HOUSE DOCKET, NO. 40 FILED ON: 1/5/2011

HOUSE . . . . . No. 849

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas M. Stanley

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act clarifying surplusing of property.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas M. Stanley	*9th Middlesex*
Chris Walsh	*6th Middlesex*

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HOUSE . . . . . No. 849

By Mr. Stanley of Waltham, a petition (accompanied by bill, House, No. 849) of Thomas M. Stanley and Chris Walsh relative to the disposition of certain surplus state property. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *4092* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act clarifying surplusing of property.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 7 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 40F the following section:-

Section 40F 1/2. (a) Within 10 days of providing written notice and inquiry to the heads of state agencies and secretaries of the executive offices as required by this section, the commissioner shall, for informational purposes, provide written notification to the host municipality that the real property may be declared surplus pursuant to the provisions of this chapter. Said notice shall be sent to the city manager in the case of a city under a Plan B 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 representatives to the general court representing said host municipality. The commissioner shall set forth in such notice a description of the real property and a declaration that the real property is being considered for surplus designation. In addition the commissioner shall provide notification of this to residents of the affected communities by advertising the timelines contained herein in a newspaper of general circulation in the affected community.

Upon receipt of the surplus notification the host municipality shall have a right of first refusal to purchase the real property pursuant to the conditions established in this section. The host municipality shall have the right of first refusal to purchase the real property for a direct public use at 50 per cent of the fair market value of the real property as established pursuant to

19 this chapter. The host municipality shall have the right of first refusal to purchase the real
20 property for a purpose other than a direct public use at fair market value as established pursuant
21 to this chapter. Such right of first refusal must be exercised, if at all, by the host municipality
22 within 210 days of receipt of such notice by providing written notification to the commissioner
23 of the host municipality's intent to purchase the real property. The host municipality shall then
24 have an additional 180 days from its exercise of its right of first refusal to close on the purchase
25 of the real property. In the event that a host municipality fails to close on the purchase of the real
26 property within such time, the sole remedy of the commonwealth against the host municipality
27 for such failure is to proceed with the disposition of the real property without further right of
28 purchase by the host municipality; provided, however, that if said failure to close on the purchase
29 of the real property was in bad faith, the commonwealth shall not be required to share proceeds
30 of the sale of said real property with the host municipality. The commissioner, at his discretion,
31 may negotiate with a host municipality exercising its right of first refusal flexible financing
32 arrangements to facilitate the purchase of the real property under this section; provided, however,
33 that no such arrangements shall provide for a period of more than 5 years for all payments due
34 under this section. A host municipality exercising a right of first refusal as provided herein may
35 engage the services of the agency to perform planning, feasibility, marketing, and other studies
36 or to provide project management services in connection with any reuse or redevelopment of the
37 real property.

38 If a city or town has held a vote for debt exclusion pursuant to section 21C of chapter 59
39 of the General Laws to finance the surplus real property purchase the date by which the host
40 municipality shall exercise its option to purchase will be extended until 7 days after the vote.

41 A host municipality shall be permitted to assign its right of first refusal to purchase the
42 real property for a direct public use at 50 per cent of the fair market value of the real property as
43 established pursuant to this chapter to a non-profit organization for a direct public use of said
44 organization. Such assignment must be made by the host municipality, if at all, within 210 days
45 of receipt of notification pursuant to subsection (c), the assignee non-profit organization must
46 exercise said right, if at all, within 90 days of assignment of such right by the host municipality
47 by providing written notification to the commissioner of the assignee non-profit organization's
48 intent to purchase the real property. The assignee non-profit organization shall then have an
49 additional 90 days from its exercise of said assignment by the host municipality to close on the
50 purchase of the real property. The commissioner shall consider finance acquisition plans that
51 may take up to 5 years to conclude. In the event that the assignee non-profit organization fails to
52 close on the purchase of the real property within such time, the sole remedy of the
53 commonwealth against the host municipality for such failure is to proceed with the disposition of
54 the real property without further right of purchase by the host municipality; provided, however,
55 that if said failure to close on the purchase of the real property was in bad faith, the
56 commonwealth shall not be required to share proceeds of the sale of said real property with the
57 host municipality.

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

62 Notwithstanding any other general or special law to the contrary, for any real property
63 formerly used as a department of mental health state hospital or department of mental retardation
64 in-patient care facility, at least 15 per cent of any housing units developed on the real property be
65 affordable supported housing for individuals who are clients, or former clients of the respective
66 department; provided, however, that such housing shall be made affordable and available to such
67 individuals with incomes of 15 per cent of the average median income or below; and provided,
68 further, that said restriction shall be recorded in the registry of deeds or the registry district of the
69 land court of the county in which the effected real property is located, as running with the land,
70 and that said real property shall not be released from such restriction until after the expiration of
71 99 years from the date of initial occupancy by such eligible individuals. If there is no plan to
72 develop housing on the real property formerly used as a department of mental health state
73 hospital or department of mental retardation in-patient care facility, no less than 25% of the sale
74 price shall support, the development of affordable and supportive housing at another location for
75 individuals who are clients, or former clients of the department of mental health or the
76 department of mental retardation.