

HOUSE No. 4312

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Authorizing the Massachusetts Turnpike Authority to Lease Certain Property to the Boston Harbor Alliance..

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

1 Whereas, The deferred operation of this act would tend to defeat its purpose, which is to
2 forthwith authorize the lease of a certain parcel of land to the Rose Fitzgerald Kennedy
3 Greenway Conservancy Inc., therefore it is hereby declared to be an emergency law, necessary
4 for the immediate preservation of the public convenience.

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

7 SECTION 1. Chapter 306 of the acts of 2008 is hereby amended by striking out section
8 10 and inserting place thereof the following section:-

9 SECTION 10. (a) The authority shall lease to the conservancy for an initial period not to
10 exceed 25 years, commencing not later than December 1, 2008, at nominal consideration the
11 open space and park parcels within the greenway. The lease may provide for up to 3 separate 10-
12 year extensions. The terms of such lease shall include the terms of this act and be prepared and
13 approved by the secretary of transportation, and shall at a minimum contain covenants:

14 preserving the greenway as park land subject to the protections afforded to public parkland under
15 Article XCVII of the Amendments to the Massachusetts Constitution and ensuring that the
16 greenway and the other open space parcels shall always be open to the general public; providing
17 for the assumption and responsibility for liability coverage; providing for the operation,
18 maintenance and programming, subject to the conservancy's reasonable regulations governing its
19 use. Such lease shall also contain covenants providing: for the provision of 1 or more
20 maintenance facilities for the conservancy by the authority or the commonwealth; that any and
21 all improvements made to the premises shall become those of the authority upon termination or
22 default; that the community participation stipulated herein is adhered to; and that the use and
23 expenditure of public funds received by the conservancy be reported annually to the secretary of
24 transportation and public works and to the chairs of the house and senate committees on ways
25 and means; and shall include such other terms and conditions, consistent with this act, as the said
26 secretary shall deem to be in the public interest. The terms of such lease or agreement shall also
27 contain language defining an event of default as a breach of any covenant contained therein and
28 shall provide remedies including, but not limited to, specific performance, self help, termination,
29 and transfer of conservancy funds to the commonwealth. On or before December 1, 2008, the
30 secretary of transportation shall prepare and secure the execution of the lease in accord with this
31 act. In the event of a failure by the secretary to complete said lease execution by such date all
32 liability for the greenway shall become the responsibility of the conservancy.

33 (b) Notwithstanding any general or special law to the contrary, the conservancy may
34 lease Parcel 14 to the Boston harbor island alliance for a period not to exceed the term of the
35 lease executed between the authority and the conservancy pursuant to subsection (a); provided,
36 further, that any lease shall contain the restriction required pursuant to subsection.

37 (c) Notwithstanding any general or special law to the contrary, the parcel described in
38 subsection (b) shall be leased subject to a restriction limiting the use of the parcel to the
39 construction and operation of a public information pavilion for visitors to the Boston Harbor
40 Islands National Recreation Area. If at any time the property ceases to be used for the purposes
41 described in this section and upon written notice of the authority to the conservancy of the
42 unauthorized use, the conservancy shall provide notice of non-compliance to the Boston harbor
43 island alliance. The Boston harbor island alliance shall, upon receipt of the notice, have 30 days
44 to respond and a reasonable time to establish an authorized use of the parcel. If an authorized use
45 of the parcel is not thereafter established, the lease of the parcel, upon the recording of a notice
46 thereof by the conservancy in the appropriate registry of deeds, shall terminate and any further
47 disposition of the property shall be subject to the approval of the conservancy and the secretary
48 of transportation.