

HOUSE No. 4352

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act AUTHORIZING BERKSHIRE COMMUNITY COLLEGE TO LEASE CERTAIN
LAND TO THE PITTSFIELD YOUNG MEN’S CHRISTIAN ASSOCIATION..

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

1 The Committee on Ways and Means recommends that the bill be amended by striking out
2 all after the enacting clause and inserting in place thereof the following:

3 SECTION 1. Notwithstanding sections 40F to 40J of chapter 7 of the General Laws or
4 any general or special law to the contrary, the commissioner of the division of capital asset
5 management and maintenance may, in consultation with the department of higher education and
6 Berkshire Community College, enter into a lease or other agreement with the Pittsfield Young
7 Men’s Christian Association for the purpose of facilitating the operation and maintenance of a
8 summer community recreational program for a term, including extensions, not to exceed 20
9 years and pursuant to such additional terms and conditions as the commissioner may prescribe in
10 consultation with the department of higher education, of certain facilities at the college’s campus
11 in the city of Pittsfield; provided, however, that said lease shall provide that in the event of
12 educational necessity, the lease may be terminated by the commonwealth upon 30 days written
13 notice from the commissioner of the division of capital asset management and maintenance to

the Pittsfield Young Men's Christian Association. The exact boundary of the parcel to be leased or otherwise used by the Pittsfield Young Men's Christian Association shall be determined prior to such conveyance by a survey commissioned by the commissioner in consultation with the department of higher education and the college. The consideration for said lease shall be the full and fair market value as determined by the commissioner of the division of capital asset management and maintenance pursuant to an independent professional appraisal.

SECTION 2. Notwithstanding any general or special law to the contrary, the parcel shall be leased subject to a restriction limiting the use of the parcel to community recreational purposes. If at any time the property ceases to be used for the purposes described in this act, the commissioner of the division of capital asset management and maintenance shall give written notice to the Pittsfield Young Men's Christian Association of the unauthorized use. The Pittsfield Young Men's Christian Association shall, upon receipt of the notice, have 30 days to respond and a reasonable time to establish an authorized use of the parcel. If an authorized use of the parcel is not thereafter established, the lease of the parcel, upon the recording of a notice thereof by the commissioner in the appropriate registry of deeds, shall terminate and any further disposition of the property shall be subject to chapter 7 of the General Laws.

SECTION 3. Any lease or other agreement entered into pursuant to this act shall be on such terms and conditions as the division of capital asset management and maintenance, in consultation with the department of higher education and Berkshire Community College, deems appropriate. Any such lease or other agreement shall contain a provision that requires the Pittsfield Young Men's Christian Association to carry comprehensive general liability insurance with the commonwealth named as a co-insured, to protect the commonwealth against all personal injury or property damage on the facilities during the term of the lease or other agreement. The

Pittsfield Young Men's Christian Association shall indemnify and hold the commonwealth and Berkshire Community College harmless for all personal injury or property damage caused or suffered by the Pittsfield Young Men's Christian Association, its clients or agents.

SECTION 4. Notwithstanding any general or special law to the contrary, the inspector general shall review and approve the appraisal and the review shall include an examination of the methodology utilized for the appraisal. Within 30 days of receiving the appraisal, the inspector general shall prepare a report of his review and file the report with the commissioner of the division of capital asset management and maintenance. Within 15 days of receiving the inspector general's report but no later than 15 days before the execution of any agreement or other document relating to the lease, the commissioner shall submit such report to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight.

SECTION 5. Notwithstanding any general or special law to the contrary, the Pittsfield Young Men's Christian Association shall be responsible for all costs and expenses, including, but not limited to, costs associated with any engineering, surveys, appraisals and deed preparation related to the transfers and conveyances authorized pursuant to this act as such costs may be determined by the commissioner of the division of capital asset management and maintenance. Upon conveyance of the parcel, the Pittsfield Young Men's Christian Association shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the parcel.

SECTION 6. The design of and plans and specifications for any buildings or other improvements to be constructed by the Pittsfield Young Men's Christian Association shall be

59 subject to the review and approval of the division of capital asset management and maintenance
60 and Berkshire Community College.