

**[[Note: Text in brackets and bold formatting have been added to increase readability. They are not present in the text of the actual law.]]**

## Chapter 7

### GENERAL LAWS OF MASSACHUSETTS PART I. ADMINISTRATION OF THE GOVERNMENT

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#### TITLE II. EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH

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#### CHAPTER 7. EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

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### **[[DEFINITIONS]]**

#### **Chapter 7: Section 1 Definitions**

[ Text of section effective until July 31, 2003. For text effective July 31, 2003, see below.]

Section 1. Unless a contrary intention clearly appears, the following words shall have the following meanings:

""Commissioner", the commissioner of administration, except that in sections thirty-eight A 1/2 to forty-three H, inclusive, the word commissioner shall mean commissioner of capital asset management and maintenance.

""Finance committee", the committee of the executive council appointed to consider matters of finance.

For the purposes of sections twenty-two C to twenty-two F, inclusive, unless a contrary intention clearly appears, the following words shall have the following meanings:

""Comparable low bid or offer", a responsive and responsible bid or offer which is no more than ten percent greater than the lowest bid or offer submitted for goods or a service.

""Essential", necessary in order that an agency or authority may perform its mission, there being no substitute, to avoid irreparable harm to agency or authority programs.

""Person", an individual, partnership, firm, association, corporation, or other entity, or a subsidiary thereof.

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

""State agency", awarding authorities of the commonwealth, including, but not limited to, executive offices, agencies, departments, commissions, and public institutions of higher education.

""State authority" shall include, but not be limited to: the Bay State Skills Corporation, Centers of Excellence, Community Economic Development Assistance Corporation,

Community Development Finance Corporation, government land bank, Massachusetts Bay Transportation Authority, Massachusetts Business Development Corporation, Massachusetts Capital Resource Company, Massachusetts Convention Center Authority, Massachusetts Corporation for Educational Telecommunications, Massachusetts Educational Loan Authority, Massachusetts Health and Educational Facilities Authority, Massachusetts Higher Education Assistance Corporation, Massachusetts Housing Finance Agency, Massachusetts Racing Commission, Massachusetts Industrial Finance Agency, Massachusetts Industrial Service Program, Massachusetts Legal Assistance Corporation, Massachusetts Port Authority, Massachusetts Product Development Corporation, Massachusetts Technology Development Corporation, Massachusetts Turnpike Authority, Massachusetts Water Resource Authority, Nantucket Land Bank, New England Loan Marketing Corporation, Pension Reserves Investment Management Board, State College Building Authority, Southeastern Massachusetts University Building Authority, Thrift Institutions Fund for Economic Development, University of Lowell Building Authority, University of Massachusetts Building Authority, Victim and Witness Assistance Board, and the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.

[ Text of section as amended by 2003, 46, Sec. 2 effective July 31, 2003. For text effective until July 31, 2003, see above.]

Section 1. As used in this chapter the following words shall unless a contrary intention clearly appears, have the following meanings:--

""**Commissioner**", the commissioner of administration, except that in sections 38A1/2 to 43H, inclusive, the word ""commissioner" shall mean the commissioner of capital asset management and maintenance.

""**Eligibility**", written criteria established before a request for applications that is used to determine if an application for an award of grant program resources is acceptable.

""**Finance committee**", the committee of the executive council appointed to consider matters of finance.

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

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

""**Grant program reference**"" , a description in electronic format that is retrievable and printable that shall include: (1) the grant program application; (2) the grant program eligibility criteria; (3) the application due date; and (4) the grant program fiscal statement.

## [[SECTION 40A]]

### **Chapter 7: Section 40A Jurisdiction of department over capital facility projects**

Section 40A. Except as otherwise provided in this section or by any other statute or appropriation, the division of capital asset management and maintenance shall exercise jurisdiction over capital facility projects to the extent provided below:

(1) Control and supervision of all building projects undertaken by any state agency, except to the extent provided for by sections forty B and forty-three C and that the division shall exercise oversight jurisdiction over building projects undertaken by a state agency that are financed or funded from sources other than an appropriation or the issuance of bonds, notes or other evidences of indebtedness of the commonwealth. Using agencies shall cooperate in any inquiries or inspections conducted by the division of capital asset management and maintenance.

