its use and development imposed  
32 by the general court or the committee; and

33 (ii) place a notice in the central register published by the state  
34 secretary pursuant to section 20A of chapter 9 stating the avail-  
35 ability of the real property and requesting proposals from any  
36 public or private entity, agency, individual partnership, or joint  
37 venture regarding the use, reuse, rehabilitation, renovation, recon-  
38 struction, purchase, ownership, lease, construction, or develop-  
39 ment of the real property. Said notice shall also include the time  
40 and location for submission of bids and proposals and the opening  
41 thereof, and other information the commissioner may deem rele-  
42 vant; provided, however, that said notice shall simultaneously be  
43 filed with the chairs of the joint committee on bonding, capital  
44 expenditures and state assets and the chairs of the joint committee  
45 on economic development and emerging technologies.

46 All responses to the request for proposals issued pursuant to  
47 this section shall be submitted to the commissioner within 60 days  
48 after the publishing of the notice in the central register. The com-  
49 missioner shall, within 30 days of receiving said proposals, review  
50 all the proposals received and recommend to the committee what  
51 he deems to be the 3 proposals which represent the best use of the  
52 real property. The commissioner shall simultaneously send notice  
53 to each city or town in which the real property is located, to the  
54 city manager in the case of a city under Plan E form of govern-  
55 ment, the mayor and city council in the case of all other cities, the  
56 chairman of the board of selectmen in the case of a town, the  
57 county commissioners, the regional planning agency, and the rep-

58 representatives to the general court representing the host municipality  
59 of the proposals selected by the commissioner and recommended  
60 to the committee. The committee shall, within 21 days of  
61 receiving a recommendation from the commissioner, conduct a  
62 public hearing in the host municipality on the proposals recom-  
63 mended by the commissioner. The committee by a majority vote  
64 shall, within 60 days of the public hearing in the host munici-  
65 pality, select the proposal which it deems represents the best use  
66 of the real property. In determining the best use of the real prop-  
67 erty as required by this section, the commissioner and the com-  
68 mittee shall pay due consideration to the impact upon the host  
69 municipality, including, but not limited to, impact to housing,  
70 infrastructure, natural resources, open space and economic devel-  
71 opment.

72 If no proposals are received by the commissioner pursuant to  
73 the request for proposals issued pursuant to this section, or if the  
74 committee determines that the proposals received and recom-  
75 mended by the commissioner do not represent the highest and best  
76 use of the real property, or if the committee fails to secure a  
77 majority vote within 60 days of the public hearing in the host  
78 municipality required by this section, the real property shall no  
79 longer be declared surplus.

1 SECTION 6. Said chapter 7 is hereby further amended by  
2 inserting after section 40F 1/2 the following section:

3 Section 40F<sup>3</sup>/<sub>4</sub>. The commissioner shall be responsible for the  
4 acquisition and control of real property in the manner and to the  
5 extent provided in this chapter. The commissioner may delegate  
6 such responsibility to an administrator who has 10 years of experi-  
7 ence in the management of commercial, industrial, institutional or  
8 public real property. When responsibility is delegated to an  
9 administrator the written approval of the commissioner shall be  
10 required before such transaction is finalized.

11 The commissioner shall acquire an interest in real property on  
12 behalf of the commonwealth for the use of state agencies and  
13 executive offices by gift, purchase, devise, grant, eminent domain,  
14 rental, lease, rental-purchase or otherwise.

15 In acquiring buildings for the use of state agencies or executive  
16 offices, first consideration shall be given to any structures that

17 have been certified as historic landmarks as provided by  
18 sections 26 to 27C, inclusive, of chapter 9, that have been listed in  
19 the National Register of Historic Places as provided by 16 U.S.C.  
20 section 470a (1974) or that have been designated historic land-  
21 marks by local historic commissions, unless use of such buildings  
22 would not be feasible in terms of costs and requirements when  
23 compared with other available properties.

24 Notwithstanding any other general or special law to the con-  
25 trary, real property acquired for the use of state agencies or execu-  
26 tive offices shall be held in the name of the commonwealth.

