

HOUSE No. 4252

The Commonwealth of Massachusetts

By Mr. Straus of Mattapoisett, for the committee on Environment, Natural resources and Agriculture, on House, No. 716, a Bill authorizing the lease of land to yacht clubs (House, No. 4252). September 21, 2009.

An Act AUTHORIZING THE LEASE OF LAND TO YACHT CLUBS.

FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
William M. Straus	10th Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act AUTHORIZING THE LEASE OF LAND TO YACHT CLUBS.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for the lease of property used by non-profit yacht clubs and other non-profit organizations operating boating programs, 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 40E to 40I 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 may, in consultation with the commissioner of the department of
4 conservation and recreation, lease or enter into other agreements for a term not to exceed 30
5 years with an organization currently operating a yacht club or other boating facility on public
6 park land under the care and control of said department of conservation and recreation for the
7 land associated therewith used by said yacht clubs or boating organization as shown in existing
8 records of said department. This authorization shall only apply to the following yacht clubs and
9 other boating organizations and facilities: the Union Boat Club, Boston; the Cambridge Boat
10 Club, Cambridge; the Riverside Boat Club, Cambridge; the Buckingham, Browne & Nichols
11 Boat House, Cambridge; the M.I.T. Boat House, Cambridge; the Belmont Hill/Winsor Boat
12 House, Cambridge; the Tufts University, Medford; the Harvard Sailing Pavilion, Cambridge; the
13 Boston University Sailing Pavilion, Boston; the M.I.T. Sailing Pavilion, Cambridge; the Puritan
14 Canoe Club, Boston; the Neponset Valley Yacht Club, Milton; the Wollaston Yacht Club,
15 Quincy; the Squantum Yacht Club, Quincy; the South Shore Yacht Club, Weymouth; the

16 Charlesgate Yacht Club, Cambridge; the Charles River Yacht Club, Cambridge; the Newton
17 Yacht Club, Newton; the Columbia Yacht Club, Boston; the South Boston Yacht Club, Boston;
18 the Riverside Yacht Club, Medford; the Medford Boat Club, Medford; the Mystic Wellington
19 Yacht Club, Medford; the Winter Hill Yacht Club, Somerville; the Watertown Yacht Club,
20 Watertown; the East Boston Yacht Club, Boston; the Dorchester Yacht Club, Dorchester; the
21 Boston Harbor Yacht Club, Boston; the Blessing of the Bay Boat House, Somerville; and the
22 Boston University DeWolfe Boat House, Cambridge. Prior to entering into a lease or other
23 agreement pursuant to this section the commissioner of the division of capital asset management
24 and maintenance shall, in consultation with the commissioner of the department of conservation
25 and recreation, determine the exact boundaries of each parcel after completion of a survey.

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27 There shall be, at the discretion of the division of capital asset management and
28 maintenance in accordance with the original contract terms and conditions or contract terms and
29 conditions more favorable to the commonwealth, an option for extension of said lease or other
30 agreement for 5 years.

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33 **SECTION 2.** Such leases or other agreements executed pursuant to section 1 shall be on terms
34 and conditions and consideration acceptable to the commissioner of the division of capital asset
35 management and maintenance after consultation with the commissioner of the department of
36 conservation and recreation; provided, however, that said lease or other agreement shall provide,
37 without limitation, that: (i) the lessees shall manage, operate, improve, repair and maintain the
38 buildings and facilities together with the land and appurtenances associated therewith during the
39 term of the lease; (ii) the lessee shall carry comprehensive general liability insurance naming the
40 commonwealth as a co-insured, protecting the commonwealth against all claims for personal
41 injury or property damage arising from the buildings and facilities together with the land and
42 appurtenances associated therewith during the term of the lease; (iii) the lessee shall provided
43 appropriate public access to public park land; (iv) the lessee shall be responsible for outreach and
44 stewardship; and (v) the lessee shall not design or construct any facilities on the parcel without
45 the written approval of the commissioner of the division of capital asset management and
46 maintenance and the commissioner of the department of conservation and recreation; provided,

47 however, that the commissioner of the division of capital asset management and maintenance
48 and the commissioner of the department of conservation and recreation shall not approve any
49 design or construction project pursuant to this clause unless said commissioners have determined
50 that lessee has sufficient financial resources to complete the project. In determining the
51 consideration for any lease or other agreement pursuant to this section , the commissioner of
52 capital asset management and maintenance, in consultation with said the commissioner of the
53 department of conservation and recreation, shall develop a methodology for setting a fair rental
54 payment and with due regard to the criteria used by the department of conservation and
55 recreation for setting existing permit fees for yacht and boating facilities identified in section 1.
56 If a specific lessee does not agree with the rental payment methodology, then the consideration
57 for the lease of that specific parcel shall be the full and fair market value of the parcel as
58 determined by the commissioner of the division of capital asset management and maintenance, in
59 consultation with the commissioner of the department of conservation and recreation, pursuant to
60 1 or more independent professional appraisals contracted by the division.

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62 **SECTION 3.** The lease or other agreement shall be prepared in accordance with generally
63 accepted real estate principles and policies of the division of capital asset management and
64 maintenance. The inspector general shall review and approve the lease or other agreement, and
65 his review shall include an examination and approval of the methodology used to determine the
66 consideration for each lease. The commissioner shall, 30 days prior to the execution of any lease
67 or other agreement authorized pursuant to this act, submit the lease to the inspector general for
68 review. The inspector general shall prepare a report of his review of the lease or other agreement
69 and consideration methodology and file the report with the commissioner of the division of
70 capital asset management and maintenance, the commissioner of the department of conservation
71 and recreation the house and senate committees on ways and means and the chairmen of the joint
72 committee on bonding capital expenditures and state assets at least 15 days prior to the execution
73 of said lease or other agreement. All consideration received pursuant to a lease or other
74 agreement executed pursuant to this act shall be deposited in the Urban Parks Trust Fund,
75 established pursuant to section 34 of chapter 92.

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77 **SECTION 4.** Each lessee shall be responsible for all costs and expenses, including but not
78 limited to, costs associated with any engineering, surveys, appraisals, and lease preparation
79 related to the lease or other agreement authorized pursuant to this act as such costs may be
80 determined by the commissioner of the division of capital asset management and maintenance.

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82 **SECTION 5.** Notwithstanding any other general or special law to the contrary, the provisions of
83 any general or special law or rule or regulation relating to the advertising, bidding or award of
84 contracts, to the procurement of services or to the construction and design of improvements shall
85 not be applicable to any lessee under this act.

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87 **SECTION 6.** Notwithstanding any other general or special law to the contrary, if the property
88 ceases to be used at any time for the public purposes described in this act, or is used for any
89 purpose other than the public purposes stated in this act, the commissioner of the division of
90 capital asset management and maintenance shall give written notice to the lessee of the
91 unauthorized use. The lessee shall, upon receipt of the notice, have 30 days to respond and a
92 reasonable time to establish an authorized use of the parcel. If an authorized use of the parcel is
93 not thereafter established, the lease shall terminate.

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