(2) Oversight as to building projects undertaken by any building authority, except to the extent provided for by section forty B and forty-three C of chapter seven. Building authorities shall cooperate in any inquiries or inspections conducted by the division of capital asset management and maintenance to ensure conformity with all applicable standards and guidelines.

(3) For **housing projects** within the jurisdiction of the department of housing and community development as defined by section one of chapter one hundred and twenty-one B, the division of capital asset management and maintenance shall provide only for the establishment of minimum requirements for record keeping and reporting by the department and operating agencies, as each is defined by section one of chapter one hundred and twenty-one B, and review of and recommendation as to the standards and guidelines for, direction, control, and supervision of their building projects. The department and operating agencies shall cooperate with the division of capital asset management and maintenance, regarding inquiries and inspections conducted as to housing projects within their respective jurisdictions.

(4) For all capital facility projects of cities and towns for which specific approval or authorization by the general court or a state agency is otherwise required and for all capital facility projects of all other public agencies not included within the scope of paragraphs (1), (2), and (3), establishment of requirements for record keeping and reporting by the administering agency as to control and supervision of capital facility projects, so that the division of capital asset management and maintenance may assess the nature, scope and programs of all planned or current capital facility projects and fulfill its responsibilities as defined by this chapter and other relevant statutes. For the purposes of identifying agricultural lands, the commissioner shall utilize criteria established by the secretary of

environmental affairs. Such criteria shall determine agricultural land according to past and present agricultural use, and according to the agricultural production suitability of land as defined by the standards of the United States Department of Agriculture Soil Conservation Service. For all capital facility projects or programs funded in whole or in part by federal funds, the record keeping and reporting requirements established pursuant to this paragraph and other relevant statutes may be satisfied by the federal requirements, but only to the extent that the state requirements duplicate the federal requirements or materially conflict with them. State and federal requirements shall be deemed to be materially conflicting only when it would be impossible or unduly burdensome to comply with both sets of requirements. Neither this provision nor any other provision of sections thirty-nine A through forty-three F, inclusive, of this chapter is intended or shall be construed to limit the authority of any public agency -- other than those specified in paragraphs (1) and (2) of this section -- to control and supervise any capital facility project undertaken by that agency.

## [[SECTION 40E]]

### **PUBLIC BUILDING CONSTRUCTION**

#### **Chapter 7: Section 40E Acquisition, control and disposition of real property; delegation to state agencies**

Section 40E. Real property, record title to which is held in the name of a state agency or the board of trustees of a state agency or similar board of a state agency, shall be deemed to be real property of the commonwealth. No deed or other instrument shall be required to effect the transfer to the commonwealth of title to such real property, but the land court department of the trial court shall, upon petition of the division of capital asset management and maintenance, issue in the name of the commonwealth a certificate of title to any real property, title to which is registered under chapter one hundred and eighty-five in the name of a state agency or the board of trustees of a state agency or similar board of a state agency. Notwithstanding any general or special law to the contrary, no person shall acquire any rights by prescription or adverse possession in any lands or rights in lands held in the name of the commonwealth.

The commissioner of capital asset management and maintenance shall exercise the powers stated in this chapter, notwithstanding the delegations which the general court has made pertaining to the acquisition, control, and disposition of real property, including sections twenty-eight of chapter fifteen; section nineteen of chapter sixteen; sections one, fourteen B and twenty-seven of chapter nineteen; section seven of chapter nineteen A; sections fourteen to sixteen, inclusive, of chapter twenty; sections nine A, thirteen, seventeen A, seventeen B, and thirty of chapter twenty-one; sections two and nine of chapter twenty-one A; sections eight and twenty-six of chapter twenty-three A; section seven of chapter twenty-three B; section three of chapter twenty-eight A; section forty-one of chapter twenty-nine; sections four and five of chapter twenty-nine A; sections eleven, twelve, twenty-five, twenty-six, and twenty-seven of chapter seventy-five; sections eight, nine, eighteen, nineteen, and twenty-two of chapter seventy-five A; sections eight, thirteen, and