27 The commissioner shall assist in the preparation and shall  
28 approve of plans for the organization of all space within and  
29 around buildings and appurtenant structures used by state agencies  
30 and executive offices, and shall assign the use of space within and  
31 around the state house, subject to such rules as the committee on  
32 rules of the 2 branches acting concurrently may adopt, in accor-  
33 dance with the provisions of sections 10, 16A and 17 of chapter 8;  
34 the John W. McCormack state office building; the Leverett Salton-  
35 stall state office building; the Springfield office building; the  
36 Pittsfield office building; the Erich Lindemann building; the  
37 Charles F. Hurley building; any real property acquired for the use  
38 of state agencies or executive offices, the greater part of which is  
39 not needed by any one state agency or executive office; and any  
40 other real property assigned by law to the division of capital asset  
41 management and maintenance.

42 The commissioner, with the written approval of the commis-  
43 sioner of administration, may transfer use of, and responsibility  
44 for maintenance of, buildings, including equipment therein, within  
45 or between state agencies and executive offices. No such transfer  
46 within or between state agencies or executive offices which  
47 involves either a change in the purposes for which such building  
48 is currently used or a change in use in excess of 50 per cent of the  
49 usable floor space, shall be made without the prior approval of the  
50 general court. Any such transfer shall be based on a determina-  
51 tion, made by the commissioner with the advice of the executive  
52 heads of effected agencies and secretaries of the executive offices  
53 in which such agencies are located, that such real property is not  
54 needed, is under utilized, or is not being put to optimum use under  
55 current conditions. The commissioner shall notify the chairs of

56 house and senate committees on ways and means, the chairs of the  
57 joint committee on bonding, capital expenditures and state assets  
58 and the representatives to the general court from the city or town  
59 in which such real property is located not less than 30 days prior  
60 to the final authorization of any transfer which does not require  
61 the approval of the general court, and such transfer shall only be  
62 made when the general court is in session except as provided  
63 hereafter. Such transfer may be made when the general court is  
64 not in session, and the thirty day notification requirement may be  
65 waived, only if the commissioner certifies in writing that an emer-  
66 gency exists; provided, however, that any such transfer may be  
67 authorized for a period not to exceed 6 months; and provided, fur-  
68 ther, that the commissioner shall submit his certification to and  
69 notify the chairs of house and senate ways and means committees  
70 and the chairs of the joint committee on bonding, capital expendi-  
71 tures and state assets, and the representatives to the general court  
72 from the city or town in which such real property is located of  
73 such transfer at the earliest possible opportunity.

1 SECTION 7. Section 40H of said chapter 7, as appearing in the  
2 2004 Official Edition, is hereby amended by striking out, in  
3 lines 23 and 24, the words “state administration” and inserting in  
4 place thereof the following words:— bonding, capital expendi-  
5 tures and state assets.

1 SECTION 8. Said chapter 7 is hereby further amended by  
2 striking out section 40I, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 40I. The clerk of the house of representatives and the  
5 clerk of the senate shall, within 10 days of the filing of any legis-  
6 lation authorizing the conveyance, lease, transfer, or other disposi-  
7 tion of any state-owned real property forward a copy of said bill  
8 to the commissioner. Within 90 days of the receipt of said copy,  
9 the commissioner shall submit in writing a report to the commis-  
10 sioner of administration, the legislative committee before which  
11 the bill is pending, and the joint committee on bonding, capital  
12 expenditures and state assets together with a recommendation for  
13 either the approval or the disapproval of the bill and his reasons  
14 therefore.

15 If the commissioner is recommending the approval of a bill  
16 proposing the disposition of a parcel exceeding 2 acres, said  
17 report shall include: (1) a description of the real property  
18 including its current use, structures, and approximate metes and  
19 bounds; (2) the value of the real property, determined through pro-  
20 cedures customarily accepted by the appraising profession as valid  
21 for such purposes, calculated both for (a) the best use of the real  
22 property as currently encumbered and (b) uses and encumbrances  
23 that would be imposed by the bill if enacted; (3) all current and  
24 foreseeable direct public uses identified by following the divi-  
25 sion's procedures for such purposes as they apply to the real prop-  
26 erty to be disposed; (4) other potential public and private uses of  
27 the real property; and (5) any other information the general court  
28 may require.

29 The commissioner shall expeditiously review and recommend  
30 approval or disapproval of any proposal to the general court for  
31 the sale, rental or other disposition of real property acquired on  
32 behalf of state agencies, and shall dispose of real property as man-  
33 dated by the general court.

34 The provisions of this section shall not apply to recommenda-  
35 tions filed by the commissioner with the joint committee on  
36 bonding, capital expenditures and state assets pursuant to the pro-  
37 visions of subsection (b) of section 40F<sup>1</sup>/<sub>4</sub>.

