

SENATE No. 2256

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

SENATE, June 12, 2019

The committee on Ways and Means to whom was referred the Senate Bill to authorize the commissioner of capital asset management and maintenance to convey certain property in the town of Templeton (Senate, No. 1854),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2256).

For the committee,
Michael J. Rodrigues

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
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An Act authorizing the commissioner of capital asset management and maintenance to convey certain property in the town of Templeton.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith authorize the conveyance of lease or certain real property in the town of Templeton, 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. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General
2 Laws or any other general or special law to the contrary, the commissioner of capital asset
3 management and maintenance, in consultation with the department of developmental services
4 and the department of agricultural resources, may convey or lease to Karl Heins d/b/a Sunny
5 Knoll Farm, a sole proprietorship, all or any portion of a certain parcel of land in the town of
6 Templeton that is a portion of the Templeton development center, together with any buildings,
7 structures or personal property thereon, including livestock. The land to be conveyed or leased is
8 shown as License Area 3 on a plan of land entitled “Plan of Land in Templeton, MA”, dated
9 January 13, 2015 and prepared by Northeast Survey Consultants for the division of capital asset
10 management and maintenance on behalf of the department of developmental services and the
11 department of agricultural resources which is on file with the division of capital asset
12 management and maintenance. Any such conveyance or lease shall be subject to this act and
13 shall be on such terms and conditions that the commissioner considers appropriate. The property
14 or any portion thereof that is conveyed or leased shall be perpetually used for agricultural

15 purposes as defined in section 1A of chapter 128 of the General Laws and shall be conveyed or
16 leased without warranties or representations by the commonwealth.

17 SECTION 2. The consideration for the conveyance or lease of the property or any portion
18 thereof authorized in section 1 shall be an amount equal to the full and fair market value of the
19 property, including any buildings, structures or personal property thereon, restricted for
20 agricultural use, as determined by an independent appraisal. The commissioner of capital asset
21 management and maintenance shall submit the appraisal to the inspector general. The inspector
22 general shall review and approve the appraisal and the review shall include an examination of the
23 methodology utilized for the appraisal. The inspector general shall prepare a report of the review,
24 including a review of the methodology utilized for the appraisal, and file the report with the
25 commissioner of capital asset management and maintenance, the house and senate committees
26 on ways and means and the joint committee on state administration and regulatory oversight
27 prior to the execution of a conveyance or lease authorized in this act. The exact boundaries of
28 the property shall be determined by the commissioner of capital asset management and
29 maintenance after completion of a survey. The amount of consideration as determined under this
30 section shall be paid by the grantee or lessee and deposited into an expendable trust to be used by
31 the department of agricultural resources to acquire new agricultural preservation restrictions
32 pursuant to the rules and guidelines of the department.

33 SECTION 3. A purchase and sale agreement, lease agreement or other document relating
34 to the sale or lease of the property described in section 1 shall provide that the commonwealth
35 including, without limitation, the division of capital asset management and maintenance, shall
36 have no liability to the purchaser or lessee or to any successor to the purchaser or lessee of all or
37 any part of the property for any claims arising out of or related in any way to the conditions,
38 known or unknown, of the property or otherwise in connection with any sale or lease.

39 SECTION 4. The commissioner may retain or grant rights of way or easements for
40 access, egress, utilities and drainage across the property or any portion thereof that has been
41 conveyed or leased pursuant to section 1 and across any other commonwealth property
42 contiguous to the property or any portion thereof and the commonwealth may accept such rights
43 of way or easements in roadways or across the property or any portion thereof conveyed or

44 leased for access, egress, drainage and utilities as the commissioner considers necessary to carry
45 out this act.

46 SECTION 5. No instrument conveying or leasing the property or any portion thereof to
47 Karl Heins d/b/a Sunny Knoll Farm pursuant to this act shall be valid unless the instrument
48 provides that the area conveyed or leased shall be used solely for the purposes described in
49 section 1. The instrument shall state that if the property ceases to be used for such purposes, the
50 property shall, at the election of the division of capital asset management and maintenance,
51 revert to the commonwealth upon such terms and conditions as the commissioner may
52 determine; provided, however, that prior to such election, the division shall provide Karl Heins
53 d/b/a Sunny Knoll Farm with written notice and an opportunity to cure the nonconforming use
54 and record a notice thereof in the Worcester district registry of deeds. Upon satisfaction of the
55 foregoing provisions and the failure of the grantee or lessee to cure the nonconforming use, the
56 property shall revert to the commonwealth. If any interest reverts to the commonwealth pursuant
57 to this section, any further disposition shall be subject to sections 32 to 37, inclusive, of chapter
58 7C of the General Laws and the prior approval of the general court. Notwithstanding any general
59 or special law to the contrary, both the restriction described in said section 1 and the
60 commonwealth's right of reverter described in this section shall be perpetual.

61 SECTION 6. No deed or lease for the property or any portion thereof described in section
62 1 that is executed by or on behalf of the commonwealth shall be valid unless the deed or lease
63 contains the following certification, signed by the commissioner of capital asset management and
64 maintenance: "I, the undersigned commissioner of capital asset management and maintenance,
65 hereby certify, under penalty of perjury, that I have fully complied with the relevant provisions
66 of chapter ___ of the acts of _____ in connection with the property described in this document."

67 SECTION 7. Notwithstanding any general or special law to the contrary, the grantee or
68 lessee of the property described in section 1 or any portion shall be responsible for the costs
69 associated with any engineering and deed or lease preparation related to the conveyance or lease
70 and for such other costs as may be determined by the commissioner.

71 SECTION 8. Notwithstanding sections 32 to 37, inclusive of chapter 7C of the General
72 Laws or any other general or special law to the contrary, if the conveyance authorized in section

73 1 is not completed in accordance with sections 2 to 7, inclusive, on or before July 1, 2019, the
74 commissioner of capital asset management and maintenance, in consultation with the department
75 of developmental services, may transfer the property to the care and control of the department of
76 agricultural resources. Notwithstanding said sections 32 to 37, inclusive, of said chapter 7C or
77 any other general or special law to the contrary, after any such transfer to the department of
78 agricultural resources, the commissioner of capital asset management and maintenance, in
79 consultation with the department of agricultural resources, may: (i) sell; (ii) lease for up to 99
80 years, including any renewals and extensions; or (iii) grant, convey or otherwise transfer to any
81 other grantees utilizing an appropriate competitive proposal process and subject to any other
82 terms and conditions the commissioner considers appropriate. At least 30 days before the date on
83 which bids, proposals or other offers to purchase or lease the property or any portion thereof are
84 due, the commissioner shall place a notice in the central register published by the state secretary
85 under section 20A of chapter 9 of the General Laws stating the availability of the property, the
86 nature of the competitive bidding process and any other information that the commissioner
87 considers relevant, including the time, place and manner for the submission of bids and proposals
88 and for the opening of the bids or proposals.