fourteen of chapter seventy-five B; sections seven, seven A, seven C, seven D, seven E, seven G, seven H, seven L, seven M, eleven, thirteen A, and thirteen B of chapter eighty-one; section seven of chapter eighty-two; section four of chapter eighty-three; section thirty-nine B of chapter ninety; sections two, three, five, and six of chapter ninety-one; sections nine A, thirteen, thirty-three, thirty-four, seventy-seven to eighty-five, inclusive, eighty-seven, and eighty-eight of chapter ninety-two; sections sixty-two R, eighty-three, and eighty-six of chapter one hundred and eleven; section five of chapter one hundred and eleven B; section eight of chapter one hundred and fifteen A; sections one and two of chapter one hundred and twenty; section five of chapter one hundred and twenty-two; sections thirty-nine and forty-three of chapter one hundred and twenty-three; section ten of chapter one hundred and twenty-four; section two of chapter one hundred and forty-seven; sections thirty-one and thirty-two of chapter one hundred and eighty-four; provided, however, that the commissioner shall acquire, control and dispose of real property in accordance with the terms and purposes of the aforementioned provisions.

## [[EMINENT DOMAIN]]

The commissioner shall not make any acquisition of real property on behalf of a state agency by eminent domain or make any such delegation of power to acquire real property by eminent domain to any state agency unless such state agency is otherwise authorized by law to exercise the power of eminent domain.

## [[DELEGATION OF AUTHORITY]]

The commissioner may delegate to state agencies responsibility for the acquisition, control, and disposition of real property as provided for in this chapter; except that the commissioner may not delegate responsibility for determining that property is surplus to state needs as required in section forty F. When responsibility is delegated to a state agency, the written approval of the commissioner shall be required before the transaction is completed, and a copy of said written approval shall be sent to the joint committee on state administration.

For the purposes of sections forty F through forty L inclusive, the term ""**emergency**"" shall mean any situation caused by unforeseen circumstances which render currently used real property unusable or unavailable for the purposes intended and which creates an immediate need for other real property to preserve the health or safety of persons or property.

## [[SECTION 40F]]

**PUBLIC BUILDING CONSTRUCTION Chapter 7:  
Section 40F Acquisition, control and disposition  
of real property; delegation to administrator;  
surplus property**

## [[ACQUISITION AND MANAGEMENT]]

Section 40F. The commissioner of capital asset management and maintenance shall be responsible for the acquisition, control and disposition of real property in the manner and to the extent provided in this chapter. The

commissioner may delegate such responsibility to an administrator, who has ten years of experience in the management of commercial, industrial, institutional or public real property. When responsibility is delegated to an administrator the written approval of the commissioner shall be required before such transaction is finalized.

The commissioner shall acquire interest in real property on behalf of the commonwealth for the use of state agencies by gift, purchase, devise, grant, eminent domain, rental, lease, rental-purchase or otherwise.

In acquiring buildings for the use of state agencies, first consideration shall be given to any structures that have been certified as **historic landmarks** as provided by sections twenty-six through twenty-seven C inclusive of chapter nine, that have been listed in the National Register of Historic Places as provided by 16 U.S.C. section 470a (1974) or that have been designated historic landmarks by local historic commissions, unless use of such buildings would not be feasible in terms of costs and requirements when compared with other available properties.

Notwithstanding any laws to the contrary, real property acquired for the use of state agencies shall be held in the name of the commonwealth.

The commissioner shall assist in the preparation and shall approve of plans for the organization of all space within and around buildings and appurtenant structures used by state agencies, and shall assign the use of space within and around the state house, subject to such rules as the committee on rules of the two branches acting concurrently may adopt, in accordance with the provisions of sections ten, sixteen A and seventeen of chapter eight the John W. McCormack State Office Building; the Leverett Saltonstall State Office Building; the Springfield Office Building; the Pittsfield Office Building; the Erich Lindemann Building; the Charles F. Hurley Building; any real property acquired for the use of state agencies, the greater part of which is not needed by any one state agency; and any other real property assigned by law to the division of capital asset management and maintenance.