1 SECTION 9. Chapter 29 of the General Laws is hereby  
2 amended by inserting after section 2NNN the following two sec-  
3 tions:—

4 Section 2000. There shall be established and set upon the books  
5 of the commonwealth a separate fund to be known as the Surplus  
6 Real Property Proceeds Fund, hereinafter called the fund. The  
7 fund shall be administered by the department of housing and com-  
8 munity development. All monies deposited into the fund shall,  
9 within 90 days of receipt, be distributed by the fund in the  
10 following order of priority:—

11 (i) to reimburse host municipalities for bona fide costs incurred  
12 by said municipalities for the maintenance and upkeep of the sur-  
13 plus real property wherefrom the funds originated;

14 (ii) a maximum of 10 per cent of the remaining net cash pro-  
15 ceeds after funding the costs identified in clause (i) to the host

16 municipality; provided, however, upon certification by the com-  
17 missioner of the division of capital asset management and mainte-  
18 nance that a host municipality expedited permitting in accordance  
19 with part (i) of subsection (g) of section 40F¼ of chapter 7 or took  
20 other affirmative actions, which at the discretion of the commis-  
21 sioner, furthered the commonwealth's objectives for the parcel,  
22 shall be entitled to 20 per cent of the remaining net cash proceeds  
23 after funding the costs identified in clause (i). If said municipality  
24 exercises its right of first refusal as authorized pursuant to subsec-  
25 tion (d) of section 40F¼ it shall not receive a percentage of the  
26 sale proceeds; provided, however, that if the host municipality  
27 assigns its right of first refusal pursuant to said subsection (d) of  
28 said section 40F¼ to a nonprofit organization for a direct public  
29 use, it shall receive a maximum of 10 per cent of the net cash pro-  
30 ceeds remaining after funding the costs identified in clause (i);

31 If a city or town fails to close on a surplus property due solely  
32 to a failure to receive an affirmative vote on a debt exclusion to  
33 raise funds for the purchase of the particular parcel pursuant to  
34 section 21C of chapter 59 of the General Laws, the city or town  
35 shall remain eligible to receive its share of proceeds of the sale as  
36 provided in subsection\_\_\_

37 (iii) after distribution of net cash proceeds pursuant to  
38 clauses (i) and (ii), not more than \$2,800,000 annually shall be  
39 deposited in the District Local Technical Assistance Fund estab-  
40 lished pursuant to section 2PPP; and

41 (iv) after distribution of net cash proceeds pursuant to  
42 clauses (i), (ii), and (iii) the remaining net cash proceeds shall be  
43 deposited in Smart Growth Housing Trust fund established pur-  
44 suant to section 35AA of chapter 10.

45 Section 2PPP. There shall be established and set upon the books  
46 of the commonwealth a separate fund to be known as the District  
47 Local Technical Assistance Fund. Amounts credited to the fund  
48 shall be administered by the bureau of municipal assistance within  
49 the department of revenue which shall ensure that the funds are  
50 used for activities consistent with the purpose of this section and  
51 the Massachusetts management and accounting reporting system,  
52 so-called. Said amounts shall be used solely for the administration  
53 and implementation of the provisions of this section.

54 Recipients of said funds shall provide matching resources of  
55 not less than 10 per cent, no more than ½ of which may be in-kind  
56 services, and shall report such annually on their expenses and pro-  
57 gram activities to the commonwealth and local governments. Each  
58 regional planning district created under chapter 40B or by special  
59 act shall be granted a fixed annual base award of \$150,000 from  
60 said fund, with the exception of the Metropolitan Area Planning  
61 Council, which shall receive a base appropriation of \$200,000, the  
62 Martha's Vineyard commission which shall receive a full annual  
63 appropriation of \$100,000 and the Nantucket planning and eco-  
64 nomic development commission, which shall receive a full annual  
65 appropriation of \$50,000 as its full annual appropriation. One-half  
66 of the remainder of the annual appropriation to said fund shall be  
67 apportioned among said entities based on the percentage of the  
68 commonwealth's population served by each entity, with the other  
69 half apportioned based on the percentage of the commonwealth's  
70 communities served by each entity.

