

HOUSE No. 3979

The Commonwealth of Massachusetts

PRESENTED BY:

Carolyn C. Dykema and James B. Eldridge

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 adoption of the accompanying bill:

An Act authorizing the commissioner of capital asset management and maintenance to convey certain parcels of land in the town of Westborough.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-----------------------------|--------------------------------|------------------|
| <i>Carolyn C. Dykema</i> | <i>8th Middlesex</i> | <i>3/14/2014</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>3/14/2014</i> |
| <i>Matthew A. Beaton</i> | <i>11th Worcester</i> | <i>3/14/2014</i> |
| <i>Danielle W. Gregoire</i> | <i>4th Middlesex</i> | <i>3/14/2014</i> |

HOUSE No. 3979

By Representative Dykema of Holliston and Senator Eldridge, a joint petition (subject to Joint Rule 12) of Carolyn C. Dykema, James B. Eldridge and others for legislation to authorize the commissioner of capital asset management and maintenance to convey certain parcels of land in the town of Westborough. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act authorizing the commissioner of capital asset management and maintenance to convey certain parcels of land in the town of Westborough.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith authorize the transfer of certain parcels of land to the town of Westborough, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 SECTION 1. Chapter 29 of the General Laws is hereby amended by inserting after
2 section 2K K K K the following section:-

3 Section 2L L L L. There shall be established and set up on the books of the commonwealth
4 a separate fund, to be known as the Health and Human Services Capital Projects Trust Fund,
5 hereinafter in this section referred to as the fund, administered by the commissioner of the
6 division of capital assets management and maintenance at the direction of the secretary of health
7 and human services. The fund shall be credited: (i) the portion of any net cash proceeds from the
8 conveyance, lease or other disposition of any facilities vacated by any agency within the
9 executive office of health and human services and determined to be surplus by the commissioner
10 of the division of capital asset management and maintenance; (ii) any appropriations; (iii) bond
11 proceeds; or (iv) other monies authorized by the general court and specifically designated to be
12 credited thereto. The comptroller shall disburse amounts in the fund at the direction of the
13 commissioner of the division of capital asset management and maintenance, in consultation with
14 the secretary of the executive office of health and human services, without further appropriation,
15 for the purpose of paying costs of, or paying down any portion of any debt incurred to pay costs

16 related to the acquisition, construction or improvements to health and human services facilities.
17 The comptroller shall establish procedures necessary to effectuate this section, including
18 procedures for the proper transfer, accounting and expenditures of funds. The comptroller may
19 make payments in anticipation of receipts and shall establish procedures for reconciling
20 overpayments and underpayments from the trust fund. The commissioner shall report semi-
21 annually to the house and senate committees on ways and means on the revenue and expenditure
22 activity within the fund. The fund shall be an expendable trust fund and shall not be subject to
23 appropriation. Money remaining in the fund at the end of a fiscal year shall not revert to the
24 General Fund.

25 SECTION 2. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General
26 Laws or any other general or special law to the contrary, the commissioner of capital asset
27 management and maintenance, hereinafter referred to as the commissioner, may convey 1 or
28 more parcels of land located at the former state hospital in Westborough to the town of
29 Westborough. The parcels are shown as parcel 1 and parcel 5 on a draft approval not required
30 plan dated January 2, 2014, on file with the division of capital asset management and
31 maintenance. The exact location and boundaries of the parcels to be conveyed shall be
32 determined by the commissioner, in consultation with the department of youth services and the
33 town of Westborough. The use of the parcels to be conveyed to the town shall not be restricted
34 to use for general municipal purposes or other specific uses; provided, however, that the town
35 may so restrict the parcels at a later date, in accordance with applicable general and special law.
36 The parcels shall be conveyed by deed without warranties or representations by the
37 commonwealth.

38 SECTION 3. As consideration for the parcels described in section 1, the town of
39 Westborough shall pay the commonwealth an amount equal to certain costs related to the closure
40 of the former state hospital in Westborough, including, but not limited to, the costs of removing
41 combustible materials, disconnecting certain utilities, and otherwise closing those buildings
42 located on the parcels, routine security, and other capital expenditures and operating expenses
43 incurred by the commonwealth in preparation for or following the closure of the former state
44 hospital, as determined by the commissioner and agreed to by the town. The town of
45 Westborough may pay the amount so determined by the commissioner and agreed to by the town
46 upon its purchase of the parcels described in section 1, or the town may pay the amount so
47 determined in 10 annual payments pursuant to section 20A of chapter 58 of the General Laws.