## [[TRANSFER BETWEEN STATE AGENCIES]]

The commissioner, with the written approval of the commissioner of administration, may transfer use of, and responsibility for maintenance of, buildings, including equipment therein, **within or between state agencies**. No such transfer within or between state agencies which involves either a change in the purposes for which such building is currently used or a change in use in excess of fifty per cent of the usable floor space, shall be made without the **prior approval of the general court**. Any such transfer shall be based on a determination, made by the commissioner with the advice of the executive heads of affected agencies and secretaries of the executive offices in which such agencies are located, that such property is not needed, is under utilized, or is not being put to optimum use under current conditions. The commissioner shall **notify** the house and senate committees on ways and means and the representatives to the general court from the city or town in which such real property is located not less than **thirty days prior** to the final authorization of any transfer which does not require the approval of the

general court, and such transfer shall only be made when the general court is in session except as provided hereafter. Such transfer may be made when the general court is not in session, and the thirty day notification requirement may be waived, only if the commissioner certifies in writing that an emergency exists; provided that, any such transfer may be authorized for a period not to exceed six months, and provided further, that the commissioner shall submit his certification to and notify the house and senate ways and means committees of such transfer at the earliest possible opportunity.

### [[TRANSFER TO A PUBLIC AGENCY]]

The commissioner may, after notification to and with the advice of the executive heads of state agencies and secretaries of the executive offices, determine that real property is not needed for the use of any state agency. If he **determines that such property is surplus** to both the current and foreseeable needs of state agencies, the commissioner shall determine whether any other **public agency** has a current or foreseeable direct public use for the property. For the purposes of determining whether property is surplus to direct public use, direct public use is defined in this section as use of property for a public agency's own operations, but does not include conveyance by such agency of any interest in the property to another party, but does include lease of the property by local housing authorities to public housing tenants.

### [[KEEPING PROPERTY FOR FUTURE NEEDS]]

When property is determined to be surplus, to either current state or current direct public uses, but not to foreseeable state or foreseeable direct public uses, the commissioner shall take such action as is necessary to ensure that any disposition of the property is **temporary** and maintains the commissioner's ability to make such property available to a state agency or other public agency at such time as it is needed.

### [[DECLARING PROPERTY SURPLUS]]

If the commissioner determines that the property is not needed for current or foreseeable state or direct public use as defined above and that the property should be disposed of, he shall declare that the property is available for disposition and shall **identify restrictions**, if any, on the property's use and development necessary to comply with established state and local plans and policies, and he shall send written notification of such to the house and senate committees on ways and means, and the joint committee on state administration.

### [[ADVISORY COMMITTEE & PRELIMINARY REPORT]]

The commissioner may convene an **advisory committee** to advise him on reuses and to recommend **reuse restrictions** for property declared surplus. If an advisory committee is convened, the commissioner shall invite the representatives to the general court from the city or town in which the property is located to serve on the committee. The commissioner shall prepare a **preliminary report** on his findings, which shall include both his recommendation, and those of the advisory committee if established, for reuse restrictions for the property.

### [[PUBLIC HEARING]]

The commissioner shall conduct a **public hearing** to consider potential reuses and reuse restrictions for the surplus property and to review the commissioner's preliminary report if the property exceeds **two acres** or if the commissioner determines that a hearing should be held for a smaller parcel. If he determines to conduct a hearing, the commissioner shall provide notice in the central register of the public hearing at least sixty days prior to (1) notification to the house and senate committees on ways and means and the joint committee on state administration, of a temporary disposition of property to a public agency for less than five years for a direct public use, or (2) submission of a request to the general court for authority to otherwise dispose of real property as provided in this section. A **notice** of the public hearing shall also be placed, at least once each week for the four consecutive weeks preceding the hearing, in newspapers with sufficient circulation to inform the people of the affected locality. The hearing shall be held in the locality in which the property is located **no sooner than thirty days** and no later than thirty-five days after the notice is published in the central register.