1 SECTION 10. Section 9 of chapter 40A of the General Laws,  
2 as so appearing, is hereby amended by striking out the fifteenth  
3 paragraph and inserting in place thereof the following para-  
4 graph:—

5 Zoning ordinances or by-laws may also provide that research  
6 and development uses, whether or not such uses are currently per-  
7 mitted as a matter of right, may be permitted in any non-residen-  
8 tial zoning district upon the issuance of a special permit; provided,  
9 however, that the granting authority finds that such uses do not  
10 substantially derogate from the public good. "Research and devel-  
11 opment uses" may include any 1 or more of the following: investi-  
12 gation; development; laboratory and similar research uses; any  
13 related office uses; limited manufacturing uses; and uses acces-  
14 sory to any of the foregoing in any field of science. "Limited man-  
15 ufacturing" may, subject to the issuance of such special permit, be  
16 an allowed use provided that the following requirements are satis-  
17 fied: (1) such manufacturing activity is directly related to research  
18 and development uses; (2) no limited manufacturing activity  
19 occurs within 100 feet of a residential district; and (3) substan-  
20 tially all limited manufacturing activity occurs inside of buildings  
21 with any limited manufacturing activities occurring outside of

22 buildings subject to such conditions as may be imposed by the  
23 granting authority.

1 SECTION 11. Chapter 40B of the General Laws is hereby  
2 amended by adding the following section:—

3 Section 30. There shall be established within each regional  
4 planning district created under this chapter or by special act a  
5 technical assistance center for the delivery of coordinated, com-  
6 prehensive, and continuing technical services to and among local  
7 governments. Technical assistance services may be provided in  
8 any subject area within the capability of each technical assistance  
9 center that improves local government capacity, efficiency, knowl-  
10 edge and ability to respond to issues, opportunities, laws and  
11 requirements including, but not limited to: permitting; required  
12 municipal asset inventory and management; communication sys-  
13 tems including broadband, wireless and related facilities; emer-  
14 gency and incident response systems; electronic government  
15 opportunities; remote image and data collection; digital data man-  
16 agement and archiving; geographic information systems; geo loca-  
17 tion of infrastructure; internet and internet-related technologies;  
18 data sharing and regional backup; computer system evaluation and  
19 networking; intelligent transportation systems; statistical trends  
20 and modeling; digital recordation of accidents, fires and crime;  
21 technical specifications relating to management of the sanitary  
22 code, water supplies, air quality, storm water and natural resource  
23 area; and other land use and smart growth zoning issues.

24 Said regional planning districts shall annually consult with each  
25 member city and town to ensure locally needed technical assis-  
26 tance services that: (i) aid communities in evaluating new tech-  
27 nologies, equipment and systems; (ii) aid communities in  
28 improving the efficiency of local government; (iii) reduce costs  
29 incurred by local governments for performing duties required  
30 thereof; (iv) build capacity and provide needed skills; (v) aid com-  
31 munities in meeting new state or federal regulations or require-  
32 ments; (vi) provide specific services or initiate demonstration  
33 projects; (vii) facilitate sharing of information or best practices  
34 among and between communities; (viii) facilitate inter-municipal  
35 cooperation or cost sharing; (ix) provide training and skill devel-  
36 opment of community employees; (x) aid in improvement of local

37 standards, procedures and regulations; and (xi) promote smart  
38 growth zoning, regulations, or standards.

39 Said regional planning districts shall coordinate and focus their  
40 programs to augment the services of the local technical assistance  
41 centers. A core program of technical services shall be maintained  
42 in the fields of management and data, environment, transportation  
43 and community development. Other fields may be covered as  
44 appropriate and as resources allow. Agencies of the common-  
45 wealth initiating or following through on programs or regulations  
46 requiring outreach or technical assistance shall first consider uti-  
47 lizing the local technical assistance centers while seeking the serv-  
48 ices previously enumerated and may enter directly into contracts  
49 with the regional planning agencies or their technical assistance  
50 centers as they would with any city or town. This provision shall  
51 not limit the ability of state agencies to work directly with indi-  
52 vidual communities.

1 SECTION 12. Notwithstanding any general or special law to  
2 the contrary, the state comptroller shall, within 10 days of the  
3 effective date of this act, transfer \$2,800,000 from the General  
4 Fund to the District Local Technical Assistance Fund established  
5 pursuant to section 2PPP of chapter 29 of the General Laws.

1 SECTION 13. Sections 1 to 9, inclusive, shall not be effective  
2 as to the disposition of any real property designated surplus by the  
3 commissioner of the division of capital asset management and  
4 maintenance prior to the effective date of this act, or as to the dis-  
5 position of any real property owned by the commonwealth and  
6 subject to a special act for the conveyance, lease or other disposi-  
7 tion of such real property with an effective date prior to the effec-  
8 tive date of this act.