48 SECTION 4. In the event that the town of Westborough sells or leases any portion of the
49 parcels described in section 1, the net proceeds from such sale or lease, as determined by the
50 town and agreed to by the commissioner, shall be allocated between the town of Westborough
51 and the commonwealth in equal shares; provided, however, that the commissioner may agree to
52 reduce the share of the commonwealth's proceeds to not less than 30 per cent of net proceeds in
53 order to provide certain incentives to the town of Westborough to sell or lease some or all of the
54 parcels described in section 1 expeditiously or to facilitate the development of some or all of the

55 parcels in accordance with smart growth principles promulgated from time to time by the
56 governor and the secretary of energy and environmental affairs. In the event that the net
57 proceeds as so determined is a negative amount, the commonwealth shall not be required to
58 make any payments to the town of Westborough. Any proceeds received by the commonwealth
59 pursuant to this section shall be deposited into the Health and Human Services Capital Projects
60 Trust Fund established pursuant to section 2LLL of chapter 29 of the General Laws; provided,
61 however, that the proceeds shall be specifically dedicated to and appropriated for the acquisition,
62 construction, or improvement of community-based housing facilities for individuals receiving
63 services, or eligible to receive services, from the department of mental health.

64 SECTION 5. Notwithstanding any general or special law to the contrary, the town of
65 Westborough shall pay for all costs and expenses of the transactions authorized in this act as
66 determined by the commissioner including, but not limited to, the costs of any recording fees and
67 deed preparation related to the conveyances and for all costs, liabilities and expenses of any
68 nature and kind related to the conveyances; provided, however, that such costs shall be included
69 for the purposes of determining the net proceeds of the town's sale or lease of any portion of the
70 parcels described in section 1. Amounts paid by the town of Westborough pursuant to section 2
71 shall not be included for the purposes of determining the net proceeds from a sale or lease.

72 SECTION 6. Notwithstanding any general or special law to the contrary, the
73 commissioner shall retain, accept or acquire by purchase, transfer, lease, eminent domain
74 pursuant to chapter 79 of the General Laws or otherwise, and may grant by deed, transfer, lease
75 or otherwise any rights-of-way or easements in, over or beneath any parcel or portions thereof,
76 any other portions of the former Westborough state hospital as the commissioner deems
77 necessary and appropriate for the continued use of portions of the former Westborough state
78 hospital by other state agencies or to carry out this act.

79 SECTION 7. There shall be in the town of Westborough a revolving account called The
80 State Hospital Revolving Fund for the purpose of receiving proceeds from the disposition of the
81 Westborough state hospital property and for funding expenses incidental to the ownership of said
82 property. Notwithstanding the provisions of section 53E½ of chapter 44 of the General Laws,
83 The State Hospital Revolving Fund shall not count towards the 10 per cent aggregate limit of
84 revolving funds, and the town may make expenditures from said fund without regard to the 1 per
85 cent limit established by clause (4) of the third paragraph of said section 53E½ of said chapter
86 44.

87 SECTION 8. (a) In the event that the town of Westborough does not complete its
88 purchase of the property described in section 1 on or before June 30, 2015, notwithstanding
89 sections 33 to 38, inclusive, of chapter 7C of the General Laws or any other general or special
90 law to the contrary, the commissioner may sell, lease for terms up to 99 years, including all
91 renewals and extensions, or otherwise grant, convey or transfer to purchasers or lessees an
92 interest in the property described in section 1 or portions thereof, subject to this section and on

93 such terms and conditions that the commissioner considers appropriate. The commissioner shall
94 dispose of the property, or portion thereof, using appropriate competitive bidding processes and
95 procedures. At least 30 days before the date on which bids, proposals or other offers to purchase
96 or lease a property, or any portion thereof, are due, the commissioner shall place a notice in the
97 central register published by the state secretary pursuant to section 20A of chapter 9 of the
98 General Laws stating the availability of the property, the nature of the competitive bidding
99 process and other information that the commissioner considers relevant, including the time, place
100 and manner for the submission of bids and proposals and the opening of the bids or proposals.

101 (b) Notwithstanding any general or special law to the contrary, the grantee or lessee of all
102 or any portion of the property described in section 1 and subject to this section shall be
103 responsible for costs and expenses including, but not limited to, costs associated with deed
104 preparation and recording fees related to the conveyances and transfers authorized in this section
105 as such costs may be determined by the commissioner.

106 (c) The commissioner may retain or grant rights of way or easements for access, egress,
107 utilities and drainage across any of the parcels described in section 1 and subject to this section
108 and across other commonwealth property contiguous to any of the parcels, and the
109 commonwealth may accept from the town or developer such rights of way or easements in
110 roadways or across any of the parcels to be conveyed or transferred for access, egress, drainage
111 and utilities as the commissioner considers necessary and appropriate to carry out this section.

112 (d) No agreement for the sale, lease, transfer or other disposition of the property
113 described in section 1 and subject to this section, or any portion thereof, and no deed executed by
114 or on behalf of the commonwealth, shall be valid unless the agreement or deed contains the
115 following certification, signed by the commissioner:

116 “I, the undersigned commissioner of capital asset management and maintenance, hereby
117 certify under penalties of perjury that I have fully complied with the relevant provisions of
118 general and special law in connection with the property described in this document.”

119 SECTION 9. Sections 2 to 8, inclusive, shall take effect upon their acceptance by a
120 majority vote of the board of selectmen of the town of Westborough, but not otherwise.