### [[TEMPORARY USE]]

The commissioner may, with the written approval of the commissioner, enter into **agreements for the direct public use of surplus real property by public agencies other than state agencies, for a term not to exceed five years**. Such agreement shall prohibit subsequent conveyance of interest in the property by the public agency to another party. The commissioner shall notify the house and senate committees on ways and means and the joint committee on state administration thirty days prior to the final authorization of any such agreement. The notification shall include the commissioner's report on recommended reuse restrictions. **In no event shall any such agreement be made when the general court is not in session.**

### [[APPRAISAL]]

The commissioner shall establish the **value** of surplus property through procedures customarily accepted by the appraising profession as valid for determining property value. The value shall be calculated both for: (1) the highest and best use of the property as currently encumbered; and (2) uses and encumbrances defined by the commissioner.

### [[SALE OR TRANSFER]]

The commissioner may, with the approval of the commissioner, request from the general court authorization to dispose of state real property determined to be surplus to state agency needs: (1) **to public agencies** of the commonwealth other than state agencies for direct public uses, over a period exceeding five years, (2) to a public agency of the commonwealth other than a state agency, for uses **other than direct public uses**, and (3) **to an individual, entity, or the federal government**; or any extension of any agreement for such use beyond a cumulative period of five years. Accompanying his **request for authorization** to dispose of property, the commissioner shall submit his **report** including a description of the property, its current use, structures, and approximate metes and bounds, the value of the property

and recommended restrictions, if any, on reuses of the property. The commissioner shall also request authorization to negotiate real property disposition agreements with parties to be selected by the commissioner after he evaluates **competitive proposals**. Disposition agreements subsequently negotiated by the commissioner shall be consistent with the reuse restrictions approved by the general court.

## [[AGRICULTURAL LEASES]]

Notwithstanding the provisions of this section, leases for **agricultural purposes** on land owned by the commonwealth shall be made for a term of **not more than five years**, and the renewal date for such leases shall not be less than one year prior to the end of the lease period. Holders of such leases shall be given the opportunity to renew such leases for a consideration equal to the current lease amount plus an escalation amount to be established annually by the commissioner for application to all such leases.

## [[MONITORING COMPLIANCE]]

The commissioner shall **monitor compliance** with disposition agreements.

## [[TRANSFER TO LAND BANK]]

The commissioner shall develop regulations governing the conditions under which he will recommend to the general court that a public agency, including but not limited to the **government land bank**, receive title to surplus property for other than direct public use.

## [[NOTIFICATION AND REPORTING]]

For bills which authorize the sale, transfer, or other disposition of any state-owned real property **filed by persons other than the commissioner of capital asset management and maintenance**, the clerk of the house of representatives and the clerk of the senate shall, within ten days of the filing, forward a copy of said bill to the commissioner. Within ninety days of the receipt of said copy, the commissioner shall submit in writing a report to the commissioner of administration, the legislative committee before which the bill is pending, and the joint committee on state administration together with a recommendation for either the approval or the disapproval of the bill and his reasons therefor.

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

## [[REVIEW OF PROPOSALS]]

The commissioner shall expeditiously review and **recommend approval or disapproval** of any proposal to the general court for the sale, rental or other disposition of real property acquired on behalf of state agencies, and shall dispose of real property as mandated by the general court. All legislation submitted to the general court by the division of capital asset management and maintenance requesting authorization to convey or transfer real property under its jurisdiction shall be accompanied by a **full report** outlining the division's reasons for pursuing said conveyance or transfer

## [[SECTION 40F 1/2]]

### Chapter 7: Section 40F 1/2 Sale, lease or other disposition of real property; surplus property

Section 40F1/2. (a) When authorized by the general court to sell, rent or otherwise dispose of real property, the commissioner shall proceed in accordance with the provisions of this section, provided that any action or determination required hereunder which the commissioner has undertaken within eighteen months prior to enactment of the authorization to dispose of the property need not be repeated if the commissioner (1) files, as provided in subsection (b), a report fully describing such action or determination, a copy of which shall be sent to the clerks of the senate and the house of representatives, and the joint committee on state administration, and (2) certifies under penalties of perjury that such report is accurate and that the action or determination described therein was undertaken within eighteen months prior to the date of enactment of the authorization to dispose of the property.

