

HOUSE No. 4252

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act AUTHORIZING THE LEASE OF LAND TO YACHT CLUBS..

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.

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

30 SECTION 2. Such leases or other agreements executed pursuant to section 1 shall be on
31 terms and conditions and consideration acceptable to the commissioner of the division of capital
32 asset management and maintenance after consultation with the commissioner of the department
33 of conservation and recreation; provided, however, that said lease or other agreement shall
34 provide, without limitation, that: (i) the lessees shall manage, operate, improve, repair and
35 maintain the buildings and facilities together with the land and appurtenances associated
36 therewith during the term of the lease; (ii) the lessee shall carry comprehensive general liability
37 insurance naming the commonwealth as a co-insured, protecting the commonwealth against all

38 claims for personal injury or property damage arising from the buildings and facilities together
39 with the land and appurtenances associated therewith during the term of the lease; (iii) the lessee
40 shall provided appropriate public access to public park land; (iv) the lessee shall be responsible
41 for outreach and stewardship; and (v) the lessee shall not design or construct any facilities on the
42 parcel without the written approval of the commissioner of the division of capital asset
43 management and maintenance and the commissioner of the department of conservation and
44 recreation; provided, however, that the commissioner of the division of capital asset management
45 and maintenance and the commissioner of the department of conservation and recreation shall
46 not approve any design or construction project pursuant to this clause unless said commissioners
47 have determined that lessee has sufficient financial resources to complete the project. In
48 determining the consideration for any lease or other agreement pursuant to this section , the
49 commissioner of capital asset management and maintenance, in consultation with said the
50 commissioner of the department of conservation and recreation, shall develop a methodology for
51 setting a fair rental payment and with due regard to the criteria used by the department of
52 conservation and recreation for setting existing permit fees for yacht and boating facilities
53 identified in section 1. If a specific lessee does not agree with the rental payment methodology,
54 then the consideration for the lease of that specific parcel shall be the full and fair market value
55 of the parcel as determined by the commissioner of the division of capital asset management and
56 maintenance, in consultation with the commissioner of the department of conservation and
57 recreation, pursuant to 1 or more independent professional appraisals contracted by the division.

58 SECTION 3. The lease or other agreement shall be prepared in accordance with generally
59 accepted real estate principles and policies of the division of capital asset management and
60 maintenance. The inspector general shall review and approve the lease or other agreement, and

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

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

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

80 SECTION 6. Notwithstanding any other general or special law to the contrary, if the
81 property ceases to be used at any time for the public purposes described in this act, or is used for
82 any purpose other than the public purposes stated in this act, the commissioner of the division of

83 capital asset management and maintenance shall give written notice to the lessee of the
84 unauthorized use. The lessee shall, upon receipt of the notice, have 30 days to respond and a
85 reasonable time to establish an authorized use of the parcel. If an authorized use of the parcel is
86 not thereafter established, the lease shall terminate.