

**HOUSE . . . . . No. 4300**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act authorizing the division of capital asset management to convey, lease and grant easements with respect to certain land in the town of Uxbridge..

*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. Notwithstanding sections 40F to 40J of chapter 7 of the General Laws or  
2 any other general or special law to the contrary, the commissioner of the division of capital asset  
3 management and maintenance, in consultation with the secretary of the Massachusetts  
4 department of transportation, may lease, for the purposes described below, certain parcels of land  
5 and any improvements located thereon, upon terms and conditions as the commissioner of capital  
6 asset management and maintenance determines to be in the best interest of the commonwealth  
7 and in no event for a term of longer than 50 years, to KGI Properties, LLC or its designee; may  
8 convey a fee interest in a certain parcel of land and any improvements located thereon to KGI  
9 Properties, LLC or its designee; and may convey to the town of Uxbridge certain temporary and  
10 permanent easements for utility purposes.

11           The first parcel to be leased, known as the northbound rest area on route 146, is located  
12 on the northbound side of route 146 and contains approximately 7.59 acres. The second parcel to  
13 be leased, known as the southbound rest area on route 146, is located on the southbound side of

14 route 146 and contains approximately 11.98 acres. The parcel to be conveyed in fee is located  
15 on the eastbound side of route 16, at the intersection of route 16 and route 146 southbound and  
16 contains approximately 9.49 acres. The exact boundaries of each of the 3 parcels and the  
17 temporary and permanent easements shall be established prior to such conveyance by a survey  
18 approved by the commissioner of capital asset management and maintenance.

19 Notwithstanding any general or special law to the contrary, the permitted uses under the  
20 leases shall be such uses as rest areas open to the public for motorists traveling on route 146, and  
21 may include restrooms, restaurants, gasoline service stations and such other uses deemed  
22 acceptable to the Massachusetts department of transportation. If at any time the property ceases  
23 to be used for the purposes described in this section, the commissioner shall give written notice  
24 to the lessee of the unauthorized use. The lessee shall, upon receipt of the notice, have 30 days to  
25 respond and a reasonable time to establish an authorized use of the parcel. If an authorized use of  
26 the parcel is not thereafter established, the lease of the parcel, upon the recording of a notice  
27 thereof by the commissioner in the appropriate registry of deeds, shall terminate and any further  
28 disposition of the property shall be subject to chapter 7 of the General Laws.

29 SECTION 2. The consideration for the parcel to be conveyed in fee shall be the full and  
30 fair market value of such parcel as determined by the commissioner of capital asset management  
31 and maintenance based upon an independent professional appraisal. The rental for the leases  
32 shall be the full and fair market rental value of the parcels to be leased as determined by the  
33 commissioner of capital asset management and maintenance based upon an independent  
34 professional appraisal.

35 SECTION 3. Contemporaneously with the conveyance authorized in section 1,  
36 Uxbridge Woods Realty Trust shall convey to Massachusetts department of transportation a  
37 certain parcel of land located on Pond Street in the town of Uxbridge, which is shown on the  
38 town of Uxbridge Assessor's Map 28 as lot 3163. The grantee of the fee parcel and the lessee of  
39 the leasehold parcels shall be entitled to credits against the consideration for the conveyance and  
40 the rental under the leases in an aggregate amount equal to the full and fair market value of the  
41 parcel to be conveyed by Uxbridge Woods Realty Trust to the Massachusetts department of  
42 transportation, as determined by the commissioner of capital asset management and maintenance  
43 based upon an independent professional appraisal. The grantee of the fee parcel and the lessee of  
44 the leasehold parcels shall be entitled to credits against the consideration for the conveyance and  
45 the rental under the leases in an aggregate amount equal to the full and fair market value of any  
46 construction provided by KGI Properties, LLC of facilities for use by the Massachusetts  
47 department of transportation as determined by the commissioner of capital asset management  
48 and maintenance. Any construction provided by KGI Properties, LLC shall not be subject to the  
49 provisions of sections 44A to 44J, inclusive, of chapter 149 of the General Laws, or any other  
50 public construction procurement law; provided further that KGI Properties, LLC shall not design  
51 or construct any facilities on the parcel without the written approval of the commissioner of the  
52 division of capital asset management and maintenance and the secretary of the Massachusetts  
53 department of transportation; provided further that said commissioner and said secretary shall not  
54 approve any design or construction project pursuant to this section unless said commissioner and  
55 said secretary have determined that KGI Properties, LLC has: (i) sufficient financial resources to  
56 complete the project; and (ii) obtained insurance protecting the commonwealth as specified by  
57 said commissioner and said secretary; provided further that prior to said approval all agreements

58 shall include a requirement that the performance of, and payment for, improvements to the  
59 parcels shall be fully covered by bonds issued by bonding companies authorized to issue bonds  
60 in the commonwealth as determined by said commissioners; provided further that KGI  
61 Properties, LLC has met any other terms and conditions to ensure completion of the public  
62 facilities in a timely manner; and provided that KGI Properties, LLC shall pay prevailing wage in  
63 accordance with sections 26 and 27 of chapter 149 of the General Laws in connection with any  
64 such construction.

65 SECTION 4. Notwithstanding any general or special law to the contrary, the inspector  
66 general shall review and approve the appraisals contemplated by sections 1 and 2 and the review  
67 shall include an examination of the methodology utilized for the appraisal. Within 30 days of  
68 receiving the appraisal, the inspector general shall prepare a report of his review and file the  
69 report with the commissioner of capital asset management and maintenance. Within 15 days of  
70 receiving the inspector general's report, the commissioner shall submit such report to the house  
71 and senate committees on ways and means and the joint committee on bonding, capital  
72 expenditures and state assets but no later than 15 days before the execution of any agreement or  
73 other document relating to the lease.

74 SECTION 5. Notwithstanding any general or special law to the contrary, the grantee of  
75 the fee parcel and the lessee of the leasehold parcels shall be responsible for all costs and  
76 expenses, including but not limited to, costs associated with any engineering, surveys, appraisals,  
77 deed preparation, easement preparation and lease preparation related to the conveyance, leases  
78 and grant of easements authorized pursuant to this act as such costs may be determined by the  
79 commissioner of the division of capital asset management and maintenance. Upon conveyance of

80 the parcel, the town shall be solely responsible for all costs, liabilities and expenses of any nature  
81 and kind for the development, maintenance, use and operation of the parcel.