The commissioner shall, after notification to and with the advice of the executive heads of state agencies and secretaries of the executive offices, **determine whether such property is surplus** to both current and foreseeable needs of state agencies. If the commissioner determines that the property is not surplus to either current or foreseeable needs of state agencies, he shall make no disposition that is inconsistent with such determination.

If the commissioner determines that such property is surplus to both the current and foreseeable needs of state agencies, he shall provide **written notice**, for each city or town in which the property is located, to the city manager in the case of a city under Plan E form of government, the mayor and city council in the case of all other cities, the chairman of the board of selectmen in the case of a town, the county commissioners, the regional planning agency, and the members of the general court. The commissioner shall set forth in such notice a description of the property; a declaration that the property is surplus to the needs of state agencies and that subject to the approval of the commissioner the property is available to any other public agency for a direct public use; and a statement that, if so requested by any public official or body entitled under this section to receive such notice, a public hearing will be conducted in the city or town where such property is located, to assist the commissioner in determining whether any other public agency has a current or foreseeable direct public use for the property. Following such hearing, if any,

but in no event earlier than thirty days following the notice, the commissioner shall determine whether any other public agency has a current or foreseeable direct public use for the property. If he determines that the property is not surplus to either current or foreseeable direct public uses of public agencies, he shall make no disposition that is inconsistent with such determination.

## [[TEMPORARY DISPOSITION]]

When the property is determined to be surplus to either current state or current direct public uses, but not to foreseeable state or foreseeable direct public uses, the commissioner shall take such action as is necessary to ensure that any disposition of the property is temporary and maintains the commissioner's ability to make such property available to a state agency or other public agency at such time as it is needed.

## [[DISPOSAL TO NON-STATE]]

If the commissioner determines that the property is surplus to both current and foreseeable direct public uses of public agencies, he may dispose of the property **to a public agency** for other than direct public use, or **to an individual or entity**, provided that any such disposition shall be subject to the provisions of section forty H.

If the commissioner determines that the property is not needed for current or foreseeable state or direct public use and that the property should be disposed of, either temporarily or permanently, he shall declare that the property is available for disposition and shall determine appropriate **reuse restrictions**. The commissioner shall ensure that any rental agreement, and in the case of a conveyance a deed or separate disposition agreement as deemed appropriate by the commissioner, shall set forth all such reuse restrictions; shall provide for **effective remedies** on behalf of the commonwealth, including if deemed appropriate by the commissioner that title to the property, or such lesser interest as is the subject of the disposition agreement, shall **revert** to the commonwealth in the event of a violation of any such reuse restriction; and shall provide, in the case of a disposition to a public agency for a direct public use, that the title to the property, or such lesser interest as is the subject of the disposition agreement, shall revert to the commonwealth in the event the property is no longer utilized for such direct public use.

## [[RESTRICTIONS ON REUSE]]

In determining reuse restrictions, the commissioner shall conform to all such restrictions pertaining to the property which may have been mandated by the general court, and **may adopt additional restrictions, taking account of established state and local plans and policies.**

## [[PUBLIC HEARING IF >2 ACRES]]

The commissioner shall conduct a **public hearing to consider reuse restrictions if the property exceeds two acres** or if the commissioner determines that a hearing should be held for a smaller parcel. Notice of the public hearing shall be placed at least once each week for

four consecutive weeks preceding the hearing, in newspapers with sufficient circulation to inform the people of the affected locality. The hearing shall be held in the locality in which the property is located no sooner than thirty days and no later than thirty-five days after notice thereof is published in the central register.

## [[APPRAISAL]]

The commissioner shall establish the value of the property, through procedures customarily accepted by the appraising profession as valid for determining property value, for both the **highest and best use** of the property as currently encumbered and under the reuse restrictions as determined pursuant to this section.

## [[AGREEMENT REQUIREMENTS]]

No agreement for the rental or other disposition of state-owned real property, and no deed, executed by or on behalf of the commonwealth, shall be valid unless such agreement or deed contains the following declaration, signed by the commissioner:

The undersigned certifies under penalties of perjury that I have fully complied with the provisions of sections 40F1/2 and 40H of chapter 7 of the General Laws in connection with the property described herein.

\_\_\_\_\_ Commissioner, DCPO  
Date: \_\_\_\_\_

It shall be the policy of the commonwealth that the commissioner shall not sell, rent, or dispose of any real property including but not limited to granting the right to lay, construct, maintain, or operate pipelines through, over, across, or under land, water, park, reservation or highway of the commonwealth, its agencies or its political subdivisions, to any person doing business in or with Burma (Myanmar). The commissioner may sell, rent, or dispose of said property or grant said rights to said person only after certifying in writing to the speaker of the house of representatives and president of the senate that such action is essential to protect the health and safety of the public.

(b) The commissioner shall maintain, for a period of at least six years next following enactment of an authorization by the general court to dispose of real property, a file containing a copy of each document necessary to establish fulfillment of the requirements of subsection (a). Such file shall be open to public inspection.

## [[SECTION 40F 1/2]]

**Chapter 7: Section 40H Advertisements for real property; invitations to bid**

Section 40H. At least thirty days before opening proposals for the acquisition by purchase or rental of real property for the use of state agencies from an individual or entity, or for the sale or rental of real property used by state agencies (1) to a public agency other than a state agency for other

than a direct public use, or (2) to an individual or entity, the commissioner of capital asset management and maintenance shall **advertise** in the central register published by the state secretary pursuant to section twenty of chapter nine stating therein the need for or availability of such property, and inviting submission of such proposals. The advertisement shall specify the geographical area, terms and requirements of the proposed transaction, and shall state the time and place for the submission of such proposals and for the opening thereof. In advertising for the rental of real property for use as an area welfare office, the geographical area specified in the advertisement shall include all municipalities serviced by the welfare office. In case of the rental or sale of over two thousand five hundred square feet of real property, such advertisement shall also be placed at least once each week for four consecutive weeks in newspapers with a circulation sufficient to inform the people of the affected locality. The last publication shall occur at least eight days preceding the day for opening proposals.

The advertising requirement may be shortened or waived if (1) the commissioner certifies in writing that an emergency exists, a copy of such written certification shall be sent to the joint committee on state administration, provided that every reasonable effort be made to seek competitive proposals, and provided that the commissioner shall disclose his reasons for declaring the emergency in the central register at the earliest opportunity; or (2) in the case of a proposed acquisition, if the commissioner determines that such advertising will not be beneficial to the commonwealth's interest because of the unique qualities or location of the property needed, provided that the commissioner shall set forth in writing his reasons for such determination, relating such unique requirements to the property proposed to be acquired, and that such determination and the reasons therefor shall be published in the central register not less than thirty days before any binding agreement to acquire such property is executed, together with the name of the parties having a beneficial interest in the property pursuant to section forty J, the location and size of the property, and the proposed purchase price or rental terms.

No agreement on behalf of the commonwealth for the rental of real property for the use of state agencies from an individual or entity shall be valid unless such agreement contains the following declaration, signed by the commissioner:

The undersigned certifies under penalties of perjury that I have fully complied with the advertising requirements of section 40H of chapter 7 of the General Laws in connection with the property described herein.

\_\_\_\_\_ Commissioner, DCPO  
Date: \_\_\_\_\_

The commissioner shall also place notification in the central register of the individual or firm selected as party to any such real property transaction, and the amount of such transaction. In no instance in which the state retains responsibility for maintenance of the property shall the terms provide for payment of less than the maintenance costs. If the commissioner decides to dispose of the property at a price less than any of its values established pursuant to the provisions of section forty F one-half, the commissioner shall include a justification for such decision

in the notice and shall disclose the difference between the calculated value and the price received.

After the execution of a rental or sale agreement completing such transaction, all proposals relating thereto shall be retained by the commissioner and shall be open to inspection by the public until the expiration of such agreement or six months from the date thereof, whichever occurs first, and may thereafter be destroyed by him.